

Ordinance No. 122954

Council Bill No. 116490

AN ORDINANCE relating to the City Light Department; authorizing execution of a 20-year agreement with WM Renewable Energy, LLC for the purchase of renewable power and environmental attributes and other related agreements that are necessary or convenient for transmitting the power from the Columbia Ridge landfill.

CF No. _____

Date Introduced:	<u>3-30-09</u>	
Date 1st Referred:	To: (committee)	<u>Energy & Technology (ETC)</u>
Date Re - Referred:	<u>3-30-09</u>	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	<u>4-6-09</u>	
Date Presented to Mayor:	Full Council Vote: <u>9-0</u>	
Date Returned to City Clerk:	Date Approved:	<u>4-15-09</u>
Date Vetoes by Mayor:	Date Published:	<u>30</u> T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Passed Over Veto:	Date Veto Published:	
	Veto Sustained:	

The City of Seattle - Legislative Department
Council Bill/Ordinance sponsored by: [Signature]
Councilmember

Committee Action:

4/1/09 BH, RC, JG Aye

4-6-09 Pass 9-0

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

LAW DEPARTMENT

Law Dept. Review OMP City Clerk Electronic Indexed



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

March 24, 2009

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

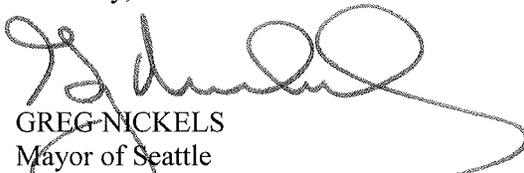
I am pleased to transmit the attached proposed Council Bill that authorizes Seattle City Light (SCL) to execute a 20-year agreement with WM Renewable Energy, LLC (WM) for the purchase of renewable power, consistent with SCL's Integrated Resource Plan (IRP). The energy related to this Bill will be produced from a facility WM intends to build in Oregon that is fueled exclusively by landfill gas extracted from the Columbia Ridge Landfill. Adoption of this legislation advances our agenda to meet the City's power requirements with clean and renewable energy resources.

In 2006, Washington State passed a renewable portfolio standard (Initiative 937) that established requirements regarding renewable energy. This proposed Council Bill allows SCL to purchase new renewable power from WM, a wholly-owned subsidiary of Waste Management, Inc., for up to 6 MW of renewable energy. This is an innovative approach to working with a landfill to generate energy for Seattle.

The power received from WM meets Washington's portfolio standard definition of a renewable resource and will help SCL meet its requirements established under I-937. In addition, this resource will produce power in excess of 85% of the time thus helping SCL meet its resource adequacy targets set in its IRP.

Thank you for your consideration of this legislation. Should you have questions, please contact Ray Camacho at (206) 233-7889.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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ORDINANCE 122954

AN ORDINANCE relating to the City Light Department; authorizing execution of a 20-year agreement with WM Renewable Energy, LLC for the purchase of renewable power and environmental attributes and other related agreements that are necessary or convenient for transmitting the power from the Columbia Ridge landfill.

WHEREAS, WM Renewable Energy, LLC ("WM") intends to build, own and operate an electric generating facility ("Facility") fueled exclusively by landfill gas, extracted from the Columbia Ridge landfill, which is located within the City of Arlington, Gilliam County, Oregon; and

WHEREAS, WM's Facility will be interconnected with the Tower Road – Alkali Canyon 115 kV transmission line jointly owned by Columbia Basin Electric Cooperative and the Bonneville Power Administration; and

WHEREAS, City Light will receive and accept energy at the point where the Bonneville Power Administration ownership of the Tower Road – Alkali Canyon 115 kV transmission line begins; and

WHEREAS, City Light may be required to sign agreements with other parties related to the integration, transmission, and ancillary services needed for this resource; and

WHEREAS, WM wishes to sell and City Light wishes to purchase all electrical output generated by WM's Facility, together with all associated environmental attributes related to the generation output from the Facility; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Superintendent of City Light, or his designee, is hereby authorized to execute for and on behalf of the City of Seattle a 20-year Renewable Power Purchase Agreement, substantially in the form attached hereto as Attachment 1. This agreement with WM sets forth the terms under which WM will deliver new renewable energy and environmental attributes to City Light.



1 Section 2. The Superintendent of the City Light Department, or his designee, is hereby
2 further authorized to execute for and on behalf of The City of Seattle additional agreements for
3 ancillary services, integration and transmission that are necessary and convenient for City Light
4 to transmit the power acquired under the Renewable Power Purchase Agreement authorized in
5 Section 1 on terms and conditions that the Superintendent deems in the best interests of City
6 Light.
7

8 Section 3. Upon determining the availability of surplus of environmental attributes
9 within Seattle City Light's portfolio, the Superintendent of City Light, or his designee, is further
10 authorized to execute for and on behalf of the City of Seattle agreements for the sale of all or a
11 portion of the environmental attributes purchased under the Renewable Power Purchase
12 Agreement authorized in Section 1, on terms and conditions that the Superintendent deems in the
13 best interests of Seattle City Light, provided, however, that no such sale shall jeopardize Seattle
14 City Light's compliance with R.C.W. 19.285, *et. seq.*
15

16 Section 4. As required by R.C.W. 80.80.070, the City Council finds that WM's Facility
17 complies with the green house gas performance standards required by R.C.W. 80.80.040 because
18 it will be powered exclusively by landfill gas, a renewable resource as defined by R.C.W.
19 19.280.020.
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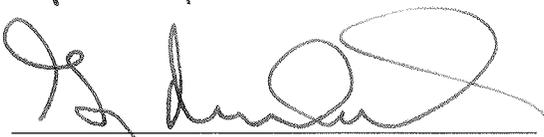


1 Section 5. This ordinance shall take effect and be in force thirty (30) days from and after
2 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
3 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the 6th day of April, 2009, and
5 signed by me in open session in authentication of its passage this
6 6th day of April, 2009.

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10 
President _____ of the City Council

11 Approved by me this 15th day of April, 2009.

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14
15 Gregory J. Nickels, Mayor

16 Filed by me this 15th day of April, 2009.

17
18
19 
20 City Clerk

(Seal)

21 Attachment 1. Renewable Power Purchase Agreement.
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ATTACHMENT 1

RENEWABLE POWER PURCHASE AGREEMENT

between

**THE CITY OF SEATTLE,
BY AND THROUGH ITS CITY LIGHT DEPARTMENT**

and

WM RENEWABLE ENERGY, LLC





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RENEWABLE POWER PURCHASE AGREEMENT

This Renewable Power Purchase Agreement is entered into as of the _____ day of _____, 2009, by and between WM Renewable Energy, LLC, a Delaware limited liability company with principal offices located at 1001 Fannin Street, Suite 4000, Houston, Texas 77002 ("**WM**"), and The City of Seattle, a Washington municipal corporation, by and through its City Light Department with principal offices located at 700 5th Avenue, P. O. Box 34023, Seattle, WA 98124-4023, ("**City Light**"). WM and City Light are sometimes referred to in this Agreement collectively as the "**Parties**" and individually as a "**Party**."

RECITALS

WHEREAS, WM intends to build, own and operate an electric generating facility fueled by Landfill Gas, extracted from the Columbia Ridge Landfill which is located within the City of Arlington, Gilliam County, Oregon ("**Facility**");

WHEREAS, WM's Facility will be interconnected with the Tower Road – Alkali Canyon 115 kV transmission line jointly owned by Columbia Basin Electric Cooperative and the Bonneville Power Administration;

WHEREAS, City Light will receive and accept Energy at the point where the Bonneville Power Administration ownership of the Tower Road – Alkali Canyon 115 kV transmission line begins;

WHEREAS, WM wishes to sell and City Light wishes to purchase all Electrical Output generated by WM's Facility up to the Contract Capacity, together with all associated Environmental Attributes related to the Generator Output from the Facility; and

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, City Light and WM agree as follows:



ARTICLE 1 DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below. Certain other capitalized terms are defined where they appear in this Agreement.

"Affiliate" means with respect to any Person, each Person that directly or indirectly, controls or is controlled by or is under common control with such designated Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

"Agreement" means this Power Purchase Agreement.

"Applicable Law" means, with respect to any Party, all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, licenses and permits, directives, and requirements of all regulatory and other governmental authorities, in each case applicable to or binding upon such Party and, in the case of WM, the Facility.

"Area Control Error" or **"ACE"** means the instantaneous difference between a Balancing Authority's net actual and scheduled interchange, taking into account the effects of Frequency Bias and correction for meter error.

"Automatic Generation Control" or **"AGC"** means equipment that automatically adjusts generation in a Balancing Authority Area from a central location to maintain the Balancing Authority's interchange schedule plus Frequency Bias. AGC may also accommodate automatic inadvertent payback and time error correction.

"Balancing Authority" means the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time. For purposes of this definition, the word "Interconnection" shall mean any one of the three major electric system networks in North America; Eastern, Western, and ERCOT.

"Balancing Authority Area" means the collection of generation, transmission and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.



“**BPA**” means the Bonneville Power Administration.

“**Business Day**” means any day other than Saturday, Sunday, or a legal public holiday as designed in Article 6103 of Title 5, U.S. Code or by Executive Order or federal statute or in accordance with WECC practice and variations as identified in the WECC prescheduling calendar.

“**Capacity**” means the ability of a generator at any given time to produce energy at a specified rate as measured in megawatts (“**MW**”) or kilowatts (“**kW**”). For purposes of this Agreement, the Capacity is equal to the Contract Capacity.

“**CBEC**” means the Columbia Basin Electric Power Cooperative.

“**City Light**” shall have the meaning given to it in the Preamble.

“**CAMD**” means the Clean Air Markets Division of the United States Environmental Protection Agency or any successor agency that is given jurisdiction over a program involving transferability of Environmental Attributes.

“**Commercial Operation Date**” means the date as memorialized in a written communication from WM to City Light, on which the generators included in the Facility, and all other portions of the Facility necessary to put the Facility into operation along with the Interconnection Facilities, are installed and capable of producing Energy and delivering such Energy, less real power losses, to the Delivery Point on the BPA's Transmission System in accordance with Prudent Electrical Practices and Applicable Law.

“**Contract Capacity**” means 6.4 MW plus any amounts of capacity added by WM pursuant to Section 3.6.

“**Contract Rate**” means the rate, expressed in dollars per MWh, payable by City Light to WM for the purchase of Electrical Output, Test Power and Environmental Attributes generated by the Facility during the Term. The Contract Rate for the Term is set forth in **Exhibit G** hereto under the column designated “Contract Rate (\$ per MWh)”.

“**Contract Year**” means each period during the term of this Agreement beginning on January 1 and ending on December 31. The first Contract Year shall commence on the first January 1 occurring after the Commercial Operation Date.

“**Consolidated Net Tangible Assets**” means, with respect to any Person and as of the date of any determination thereof, the total amount of all assets of such Person determined on a consolidated basis in accordance with Generally Accepted Accounting Principles (GAAP) as of such date, less the sum of (i) the consolidated current liabilities



of such Person determined in accordance with GAAP and (ii) assets properly classified as intangible assets in accordance with GAAP.

“**Credit Support**” means (1) for City Light and WM’s Affiliate any of the following: a bond, letter of credit, guarantee or other reasonable and commercially priced security in a form and from a source approved by the Party seeking performance assurance under Section 8.4 of this Agreement (which approval shall not be unreasonably withheld, conditioned or delayed), or (2) for WM, a parent guarantee in the form of **Exhibit J**.

“**Day**” means a period of 24 consecutive hours beginning at 00:00 hours Pacific Prevailing Time on any calendar day and ending at 24:00 hours Pacific Prevailing Time on the same calendar day.

“**Defaulting Party**” shall have the meaning given to it in Section 12.2.

“**Delivery Day**” means the 24-hour period during which power is delivered or made available.

“**Delivery Point**” shall have the meaning given to it in Section 3.9.

“**Dynamic Schedule**” means a telemetered reading or value that is updated in real time and used as a schedule in the AGC/ACE equation and the integrated value of which is treated as a schedule for interchange accounting purposes and commonly used for scheduling jointly owned generation to or from another Balancing Authority Area.

“**Electrical Output**” means Capacity, Energy and Resource Adequacy Benefits of the Facility and/or any reporting rights associated with any of the foregoing.

“**Energy**” means any and all electrical energy generated by the Facility in excess of energy consumed in connection with the generation of electricity or the preparation of Landfill Gas as fuel and in excess of station load, as measured in MWh at the Meter but no more than that amount of electrical energy associated with the Contract Capacity.

“**Environmental Attributes**” means any and all credits, benefits, emissions reductions, environmental air quality credits, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance directly attributable to the generation from the Facility and its displacement of conventional energy generation delivered during the Term, including without limitation any of the same arising out of legislation or regulation concerned with oxides of nitrogen, sulfur or carbon, with particulate matter, soot or mercury, or implementing the United Nations Framework Convention on Climate Change (the “UNFCCC”) or the Kyoto Protocol to the UNFCCC or crediting “early action” with a view thereto, or laws or



regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency or successor administrator. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4) and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the Environmental Attributes Reporting Rights to these avoided emissions. Environmental Attributes do not include (1) any energy, capacity, reliability or other power attributes from the Facility, or (2) fuel-related subsidies or "tipping fees" that may be paid to WM delivering such Environmental Attributes in the form of RECs to accept certain fuels, or local subsidies received by the generator for the destruction of particular pre-existing pollutants or the promotion of local environmental benefits. If the WM receives any tradable Environmental Attributes based on the greenhouse gas reduction benefits attributed to its fuel usage for the Facility under this Agreement, it shall provide City Light with sufficient Environmental Attributes to ensure that there are zero net emissions associated with the applicable production of electricity from the Facility. The term Environmental Attributes includes any other environmental credits or benefits recognized in the future and attributable to the energy generated by the Facility during the Term, unless otherwise excluded herein. The term Environmental Attributes does not include federal, state or local tax credits or similar benefits, including with out limitation any tax credits that might be available pursuant to Section 45 of the Internal Revenue Code.

"Environmental Attributes Reporting Rights" means all rights to report ownership of the Environmental Attributes in compliance with federal or state law, if applicable, and to any person or entity at City Light's discretion, and include without limitation those Environmental Attribute Reporting Rights accruing under Article 1605(b) of the Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program or otherwise.

"Facility" means that electric generating facility fueled by Landfill Gas, extracted from the Columbia Ridge Landfill which is located within the City of Arlington, Gilliam County, Oregon, as more particularly described in **Exhibits A** through **D** hereto and otherwise meeting the requirements of this Agreement.

"Facility Meters" shall have the meaning given to it in Section 7.2.



“Force Majeure” means any act or event that delays or prevents a Party from timely performing its obligations under this Agreement, or from complying with or satisfying the conditions required under this Agreement if such act or event is reasonably unforeseeable, not within the reasonable control of the Party affected thereby, and (i) cannot have been avoided or (ii) which by the exercise of reasonable diligence the affected Party is unable to overcome or obtain or cause to be obtained a commercially reasonable substitute. As long as the requirements of the preceding sentence are met, a Force Majeure act or event may include any act of God or the elements, extreme or severe weather conditions, explosion, fire, epidemic, landslide, mudslide, sabotage, lighting, earthquake, flood or similar cataclysmic event, an act of public enemy, war, blockade, civil insurrection, riot, civil disturbance, strike or other labor disruption, or an event that is any restraint or restriction imposed by law or by rule, regulation, or other acts of governmental authorities, whether federal, state or local; *provided, however*, without limiting the generality of the foregoing, shall specifically include, but is not limited to transmission curtailment or outage, failure of generating facility, pipelines or other equipment; failure of supply of Landfill Gas; breakage of or damage to machinery, equipment or pipelines provided such act or event is not related to failure by WM to adhere to Prudent Electrical Practices.

In addition, City Light’s failure to receive delivery of Energy as required hereunder due to curtailment of firm Transmission Services being utilized by City Light to transmit energy away from the Delivery Point shall be deemed a Force Majeure act or event provided and to the extent that City Light does not at the time it is first informed of such curtailment, own rights to unused and uncommitted firm transmission capacity on the same path capable of providing for such deliveries.

“Forced Outage” means an occurrence, as reasonably declared by WM to City Light, of an unplanned reduction or interruption of the generation of Electrical Output from the Facility in response to mechanical, electrical or hydraulic control system trips or operator initiated trips or shutdowns in response to unit alarms or equipment malfunction at the Facility or to prevent such trips, alarms or malfunctions, which reduction or interruption may be immediate or delayed no longer than the end of the then applicable daily preschedule.

“Forward Contract” shall have the meaning given it in Section 17.11.

“Forward Contract Merchant” shall have the meaning given it in Section 17.11.



“Frequency Bias” means a value, usually expressed in megawatts per 0.1 Hertz (MW/0.1 Hz), associated with a Balancing Authority Area that approximates the Balancing Authority Area’s response to interconnection frequency error.

“Generator” means the engine and generator sets described in **Exhibit C**.

“Generator Interconnection Agreement” or **“GIA”** means the interconnection agreement(s), between the Transmission Provider(s) and/or Interconnection Provider(s) and WM, pursuant to which the Interconnection Facilities will be constructed, operated, and maintained during the Term. Such agreement must be in a form and substance reasonably acceptable to City Light for purposes of this Agreement. If reasonably required by the Transmission Provider and/or the Interconnection Provider, City Light will be a party to such GIA or enter into a similar agreement, and both such agreements shall collectively constitute the GIA for purposes of this Agreement. City Light’s consent to be a party to such agreement shall not be unreasonably withheld, conditioned or delayed.

“Generator Output” means the sum of the output of the Generators as measured by the Facility Meters.

“Guaranteed Output” means, beginning in the third Contract Year of this Agreement, as calculated for the second Contract Year, Forty-four Thousand Five Hundred (44,500) MWh reduced by Force Majeure events.

“Guarantor” shall have the meaning set forth in Section 8.4.7.

“Integration Agreement” means the integration agreement(s), if any, between the Transmission Provider(s) and/or Interconnection Provider(s) and WM, during the Term. Such agreement must be in a form and substance reasonably acceptable to City Light for purposes of this Agreement. If reasonably required by the Transmission Provider and/or the Interconnection Provider, City Light will be a party to such Integration Agreement or enter into a similar agreement such as a balancing authority area services agreement and both such agreements shall collectively constitute the Integration Agreement for purposes of this Agreement. City Light’s consent to be a party to such agreement shall not be unreasonably withheld, conditioned or delayed.

“ICCP” means the Inter-Control Center Protocol ((IEC) 60870-6/TASE.2) established by the International Electrotechnical Commission.

“Interest Rate” means, on any date, the per annum rate of interest equal to the Prime Rate plus three percent (3%) provided that the Interest Rate shall never exceed the maximum rate permitted by applicable law.



“Interconnection Facilities” means the facilities and control and other equipment between the Facility and the Delivery Point, including, without limitation, control and protective devices, metering facilities, and WM’s transformer necessary to deliver Energy to City Light at the Delivery Point.

“Interconnection Provider” means with respect to the transmission or distribution system facilities from the Facility to the Delivery Point, Columbia Basin Electric Cooperative or any replacement regional transmission organization or other entity that operates such transmission or distribution system facilities.

“Landfill Gas” means that gas which is a by-product of the decomposition of refuse within the Columbia Ridge Landfill.

“Market Price” means for each of January, February, March, July, August, September, October, November, and December, stated in dollars per MWh, an amount equal to the simple average of the daily firm flat prices using the Dow Jones Mid-Columbia Electricity Index for the respective month. If such index becomes unavailable during the Term, it shall be replaced for purposes of the preceding sentence by a replacement index agreed to in writing by City Light and WM.

“Material Adverse Change” means that (1) (a) the long-term senior unsecured debt rating (or its equivalent) of WM’s Affiliate or City Light, as applicable, has fallen below the rating of BBB-/Stable from Standard & Poor’s and Baa3/Stable from Moody’s, if such party is rated by both such agencies, or (b) if such party is rated by only Standard & Poor’s or Moody’s and such party’s senior unsecured debt rating (or its equivalent) has fallen below a rating of BBB-/Stable for Standard & Poor’s or Baa3/Stable from Moody’s, or (c) if such party is rated by neither Standard & Poor’s nor Moody’s, such party’s senior unsecured debt rating (or its equivalent) has fallen below a rating of BBB-/Stable from the Fitch rating agency, and (d) the Consolidated Net Tangible Assets, as shown on the applicable party’s regularly prepared quarterly and annual financial statements, have fallen below \$100,000,000, or (2) a default by WM’s Affiliate or City Light under a bond indenture or comparable material debt instrument if such default is not cured within the time period specified for cure in the indenture or instrument in question.

“Megawatt-hour” or **“MWh”** means a unit of energy equal to one thousand kilowatt-hours.

“Meter” means the instrument or instruments meeting applicable Technical Requirements and electric industry standards, installed, repaired and calibrated in



accordance with BPA's requirements and used to measure and record the volume and other required delivery characteristics of the Energy delivered hereunder, as further defined in Section 7.1.

"Megawatt" or **"MW"** means a unit of power equal to one thousand kilowatts.

"NAESB" means the North American Energy Standards Board.

"NERC" means the North American Electric Reliability Corporation.

"Non-Defaulting Party" shall have the meaning given to it in Section 12.2.

"Party" and **"Parties"** shall have the meaning given it in the Preamble.

"Person" means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority, limited liability company or any other entity of whatever nature.

"Prime Rate" means the rate published in *The Wall Street Journal* under "Money Rates," as the "Prime Rate" from time to time (or, if more than one rate is published, the arithmetic mean of such rates), in either case determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by Applicable Law.

"Prudent Electrical Practices" means during the relevant time period, any of the practices, methods and acts engaged in or approved by the Western Electricity Coordinating Council (WECC), and prudent electrical engineering and operations practices to operate landfill gas generation electrical equipment and related electrical equipment lawfully and with safety, reliability, efficiency, economy and expedition; or in the absence of the practices, methods and acts described in the immediately preceding clause, 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 reasonable cost consistent with good business practices, reliability, safety and expedition. "Prudent Electrical Practices" is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to the range of practices, methods or acts generally accepted in the electric industry. Prudent Electrical Practices include procedures to prevent harmonic distortion, disruptive service and provide for voltage regulation.

"Qualified Reporting Entity" or **("QRE")** means an organization providing renewable output on a unit specific basis for the purpose of creating WREGIS Certificates that has met the QRE guidelines established in the WREGIS Operating Rules.



“Reliability Adjustment” means a modification to energy flow and/or transmission capacity requested by a reliability entity that will be implemented in accordance with reliability standards and the provisions of the NERC Electronic Tagging Functional Specification Version 1.8.0 (November 2007), as may be modified from time to time.

“Renewable Energy Credits” or **“RECs”** means tradable credits or certificates evidencing all Environmental Attributes associated with the Generator Output of the Facility. RECs are accumulated on a kWh basis and one REC represents the Environmental Attributes associated with one (1) MWh of Energy.

“Renewable Generating Unit” means, for the purposes of WREGIS, any Generating Unit that is defined as renewable by any of the states or provinces in the WECC.

“Replacement Energy Cost” shall have the meaning given it in Section 6.1.1 and calculated in **Exhibit I**, Replacement Energy Cost.

“Replacement RECs” means tradable credits or certificates that meet the definition of Renewable Energy Credit pursuant to Chapter 19.285 of the Revised Code of the State of Washington in effect as of the date of signing of this Agreement.

“Representative(s)” shall have the meaning given it in Section 14.1.

“Resource Adequacy Benefits” means the rights and privileges associated with any generating resource that satisfy an entity’s resource adequacy obligations, as those obligations may be subsequently defined.

“Resource Adequacy Requirements” means resource adequacy obligations established by the Western Electricity Coordinating Council or other entity applicable to City Light.

“Scheduled Major Maintenance Outage” means any scheduled outage or reduced generating capability to perform major maintenance such as performing top end overhauls, engine or generator replacement, or high voltage maintenance but not including an event of Forced Majeure or Forced Outage or routine maintenance including without limitation oil changes or spark plug changes.

“Technical Requirements” means those codes, standards, and specifications for the Meters mutually agreed upon by the Parties in writing.

“Term” shall have the meaning given to it in Section 2.1.

“Test Power” means the Energy produced by the Facility during the testing thereof prior to the Commercial Operation Date.



“**Transfer**” means an assignment of any rights, a delegation of any duties under this Agreement or any other transfer of this Agreement.

“**Transmission Provider**” means the operator of Transmission System facilities from the Delivery Point to City Light’s electric system, BPA or any replacement regional transmission organization or other entity that operates such Transmission System facilities.

“**Transmission Services**” means the transmission or wheeling services, between the Delivery Point and City Light’s points of interconnection with the Transmission Provider.

“**Transmission System**” means the transmission system facilities now or hereafter operated by the Transmission Provider.

“**WECC**” means the Western Electric Coordinating Council.

“**WM**” shall have the meaning given to it in the Preamble.

“**WM’s Affiliate**” means Waste Management, Inc or another Affiliate of WM designated by WM and acceptable by City Light to be WM’s Guarantor for this contract which shall not be experiencing a Material Adverse Change at the time of such designation.

“**Western Renewable Energy Generation Information System**” (“**WREGIS**”) means the independent, renewable energy tracking system for the WECC region that tracks renewable energy generation from units that register in the system using verifiable data and creates RECs (“**WREGIS Certificates**”) that can be used to verify compliance with state regulatory requirements and in voluntary market programs.

“**WREGIS Certificate**” means all renewable and Environmental Attributes from one MWh of electricity generation from a Renewable Generating Unit registered with WREGIS. The WREGIS system will create exactly one Certificate per MWh of generation that occurs from a registered Renewable Generating Unit.

ARTICLE 2

TERM AND TERMINATION; APPROVALS

2.1 Term. This Agreement shall be effective after both Parties have executed the Agreement and all conditions precedent have been met. The Agreement shall continue through March 31, 2028 unless terminated earlier pursuant to this Agreement.



2.2 Extension by Mutual Agreement. The term of this Agreement may be extended by a written amendment executed by both Parties.

2.3 Conditions Precedent. The Agreement is conditional upon and shall not take effect or be enforceable against either Party until all of the following have occurred:

2.3.1 Receipt by Waste Management of Oregon, Inc. of an Oregon air permit for the Facility reasonably acceptable in form and substance to WM and to Waste Management of Oregon, Inc.;

2.3.2 Execution of a Generator Interconnection Agreement between WM and CBEC reasonably acceptable to WM in cost, form and substance;

2.3.3 Execution of an Integration Agreement between WM and BPA, reasonably acceptable to WM as to form, substance and cost;

2.3.4 Confirmation by BPA of City Light's service request reserving transmission on BPA's transmission system;

2.3.5 The Agreement has been executed by a properly authorized representative of WM;

2.3.6 The Agreement has been approved by a lawfully enacted ordinance of the City of Seattle.

2.3.7 If before all the conditions precedent are satisfied the Seattle City Council or Waste Management, Inc.'s President propose modification to this Agreement, the Parties shall exercise commercially reasonable efforts to either:

- (i) Amend this Agreement to comply with the changes, or
- (ii) Negotiate a replacement Agreement, that in either case provides benefits similar to those provided under this Agreement to both Parties and that is expected to be acceptable to the Seattle City Council, and Waste Management, Inc.'s President, or
- (iii) Terminate discussions.



2.3.8 Within fifteen (15) Days after execution of this Agreement, City Light shall deliver to WM a true and correct copy of the ordinance evidencing the necessary authorizations with respect to the execution and delivery of this Agreement and the performance by City Light of its obligations pursuant to this Agreement.

2.4 Suspension and Termination.

2.4.1 City Light's Rights to Suspend and/or Terminate.

2.4.1.1 City Light shall have the right to terminate this Agreement without penalty on sixty (60) Days written notice if any of the following occur:

(a) the Facility does not generate for 12 consecutive months after the Commercial Operate Date;

(b) the Facility fails to comply with all applicable federal, Washington, Oregon and local laws, regulations, codes and ordinances, and WM cannot cure the default within the periods of time specified in Section 2.4.1.2;

(c) after the Commercial Operation Date, the Facility fails to generate a minimum of Four Thousand Six Hundred (4,600) MWh of Energy during any twelve (12) consecutive months, for reasons other than the occurrence of an event of Force Majeure, Forced Outage or an act or omission of, or a condition affecting the Transmission Provider or the Interconnection Provider; or

(d) the Commercial Operation Date does not occur on or before June 30, 2011 by reasons other than Force Majeure.

2.4.1.2 City Light may suspend its purchases of Electrical Output and Environmental Attributes under this Agreement if and to the extent at any time during the Term, the Facility (i) fails to comply in any material respect with any federal, state or local law, regulation or ordinance applicable to such facility, and (ii) WM does not cure such failure within forty (40) Days after WM receive notice from City Light or otherwise describing the failure in reasonable detail; provided, however, that if the failure to comply is not reasonably capable of being cured within such forty-day cure period, WM will have additional time to cure the event of non-compliance if WM (a) commences to cure the failure within the forty-day cure period, (b) diligently pursues the



cure, and (c) the failure is capable of being cured and is in fact cured within no more than one-hundred ninety (190) Days after WM receives notice of the failure from City Light or otherwise. The suspension would commence at the end of the 40-day cure period, unless the cure period is extended as contemplated by the proviso set forth in the preceding sentence (in which case the suspension would commence at the end of such extended cure period). WM shall provide City Light with reasonably detailed information concerning the commencement of the cure and anticipated diligent pursuit of the cure on or before the 41st Day following notice. WM shall provide updates of such information as reasonably requested by City Light. Any such suspension of City Light's purchases of Electrical Output and Environmental Attributes under this Agreement shall end two Business Days after (x) WM corrects to City Light's reasonable satisfaction the non-compliance described in City Light's notice, and (y) WM gives City Light notice that the non-compliance has been corrected. If any suspension under this Section 2.4.1.2 continues for a period of more than one hundred ninety (190) Days, City Light shall have the right to terminate this Agreement in its sole discretion. A suspension shall not extend the term of this Agreement, and neither Party shall be required to make up the deliveries of Electrical Output and Environmental Attributes that would have been made during the suspension period. City Light shall give WM at least fifteen (15) Days prior written notice of termination.

2.4.2 WM's Right to Terminate. WM may terminate this Agreement on sixty (60) Days written notice if (i) the City of Seattle unilaterally terminates that certain contract between the City of Seattle's Public Utility Department ("SPU") and Waste Management of Washington, Inc. for the Transportation and Disposal of Waste, dated as of September 11, 1990, as amended (the "Longhaul Agreement") through the exercise of the City of Seattle option in Section 10 of Amendment No. 3 of the Longhaul Agreement; and (ii) SPU does not enter into a replacement contract with Waste Management of Washington, Inc., or a successor or assign upon mutually agreeable terms, then WM shall have the right to terminate this Agreement without penalty or further obligation to City Light, by providing written notice to City Light within thirty (30) Days after receipt by Waste Management of Washington, Inc. of termination notice from the City of Seattle terminating the Longhaul Agreement.



2.4.3 Notice of Termination.

2.4.3.1 Each Party shall give the other Party as much advance notice as possible of issues or concerns that may give rise to its decision to terminate this Agreement pursuant to Section 2.5.

2.4.3.2 Any termination under this Agreement shall be effectuated by delivery of a written notice of termination specifying the basis for termination and the date upon which the termination shall become effective. Following termination of this Agreement, each Party shall (a) as applicable, render to the other Party a final invoice for the payment obligations of the other Party, if any, incurred up to the termination date and/or make full payment of all amounts shown on outstanding invoices, including without limitation the foregoing final invoice; and (b) in good faith and to the best of its ability, do all things necessary and proper to ensure the efficient, proper close-out of this Agreement.

2.5 Effect of Termination. Except as otherwise provided herein, upon the termination of this Agreement neither Party shall have any further liability to the other under the Agreement, except that any liabilities incurred or accrued prior to termination shall continue until paid.

2.6 Effect of Suspension. Notwithstanding any provision of this Agreement to the contrary, if City Light suspends this Agreement under Section 2.4.1.2, (a) City Light shall be released and discharged from any obligations to take and pay for Electrical Output and Environmental Attributes under this Agreement from and during the period of such suspension, but only to the extent of such suspension, and (b) WM shall be released and discharged from any obligations to sell and deliver Electrical Output and Environmental Attributes under this Agreement from and during the period of such suspension, but only to the extent of such suspension. In such event, WM may sell the Facility's Electrical Output and Environmental Attributes to a third party, but if WM sells such Electrical Output and Environmental Attributes at a combined price greater than the Contract Rate, City Light shall be entitled to receive ninety percent (90%) of the amount paid for such Electrical Output and Environmental Attributes in excess of the Contract Rate. This amount shall be due and payable to City Light on the 20th Day of the month



following the month in which the WM receives payment for such Electrical Output and Environmental Attributes.

ARTICLE 3

RENEWABLE POWER PURCHASE AND SALE

3.1 Notice of Commercial Operation. WM shall notify City Light in writing at least thirty (30) Days prior to the expected Commercial Operation Date. Within ten (10) Business Days after the Commercial Operation Date has occurred, WM shall deliver to City Light a certificate or letter to that effect substantially in the form attached hereto as **Exhibit E**. The parties anticipate that the Commercial Operation Date will occur on or about October 1, 2009, but WM shall not be in default pursuant to this Agreement and shall have no liability to City Light if the Commercial Operation Date is delayed beyond such anticipated date. As requested by City Light, WM will provide updated estimates of the Commercial Operation Date.

3.2 Purchase and Sale of Electrical Output. In accordance with and subject to the provisions hereof, commencing on the Commercial Operation Date and continuing throughout the Term, WM shall sell and deliver to City Light at the Delivery Point, and City Light shall purchase and receive from WM at the Delivery Point, the Electrical Output and all title and interest in and to the Electrical Output and Environmental Attributes of the Facility, measured in MWh at the Meter for Electrical Output and measured in MWh at the Facility Meters for Environmental Attributes during the Term. The sale of Electrical Output to City Light under this Agreement includes all Environmental Attributes associated with the Generator Output as more specifically described in Section 3.10.

3.3 Test Power. Prior to the Commercial Operation Date, WM shall sell and deliver to City Light at the Delivery Point, and City Light shall purchase and accept from WM at the Delivery Point, all Test Power. Such amount of Test Power will be measured at the Meter.

3.4 Power Quality. WM shall deliver Electrical Output (including Test Power) to the Delivery Point at a power factor and quality consistent with the requirements of the GIA.



3.5 Resource Adequacy. WM hereby grants, pledges, assigns and otherwise commits to City Light the full Electrical Output of the Facility during the Term for all purposes, including among other things satisfying any Resource Adequacy Requirement that may be applicable to City Light; provided, however, WM shall not be required to provide City Light with any ancillary services that may be associated with the sale of Capacity, including but not limited to black start capability, reactive power, spinning reserves or regulation. WM represents, warrants and covenants to City Light that WM will not, during the Term, use, grant, pledge assign or otherwise commit any portion of the Facility's Electrical Output and the associated Environmental Attributes to any entity other than City Light. The Parties shall take all actions (including, without limitation, amending this Agreement) and execute all documents or instruments as may be reasonably necessary or advisable to effectuate the use of the Resource Adequacy Benefits of the Facility for City Light's sole benefit throughout the Term.

3.6 Additional Output of the Facility. From time to time WM shall provide City Light with timely updates as to possible plant expansion. If at any time during the Term WM installs generation capacity at the Facility in excess of 6.4 MW and WM elects to sell the additional capacity, energy ("**Additional Output**") and Environmental Attributes resulting from the added capacity for delivery other than for delivery and use on the site of the Columbia Ridge landfill or on real property adjoining to the landfill that is owned by Waste Management of Washington, Inc or by an Affiliate of Waste Management of Washington, Inc., then WM shall provide City Light with a written notice establishing an exclusive negotiating period of 90 Business Days to reach agreement in principle on terms for the purchase of all such Additional Output and the associated Environmental Attributes based upon rates, terms and conditions mutually agreeable to WM and City Light for such Additional Output and Environmental Attributes (the "Exclusive Window"). During the Exclusive Window, City Light and WM shall timely and diligently negotiate in good faith with each other. Upon receipt by City Light of a written notice provided by WM of future availability of Additional Output and associated Environmental Attributes, WM and City Light shall negotiate in good faith and make good faith and commercially reasonable efforts to complete an agreement for the sale and purchase of any Additional Output and associated Environmental Attributes that is mutually acceptable to the parties and suitable for any approval process by WM and the City of Seattle within the Exclusive Window. Such agreement shall be completed within



the Exclusive Window or a mutually acceptable alternative time frame after City Light's receipt of WM's notice. Any agreement for Additional Output may be subject to a determination of availability of transmission from the Transmission Provider for City Light to transmit the Additional Output. If WM and City Light fail to reach agreement on acceptable rates, terms and conditions within the Exclusive Window and the parties fail to extend the Exclusive Window, then WM shall be free to sell such Additional Output, and associated Environmental Attributes to third parties, provided such sale is not at materially lower rates or on materially more favorable terms or conditions to such third party than that offered to City Light.

If WM has sold Additional Output to a party or parties other than City Light, and the Facility's output is reduced, WM shall first reduce the delivery quantities for all Additional Output before reducing any of City Light's Contract Capacity.

3.7 Title and Risk of Loss of Electrical Output. Title to, liability for, and risk of loss associated with the Electrical Output sold to City Light under this Agreement shall transfer from WM to City Light upon delivery of Electrical Output at the Delivery Point.

3.8 Scheduling and Notifications. Scheduling and notifications shall be provided pursuant to Section 5.1 Operating Procedures, and **Exhibit H** which is attached hereto.

3.9 Delivery Point. The Facility will be interconnected with CBEC by means of a 115 kV tap onto CBEC's section of the Tower Road – Alkali Canyon 115 kV transmission line. City Light will accept and take delivery of the Electrical Output at the point where BPA ownership begins ("**Delivery Point**"). Electrical Output sold to City Light under this Agreement shall be delivered to City Light at the Delivery Point. WM shall obtain and maintain throughout the Term, at WM's expense, all services and agreements including any GIAs necessary to deliver the Electrical Output (including Test Power) to the Delivery Point.

3.10 Purchase and Sale of Environmental Attributes.

3.10.1 Purchase and Sale of Environmental Attributes. Together with the Electrical Output of the Facility, WM shall convey to City Light all rights, title, and



interests in and to all Environmental Attributes associated with the Generator Output as measured at the Facility Meters whether now existing or acquired by WM or that hereafter come into existence or are acquired by WM during the Term. WM shall, to the fullest extent permitted by Applicable Law, make the Environmental Attributes available to City Light immediately upon WM's obtaining the Environmental Attributes associated with such Generator Output. WM shall make such filings and take such other actions as City Light may from time to time reasonably request in order to preserve and maintain City Light's title to the Environmental Attributes and to enable City Light to use, sell and transfer such Environmental Attributes. City Light and WM acknowledge that the quantity of Environmental Attributes are equal to the Generator Output as measured at the Facility Meter and will exceed the quantity of Electrical Output. None the less, City Light will pay for both the Environmental Attributes and the Electrical Output based solely on the Electrical Output quantity as measured at the Meter.

3.10.2 Title to and Risk of Loss of Environmental Attributes. Title to, liability for, and risk of loss associated with the Environmental Attributes sold to City Light under this Agreement shall transfer at the Facility Meter(s).

3.10.3 WM's Covenants, Representations and Warranties. WM warrants and represents to City Light on a continuing basis that it owns or will own the Environmental Attributes as they are created; and it has not sold, pledged, assigned, transferred or otherwise disposed of, and will not sell, pledge, assign, transfer or otherwise dispose of, the Environmental Attributes to any entity other than City Light; and all electricity generated by the Facility will be fueled solely by Landfill Gas such that it complies with the renewable resource definition of Chapter 19.285 of the Revised Code of Washington in effect as of the date of signing of the contract.

3.10.4 Delivery of Renewable Energy Credits. WM agrees to submit to City Light, or an entity designated by City Light, documentation of WM's sale to City Light of the Environmental Attributes and delivery to City Light of the RECs in the form attached hereto as **Exhibit F**, REC Attestation and Bill of Sale. The Parties will modify that Attestation, to the extent necessary to conform to the reporting requirements adopted by any entity that verifies City Light's renewable energy purchases. WM agrees that it or its designee will, at its own expense, be the reporting entity (QRE in the case of WREGIS) for the purpose of providing renewable output (reportable renewable



generation data) to WREGIS, its successor organization or another entity, if any, that City Light uses to verify its renewable energy purchases and that requires registration, inspections, certification or other evidence of the quality and/or quantity of RECs. From this renewable generation data WREGIS will create WREGIS Certificates that WM will transfer to City Light monthly. City Light will reimburse WM for any charges incurred by WM from WREGIS for transferring the WREGIS Certificates to City Light. Further, at City Light's request and expense, the Parties shall execute any such additional documents and instruments necessary or desirable to evidence the Environmental Attributes or to effect or evidence transfer of the Environmental Attributes to City Light or its designees.

ARTICLE 4

PERMITTING, CONSTRUCTION AND MONITORING

4.1 Facility Design, Permitting, Construction and Installation. WM shall develop, obtain all necessary permits and authorizations and construct the Facility at no cost to City Light.

4.2 Warrants and Covenants. WM represents, warrants and covenants throughout the Term that:

4.2.1 the Facility will be designed, engineered, constructed and installed in such a manner as to have a reasonably expected useful life of no less than twenty (20) years;

4.2.2 the Facility will be designed, engineered, constructed, installed and operated in compliance with all permits and Applicable Law and in accordance with Prudent Electrical Practices; and

4.2.3 that it will develop and operate the Facility as a renewable resource that complies with the definition set forth in Section 19.280.020 of the Revised Code of Washington in effect as of the date of signing of the Agreement.

4.3 Right to Monitor. During the design, procurement, construction, installation, start-up, and testing of the Facility, WM shall permit City Light and its advisors and consultants to:



4.3.1 monitor the construction of the Facility to determine whether it meets the specification of having a reasonably expected useful life of not less than twenty (20) years;

4.3.2 as a condition precedent to the occurrence of the Commercial Operation Date, be present to witness the initial performance tests and review the results thereof;

4.3.4 perform such other examinations, inspections, and quality surveillance as, in the judgment of City Light, are appropriate and advisable to determine that the Facility has been designed, engineered and installed in accordance with this Agreement; and

4.3.5 in conducting the foregoing monitoring activities, City Light's representatives shall comply with all requirements for visitors to the Columbia Ridge Landfill.

4.4 Reporting.

4.4.1 WM agrees to provide to City Light periodic reports as to the status of the development, permitting, design, construction and installation of the Facility and other matters reasonably related to City Light's interest in the Facility pursuant to this Agreement. Such reports shall be provided by WM to City Light monthly or as requested by City Light, but no more often than twice in any calendar month.

4.4.2 Prior to the Commercial Operation Date WM shall deliver to City Light a schedule for the initial performance tests.

4.5 No City Light Warranty, Representation or Endorsement. No monitoring, review, consent, verification, advice, recommendation, authorization, notice, witness, inspection, test or any other act by City Light (and no delay or failure by City Light to monitor, review, approve, consent, verify, advise, recommend, authorize, notify, witness, inspect, test or otherwise act) regarding the procurement, construction, installation, start-up, testing, operation or maintenance of the Facility shall constitute or be interpreted or construed as, or be relied upon or held out by WM or any other Person as, any waiver, warranty, representation, covenant or endorsement by City Light. Likewise, any monitoring, review, consent, verification, advice, recommendation,



authorization, notice, witness, inspection, test or any other act by City Light is for City Light purposes only, and shall not act or be construed in any way as to relieve WM from its duty to comply with Applicable Law.

ARTICLE 5

OPERATIONS, MAINTENANCE AND REPORTING

5.1 Operating Procedures. Exhibit H shall specify procedures that govern the operation of the Facility, scheduling and coordination requirements for WM, CBEC, BPA and City Light. These procedures will be modified and/or amended as necessary to incorporate changes in industry standards, practices and procedures.

5.2 Power Quality. All Energy delivered by WM to the Delivery Point shall be 60 hertz, three phase, and shall be delivered in accordance with the voltage stated in the GIA with CBEC and any requirements of the Transmission Provider.

5.3 Operating Standards. WM shall operate and maintain the Facility in such a manner as to have a reasonably expected useful life of no less than twenty (20) years, in accordance with Prudent Electrical Practices; consistent with any interconnection agreements related to the Facility and with all Applicable Laws.

5.4 Inspections, Maintenance and Repairs. WM shall (a) develop and implement a plan of inspection, maintenance and repair for the Facility and its components in order to maintain such equipment in safe and reliable operating conditions and in accordance with Prudent Electrical Practices, and (b) keep records with respect to inspections, maintenance and repairs to the Facility. WM shall permit City Light to inspect the plan and records during regular business hours upon reasonable notice.

5.5 Right to Monitor. Upon City Light's reasonable prior request to WM, representatives of City Light shall be allowed to visit the Facility and to ascertain the condition of the Facility, all at City Light's sole risk and expense. City Light shall, where possible, make this request at least thirty (30) Days in advance of the visit. City Light shall defend, indemnify and hold WM harmless against any claims, demands, or liabilities of any nature whatsoever asserted by any of its representatives on account of



any personal injury or property damage suffered by such representative while visiting the Facility.

5.6 Notice of Scheduled Major Maintenance Outages. At least sixty (60) Days before the beginning of each Contract Year, WM shall provide City Light with written notice of Scheduled Major Maintenance Outages for the following Contract Year. WM shall use commercially reasonable efforts to avoid Scheduled Major Maintenance Outages in July and August and between December and March and to accommodate any additional outage schedule adjustment that is requested by City Light. Such notice will include the following information: (i) beginning date (day, month, year), (ii) beginning time (hour), (iii) end date (day, month, year), (iv) end time (hour), (v) number of units affected, (vi) estimated Energy during the outage period. City Light shall promptly be informed of any changes to the schedule of maintenance outages pursuant to **Exhibit H**, Section H.7.

5.7 Monthly Report. Within thirty (30) Days after the end of each calendar month, WM shall provide to City Light a written monthly report, which shall include summaries of production of the Generators, any other significant events related to the operation of the Generators, and any supporting information that City Light may reasonably request.

ARTICLE 6

PERFORMANCE GUARANTEES

6.1 Guaranteed Output.

6.1.1 WM covenants that beginning with the second (2nd) Contract Year the amount of Energy sold to City Light during each Contract Year will be greater than the Guaranteed Output. If WM fails to sell to City Light the Guaranteed Output, then WM shall pay City Light an amount determined pursuant to **Exhibit I**, Replacement Energy Cost.

6.1.2 No later than February 10 of each Contract Year, beginning with the third Contract Year, City Light shall deliver to WM an invoice showing City Light's computation of the number of MWh of Energy delivered to City Light by WM as measured at the Meter and WM's Guaranteed Output for the immediately preceding



Contract Year as well as any amount due City Light as Replacement Energy Cost. WM shall pay such amount to City Light by wire transfer of immediately available funds by the later of ten (10) Days after WM's receipt of City Light's statement or the 20th Day of the month in accordance with the wire transfer instructions set out in Exhibit K, Contact Information, as it may be changed from time to time, or to the account specified in writing by City Light for such purpose or by any other means agreed to by the Parties in writing from time to time, provided that any disputed invoices shall be treated as set forth in Section 10.4.

6.2 Replacement RECs. WM shall provide City Light with Replacement RECs in an amount equal to the number of MWh by which the Energy in any Contract Year (except for the first Contract Year) is less than the Guaranteed Output. No later than February 10 of each Contract Year, beginning with the third Contract Year, City Light shall inform WM by written notice showing City Light's computation of the number of Replacement RECs due City Light from WM for the prior Contract Year. No later than May 31 WM shall provide the Replacement RECs to City Light. The vintage of the Replacement REC must be no older than the Contract Year for which the calculation of the Replacement REC is made. If WM is unable to provide Replacement RECs to City Light, then WM will pay City Light an amount equal to the applicable administrative penalty pursuant to RCW 19.285.060 or, if City Light is able to obtain the Replacement RECs at a cost that is less than the applicable administrative penalty, WM will reimburse City Light for the cost of such Replacement RECs.

6.3 If payment pursuant to Section 6.1 and 6.2 is not promptly received, City Light may request from WM Credit Support in the form of **Exhibit J**.

ARTICLE 7

MEASUREMENT AND METERING, FACILITY DATA

7.1 Metering. All Electrical Output delivered by WM to City Light from the Facility shall be measured at the Meter. The Meter will be installed, repaired, calibrated and read in accordance with the GIA and Integration Agreements. Such Meter shall be used to calculate the Energy delivered to the Delivery Point by WM, for interchange accounting in accordance with **Exhibit H**, Section H.1, and to compute the payments



due to WM from City Light. WM's metering and data processing equipment shall meet or exceed the Technical Requirements.

7.2 WM's Metering Equipment. WM shall install, own, operate, and maintain all metering needed for the measurement of the energy generated by the Generators in the Facility and used for the calculation of Environmental Attributes ("**Facility Meters**").

7.3 City Light Check Meter. City Light shall have the right to request that WM install, maintain, and operate City Light's own metering, telemetry and communication equipment owned by City Light for the purpose of measuring the Electrical Output. ("**Check Meter**"). The Check Meter shall be installed at City Light's expense, at a location that may be accessed by both Parties and in proximity to WM's metering equipment and in a location and manner so as not to interfere with the installation, maintenance and operation of WM's metering equipment or the Interconnection Facilities. WM shall bill City Light for WM's costs of installing, maintaining and operating the Check Meter, pursuant to Article 8.

7.4 Measurements. Readings of the Meter shall be conclusive as to the amount of Electrical Output delivered under this Agreement, except to the extent of any suspension under this Agreement; *provided, however*, that if the Meter is out of service or is determined, pursuant to Section 7.5 hereof, to be registering inaccurately, measurement of Electrical Output delivered under this Agreement shall be determined in the following sequence:

7.4.1 by City Light's Check Meter, if they have been installed and are operational pursuant to Section 7.3; or

7.4.2 by using the hourly integrated instantaneous MW value used to monitor the Generators output from the computer monitoring system (a) to compare to the hourly meter reading of the Facility Meters to determine the beginning of the deviation event and (b) by using the integrated instantaneous MW value from beginning of the deviation event to the time when the meter was back in-service or repaired to estimate Electrical Output delivered; or



7.4.3 by the computer monitoring system for each Generator included in the Facility using a mathematical calculation agreed upon by WM and City Light to adjust the output thereof to account for electrical losses in the gathering system and Generators transformers and substation transformers up to the Delivery Point; or

7.4.4 by estimating the unmeasured or inaccurately measured quantities by referring to the measurements made during other comparable time periods having similar conditions when the Facility Meters were registering accurately, subject to City Light's approval, which City Light shall not unreasonably withhold, condition or delay; or

7.5 Testing. BPA or an independent third party shall test, verify and calibrate the accuracy of the Meter, at regular intervals but no less frequently than once every two (2) years, and (b) to allow City Light to have a representative present at all meter tests to test and/or verify the accuracy of Meters' measurements and recordings. City Light shall receive reasonable advance notice of any meter test. If Check Meters are installed, then WM will test and verify the accuracy of the Check Meters on the same schedule as the Meters.

7.6 Resolution of Disagreements Concerning Meter Accuracy. The Meter and any Check Meters shall be maintained to be accurate within a two percent (2%) variance. If City Light wishes to dispute the accuracy of a meter's accuracy or condition, it will so advise WM and WM will test the meter. If the meter registers within the permitted two percent (2%) variance, City Light shall bear the cost of inspection; otherwise, the cost shall be borne by WM.

7.7 Meter Corrections. Following testing, corrections will be made as follows: If any meter contemplated by this Agreement is found to be accurate or to be in error by not more than the permitted two percent (2%) variance, previous recordings of such meter shall be considered accurate in computing deliveries under this Agreement, and to the meter shall be promptly adjusted to record correctly. If any meter is found to be in error by an amount exceeding the two percent (2%) variance, then such meter shall be promptly adjusted to record correctly and meter readings taken during the period of inaccuracy shall be corrected pursuant to Section 7.4. To the extent of any meter inaccuracy, a corrected invoice will be issued and, within thirty (30) Days after the



date of the corrected invoice, (i) if City Light is shown to have overpaid, WM shall refund the overpayment, or (ii) if City Light is shown to have underpaid, then City Light shall pay the additional amount shown on the invoice, all without interest.

7.8 Generator Interconnection Agreement and Integration Agreement.

In the event of a conflict between any provision of this Article 7 and either the Generator Interconnection Agreement or the Integration Agreement, the Parties will work in good faith to resolve such conflict.

ARTICLE 8

CONTRACT RATE, CREDIT

8.1 Contract Rate. City Light shall pay WM for all Electrical Output and Environmental Attributes delivered to City Light hereunder at the Contract Rate set out in **Exhibit G**.

8.2 Taxes. WM shall be responsible for paying all existing and any new taxes imposed by any federal, state or local governmental agency on the Facility and on or with respect to the delivery and sale of Electrical Output and Environmental Attributes delivered to City Light that are imposed hereunder before delivery to the Delivery Point. City Light shall be responsible for paying all existing and any new taxes imposed by any federal, state or local government agency on the Electrical Output and Environmental Attributes purchased and received hereunder after the Delivery Point. If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such responsible Party shall reimburse the other for such Taxes upon request. If City Light is exempt from payment of taxes that WM otherwise would be required to collect in connection with the sale of Electrical Output and Environmental Attributes, then City Light shall provide WM with all necessary documentation to evidence such exemption.

8.3 Financial Statements.

8.3.1 If requested by City Light, WM shall provide City Light with the following:

8.3.1.1 Within sixty (60) Days after the close of each calendar quarter (commencing with the calendar quarter ending June 30, 2009, the unaudited



financial statements of WM or WM's Affiliate (Guarantor) for the calendar quarter just ended; and

8.3.1.2 Within one hundred and twenty (120) Days after the close of each calendar year (commencing with the calendar year ending 2008), the unaudited financial statements of WM or WM's Affiliate (Guarantor), provided, that if WM's Affiliate (Guarantor) otherwise has audited financial statements prepared for the applicable calendar year, then such audited financial statements of WM's Affiliate (guarantor) shall be provided instead of the unaudited financial statements.

8.4 Credit Support.

8.4.1 During the Term, if there is any Material Adverse Change affecting City Light or WM's Affiliate, the other Party, in its discretion, may require the Party experiencing the Material Adverse Change to provide Credit Support sufficient to assure that the Party experiencing or affected by the Material Adverse Change will continue to meet its current contractual obligations under this Agreement and its contractual obligations for the next twelve (12) Months from the date of the demand for Credit Support (or if the remaining Term of this Agreement is less than twelve (12) Months, for the remaining Term of this Agreement).

8.4.2 Following a demand for Credit Support and until such time as the Party is no longer experiencing or affected by a Material Adverse Change, the Party experiencing or affected by the Material Adverse Change shall maintain satisfactory Credit Support on an ongoing, rolling basis sufficient to assure its current contractual obligations and its contractual obligations for the following twelve (12) Months. At the request of either Party, Credit Support shall be increased or decreased as appropriate once per calendar month such that the party providing Credit Support will be able to meet the affected Party's then-current contractual obligations and its contractual obligations under this Agreement for the next twelve (12) month period (or if the remaining Term of this Agreement is less than twelve (12) months, for the remaining Term of this Agreement).

8.4.3 In the case of a Material Adverse Change being experienced by WM's Affiliate, such Credit Support will be provided by WM's Affiliate on behalf of WM. If WM's Affiliate is experiencing a Material Adverse Change, WM's Credit Support for the



above period shall be in an amount sufficient to provide (i) replacement power, the calculation of which shall be the positive difference between the forward power prices at Mid-Columbia (as determined using information from a commercially reasonable independent source) for the above-referenced rolling twelve (12) Month period and City Light Contract Rate herein multiplied by the MWh that would be delivered for the above-referenced twelve (12) Month period under this Agreement (assuming deliveries of 125% of the Guaranteed Output applicable to such period), and (ii) Replacement RECs equal to the quantity in MWh determined in this Section 8.4.3 multiplied by \$35.

8.4.4 If City Light is experiencing a Material Adverse Change, City Light's Credit Support for the above period shall be in an amount equal to the greater of (a) two month's of anticipated receivables, or (b) the negative difference between the forward power prices at Mid-Columbia (as determined using information from a commercially reasonable independent source) for the above referenced twelve (12) Month period and the Contract Rate herein multiplied by the MWh that would be delivered for the above referenced twelve (12) Month period under this Agreement (assuming deliveries of 125% of the Guaranteed Output applicable to such period).

8.4.5 If the Party experiencing a Material Adverse Change (WM's Affiliate or City Light) fails to provide such Credit Support within ten (10) Days of a request for Credit Support or fails to maintain Credit Support as set forth above, the requesting Party may suspend its performance under this Agreement until such Credit Support is posted or may treat the failure to provide Credit Support as a default and exercise its rights under Article 12 of this Agreement.

8.4.6 At a Party's written request, the other Party shall furnish the requesting Party financial information as may be reasonably required to confirm that City Light or the WM's Affiliate has not been affected by a Material Adverse Change.

8.4.7 Either Party may assign its Credit Support obligation to a "**Guarantor**" acceptable to the other Party that will be able to meet the minimum credit standards set forth in the definition of Material Adverse Change.



ARTICLE 9

BILLING AND PAYMENT, REC ATTESTATION

9.1 Monthly Billing. No later than the tenth (10th) Day of each calendar month during the Term, WM shall deliver to City Light an invoice setting forth the total amount due for the purchase by City Light of Electrical Output or Test Power and Environmental Attributes for the immediately preceding month, calculated as follows: the quantity of Energy that was measured at the Meter multiplied by the applicable Contract Rate set forth in **Exhibit G**. WM shall also bill City Light for any cost of transferring WREGIS Certificates to City Light. Any other amounts due will be supported by reference to the Section in this Agreement where the charge is described. WM will include with each invoice sufficient detail to allow City Light to verify the amount due.

9.2 Payments to WM. City Light shall pay the amount specified in the bill less any charges or penalties imposed on City Light by the Transmission Provider for failure of WM to adhere to the Operating Procedures set forth in **Exhibit H**, which failure is not due to an act or omission of City Light, supported by sufficient detail to allow WM to verify the charges or penalties. City Light shall pay such amount by electronic wire transfer of immediately available funds by the later of ten (10) Days after City Light's receipt of WM's statement or the twentieth (20th) Day of the month in accordance with the wire transfer instructions set out in **Exhibit K**, Contact Information, as it may be changed from time to time; *provided, however*, that any changes to such wire transfer instructions shall not be effective until five (5) Business Days after the date on which notice of the change is sent to City Light. If the due date is not a Business Day, City Light shall pay the monthly bill on the Business Day following such due date. In the event of a dispute, the entire bill shall be paid when due, but such payment shall not waive either Party's right to dispute the bill under Section 10.3.

9.3 Delivery of REC Attestation and WREGIS Certificate. WM shall provide monthly to City Light, at the time of the monthly invoice, a REC Attestation and Bill of Sale pursuant to Section 3.10 and **Exhibit F**. The amount of RECs delivered to City Light will equal the Generator Output as measured by the Facility Meter. WM shall also deliver the WREGIS Certificate as it becomes available from WREGIS and City Light shall reimburse WM for the cost imposed by WREGIS of transferring the WREGIS Certificate from WM to City Light.



9.4 Interest on Unpaid Amounts. If a Party fails to pay the full amount due on or before the close of business on the due date, the owing Party shall pay interest on the unpaid amount for each Day it is late at the Interest Rate.

ARTICLE 10

RECORDS, AUDITS AND DISPUTES

10.1 Records and Maintenance of Records. Each Party shall have the right, upon reasonable notice to the other Party and during the other Party's regular business hours, to access all of the other Party's metering records, accounting records and supporting documents of any billing or delivery of Electrical Output and Environmental Attributes associated with this Agreement. Each Party shall keep complete and accurate records and shall maintain all records as may be necessary or useful in performing or verifying the accuracy of all relevant data, estimates, or statements of charges or a given invoice or any calculations made pursuant to this Agreement, or in verifying such Party's performance hereunder, or as required by Applicable Law. All such records shall be retained until the later of (i) two (2) calendar years following the calendar year in which such records were created, (ii) any applicable requirement of Applicable Law or (iii) if there is a dispute relating to that invoice, the date on which the dispute is resolved.

10.2 Audit Right and Disputes. Each Party shall bear the costs of its own audit. Should the audit discover over-billing error or other errors affecting amounts due hereunder, WM shall compensate City Light the amount of the error plus interest at the rate specified in Section 9.4. Interest shall accrue from the date on which City Light paid the over-billed amount to WM. Should the audit discover an under-billing error or errors, City Light shall compensate WM for the amount of the error plus interest at the rate specified in Section 9.4. Such interest will accrue from the date on which City Light should have paid the under-billed amount to the WM.

10.3 Resolution of Alleged Billing Errors. If City Light believes that there is an error in any invoice, then City Light shall so notify WM of the alleged error (including a reasonably detailed description of the nature and effect of the error), within sixty (60) Days after receipt of any invoice. If WM disagrees with City Light as to the allegation of error, then WM shall so notify City Light within sixty (60) after receipt of City Light's notice. The Parties shall meet, by telephone conference call or otherwise for the



purpose of attempting to resolve the dispute, within five (5) Business Days after WM's response. If the Parties are unable to resolve the dispute within sixty (60) Days after their initial meeting, either Party may proceed to seek any remedy that may be available to that Party at law or in equity (provided that any such remedies shall be limited as provided in this Agreement). If WM is found to be in error, WM will credit City Light on the next invoice for the amount that City Light paid in excess of the amount that City Light actually owed pursuant to Section 9.1, plus interest on such excess payment at the rate specified in Section 9.4. Such interest will accrue from the later of (a) the date on which City Light paid the disputed amount to WM, or (b) the date on which City Light gives WM notice of the dispute, until the date on which City Light receives payment in full of the amount owed to it.

10.4 Corrected Invoices. If WM identifies an error in an invoice, it shall promptly give City Light a reasonably detailed notice describing the nature and effect of the error within sixty (60) Days after delivery of the invoice that was in error except in the case of meter corrections where Section 7.7 applies. If City Light notifies WM in writing within thirty (30) Days of receipt of such notice that City Light disagrees with the allegation of an error, the Parties shall meet, by telephone conference call or otherwise, within five (5) Business Days after City Light's response for the purpose of attempting to resolve the dispute. If the Parties are unable to resolve the dispute within sixty (60) Days after their initial meeting, either Party may proceed to seek whatever remedy may be available to that Party at law or in equity (provided that any such remedies shall be limited as provided in this Agreement). If the error requires the WM to reimburse City Light for amounts previously paid by City Light, WM shall promptly reimburse City Light for such amounts or credit City Light for such amounts on the next invoice to City Light plus interest on such amount at the rate specified in Section 9.4. Such interest will accrue from the date on which City Light paid the disputed amount to WM. If the error requires City Light to pay WM additional amounts, WM shall add the amount owed to a subsequent invoice plus interest on such amount at the rate specified in Section 9.4. Such interest will accrue from the later of (a) the date on which City Light payment was due, or (b) the date on which WM gives City Light notice of the dispute.

10.5 Time Limits on Disputes and Corrections. An invoice that has not been disputed under Section 10.3 or noticed for correction under Section 10.4 before the



applicable date in each such section of this Agreement shall be deemed final and no longer subject to adjustment.

ARTICLE 11

NOTICES AND CONTACT INFORMATION

11.1 Notices. All payments from one Party to the other Party shall be made to the addresses and/or appropriate persons specified in Exhibit K, Contact Information. All notices, requests (other than scheduling requests), and statements from one Party to the other Party shall be in writing and shall be sent to the addresses and/or appropriate persons specified in **Exhibit K**, Contact Information except where this Agreement expressly provides that notice may be made by telephone.

11.1.1 Delivery of Notices. All notices may be delivered by mail, hand delivery, overnight delivery, facsimile or e-mail. Notices sent by facsimile shall (where confirmation of successful transmission is received) be deemed to have been received on the Day on which it was transmitted (unless transmitted after 5:00 p.m. at the place of receipt or on a Day that is not a Business Day, in which case it shall be deemed received on the next Business Day). Notices by hand delivery or overnight delivery shall be deemed to have been received upon delivery. Notices by mail or courier shall be deemed to have been received upon delivery as evidenced by the delivery receipt. Notices sent by e-mail must be confirmed by e-mail as received by the receiving Party and shall be deemed to have been delivered at the time and date set out in such confirming e-mail.

11.2 Contact Information. The Parties acknowledge and agree that those persons set forth in **Exhibit K**, Contact Information, are designated by each Party as their respective authorized representatives to act on their behalf for the purposes described therein. A party may change its contact information by providing notice of same in accordance herewith.

ARTICLE 12

DEFAULTS AND REMEDIES

12.1 Events of Default. The following occurrences shall constitute events of default hereunder:



12.1.1 Failure of City Light to provide and maintain Credit Support within ten (10) Days as required by Section 8.4.5;

12.1.2 Failure of WM to provide and maintain Credit Support within ten (10) Days as required by Section 8.4.5;

12.1.3 Failure by a party to make any payment required hereunder when due (including payment of any disputed amount), if such failure is not remedied within ten (10) business Days after receipt by the Defaulting Party of notice of such failure;

12.1.4 Failure by a party to perform any other material obligation hereunder, other than failure to perform an obligation for which a remedy is provided in Section 2.4.1.1 (a) – (d), Section 2.4.1.2, Section 2.4.2.2 or Article 6, if such failure is not remedied within thirty (30) Days after receipt by the Defaulting Party of written notice of such failure;

12.1.5 Any representation or warranty made by a party herein shall have been false in any material respect when made;

12.1.6 A party:

(i) allows the appointment of a receiver or trustee of all or any part of its property if such receiver or trustee is not discharged within sixty (60) Days after such appointment;

(ii) makes an assignment for the benefit of its creditors;

(iii) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it and such petition is not withdrawn or dismissed for sixty (60) Days after such filing;

(iv) becomes insolvent; or

(v) is unable to pay its debts when due.

12.2 Notice of Default. The Party in default under this Agreement shall be referred to as the “**Defaulting Party**,” and the other Party shall be referred to as the



“Non-Defaulting Party.” The Non-Defaulting Party shall have the right to give the Defaulting Party a written Notice of Default, which shall describe the default in reasonable detail and state the date by which the default must be cured.

12.3 Opportunity to Cure. In the case of a default described in Sections 12.1.1, 12.1.2, and 12.1.6 there will be no cure period and no opportunity to cure outside of any time period expressly stated in such Section. In the case of a failure to make a payment hereunder when due, the Defaulting Party may cure the default within ten (10) Days after the Defaulting Party’s receipt of the Notice of Default by payment of the full amount due plus interest as provided in Section 9.4 from the date due until paid. In the case of defaults other than pursuant to Section 12.1.1, 12.1.2, or 12.1.6, the Defaulting Party may cure the default within thirty (30) Days after the Defaulting Party’s receipt of the notice of Default, except where the default cannot be cured within such thirty (30) Days, in which event, if the Defaulting Party begins to correct the default within the cure period and thereafter continues corrective efforts with reasonable diligence until a cure is effected, the Notice of Default shall be inoperative, and the Defaulting Party shall lose no rights under this Agreement; *provided, however,* that any such default must be cured no later than one hundred eighty (180) days after the Defaulting Party’s receipt of the Notice of Default. If, within the specified period, the Defaulting Party does not cure the default or begin to cure the default as provided above, the Non-Defaulting Party may exercise the remedies set forth in Section 12.5.

12.4 Remedies Upon Default. After providing notice of a Default and an opportunity to cure as provided above, if the Defaulting Party fails to cure the Default, within the applicable cure period, then the Non-Defaulting Party shall have the right (but not the obligation) during the continuation of the Default to terminate this Agreement by giving notice to the Defaulting Party pursuant to Article 11 no less than ten (10) Days before the termination date.

12.5 Remedies Not Exclusive. In addition to the right to terminate this Agreement and except as limited by Section 2.4.1, 2.1.2, Article 6 and Section 13.2, the Non-Defaulting Party shall have the right to pursue all remedies available at law or in equity (including the right to specific performance). No delay or omission in the exercise of any power or remedy and no renewal or extension of any performance due under this Agreement shall impair any such power or remedy or waive any default.



Notwithstanding any termination of this Agreement, all financial obligations that have accrued under this Agreement (including obligations for Replacement Energy Cost) shall remain until paid.

12.6 Net Out of Payables Upon Termination. Without limiting its remedies under this Agreement, upon termination of this Agreement for default, the Non-Defaulting Party may elect to aggregate all payments due and amounts otherwise owing under this Agreement into a single amount by netting out (a) all payments and other amounts that are due to the Defaulting Party under this Agreement, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article 8, against (b) all payments and other amounts that are due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the "**Termination Payment**") payable by one Party to the other within thirty (30) Days of the date on which the Non-Defaulting Party notifies the Defaulting Party of the amount of the Termination Payment. The Termination Payment shall be payable to or from the Non-Defaulting Party, as appropriate. Notwithstanding Article 8, the Non-Defaulting Party shall be entitled to recover, upon termination of this Agreement, all incidental and other costs reasonably incurred by Non-Defaulting Party in closing out forward positions and similar transactions entered into in connection with this Agreement, including but not limited to liquidated damages incurred by Non-Defaulting Party in closing out mark-to-market arrangements.

ARTICLE 13

FORCE MAJEURE; LIMITATION OF LIABILITY

13.1 Effect of Force Majeure. If either party is rendered unable by Force Majeure to carry out, in whole or in part, its obligations under this Agreement, and if such party gives notice and full details of the event of Force Majeure to the other party as soon as practicable after the occurrence of such event, then during the pendency of such event of Force Majeure, but for no longer period, the obligations of the affected party (other than the obligation to make payments hereunder when due or post Credit Support) shall be suspended to the extent performance is prevented. The affected party shall take, or cause to be taken, all reasonable steps to remedy the cause of the Force Majeure with all reasonable dispatch. The Parties agree as appropriate to meet with each other to seek and coordinate appropriate mitigation measures. In no event will any



Force Majeure event extend this Agreement beyond its Term. If WM receives and timely implements a Reliability Adjustment from City Light in accordance with **Exhibit H** Section H.8.3 instructing the Facility to reduce output, such adjustment will constitute an event of Force Majeure.

13.1.1 Suspension of Performance. If either Party is prevented by an act or event of Force Majeure from carrying out, in whole or part, its obligation under this Agreement and such Party (the "**Claiming Party**") gives timely notice and details of the Force Majeure Event to the other Party as soon as reasonably practicable, then the Claiming Party shall be excused from the performance of its obligations (other than the obligation to make payments when due or becoming due with respect to performance prior to the Force Majeure Event or Post Credit Support). The suspension of performance due to a Force Majeure claim must be of no greater scope and of no longer duration than is required by the Force Majeure event.

13.1.2 Notice. As soon as reasonably practicable following the commencement of a Force Majeure event, the non-performing Party shall provide the other Party oral notice of the Force Majeure event. The non-performing Party shall also provide written notice to the other Party as soon as reasonably practicable following the commencement of a Force Majeure event, but in no event later than two (2) weeks after the commencement of a Force Majeure event, which written notice shall be in the form of a letter describing the particulars of the occurrence giving rise to the Force Majeure claim. Failure to provide written notice within two (2) weeks after the commencement of a Force Majeure event constitutes a waiver of a Force Majeure claim.

13.2 Limitation of Liability. NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON CONTRACT OR TORT (INCLUDING SUCH PARTY'S OWN NEGLIGENCE) AND INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF THE EQUIPMENT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF PURCHASED POWER, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COSTS, OR CLAIMS OF CUSTOMERS OF WM OR OF CITY LIGHT FOR SUCH DAMAGES.



ARTICLE 14

DISPUTE RESOLUTION

14.1 Negotiations. Not later than thirty (30) Days after the date the Agreement is signed by the last to sign of the two Parties, each Party shall appoint a representative, as identified in Exhibit K, to coordinate with the other Party the implementation of this Agreement (each a “**Representative**” and collectively the “**Representatives**”). Either Party may change their Representative by providing thirty (30) Days notice to the other Party. Any party may give the other party written notice of any dispute not resolved in the normal course of business. If any dispute arises with respect to either Party’s performance under this Agreement, the Representatives shall meet to attempt to resolve such dispute, either in person or by telephone, within ten (10) Business Days after the written request of either Representative. If the Representatives are unable to resolve such dispute, Executives of both parties at levels one level above the personnel who have previously been involved in the dispute shall meet at a mutually acceptable time and place within fifteen (15) business Days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.

14.2 Arbitration. If the above-described executives fail to resolve the dispute within one hundred eighty (180) Days after the delivery of notice of dispute, then either party may initiate arbitration as provided hereinafter. Arbitration shall take place in Washington State in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment entered upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Notice of a demand for arbitration must be delivered to the other party to this Agreement within two hundred seventy (270) Days after the delivery of the notice of dispute. Notwithstanding the above, arbitration shall not be initiated if, on the date of the demand for arbitration, the institution of legal or equitable proceedings based on such controversy is barred by the applicable statute of limitations.

14.3 Jurisdiction and Venue. Any disputes arising out of, in connection with or with respect to this Agreement, the subject matter of this Agreement, the performance or non-performance of any obligation under this Agreement that cannot be resolved in accordance with Section 14.2 shall be adjudicated in King County Superior Court, King



County, Washington and nowhere else. Each of the Parties irrevocably consents to the jurisdiction of such Court.

ARTICLE 15

ASSIGNMENT; BINDING EFFECT

15.1 WM Assignment Restriction. WM may not assign its rights or obligations under this Agreement without City Light's prior written consent, which shall not be unreasonably withheld, delayed or conditioned.

15.2 City Light Assignment Restriction. City Light may not assign its rights or obligations under this Agreement without WM's prior written consent, which shall not be unreasonably withheld, delayed or conditioned.

15.3 Assignment to an Entity Acquiring a Party's Assets. Notwithstanding the foregoing, either Party may assign its rights and obligations to an entity acquiring substantially all of its assets required to perform its obligations hereunder, provided however, that any such assignee shall agree in writing to be bound by the terms and conditions hereof, and shall possess the technical and financial capability to perform the assignor's obligations hereunder. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assignees.

15.4 Assignment by Either Party. If either Party wishes to assign this Agreement, it shall provide the other Party with a detailed description of the proposed assignee and the circumstances of the proposed assignment.

ARTICLE 16

REPRESENTATIONS AND WARRANTIES

16.1 Representations and Warranties. Each party hereto represents and warrants to the other party that:

16.1.1 It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct its business in the state of Washington;

16.1.2 The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action or will be so



authorized by the first Day of the Term and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party, or any law, rule, regulation, order, writ, judgment, decree or other legal or regulatory determination applicable to such party;

16.1.3 This Agreement constitutes a legal, valid and binding obligation of such party, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally, and with regard to equitable remedies, to the discretion of the court before which proceedings to obtain same may be pending;

16.1.4 There are no bankruptcy, insolvency, reorganization, receivership or other arrangement proceedings pending or being contemplated by it, or to its knowledge threatened against it; and

16.1.5 To the party's knowledge, there are no actions, proceedings, judgments, rulings or orders, issued by or pending before any court or other governmental body that would materially adversely affect its ability to perform this Agreement.

16.2 WM Additional Representations and Warranties.

16.2.1 WM represents and warrants to City Light that:

16.2.1.1 the Facility qualifies as being a "Renewable Resource" as defined in Chapter 19.285 of the Revised Code of the State of Washington as of the date this Agreement was signed.

16.2.1.2 the Facility will be fueled by Landfill Gas.

16.3 City Light Additional Warranties and Representations.

16.3.1 City Light's governing board, has taken all actions required for the valid execution and delivery by City Light of this Agreement, the consummation by City Light of the transactions contemplated hereby or compliance by City Light with the terms and provisions thereof.



16.3.2 The term of this agreement does not extend beyond any applicable limitation imposed by City Light's charter or other applicable law.

ARTICLE 17

MISCELLANEOUS

17.1 Entire Agreement. THIS AGREEMENT AND EXHIBITS HERETO CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND SUPERSEDE ANY PRIOR OR CONTEMPORANEOUS AGREEMENTS OR REPRESENTATIONS OF THE PARTIES REGARDING THE SAME SUBJECT MATTER.

17.2 Choice of Law. This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Washington, without regard to principles of conflicts of law.

17.3 Non-Waiver. No waiver by either party hereto of any one or more defaults by the other party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature.

17.4 Headings. The headings used for the Articles and Sections herein are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions of this Agreement.

17.5 Interpretation. Whenever the singular or masculine or neuter is used in this Agreement, the same shall be construed as meaning the plural or feminine or body politic or corporate and vice versa, as the context so requires. Whenever the words include(s) or including are used in this Agreement, they should be interpreted to mean include(s) or including, but not limited to. Because both Parties have participated in the drafting of this Agreement, the usual rule of contract construction that resolves ambiguities against the drafter shall not apply.

17.6 No Third Party Beneficiaries. Nothing in this Agreement shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the parties that this Agreement shall not be construed as a third party beneficiary contract.



17.7 Time. Unless otherwise specified in this Agreement, all references to specific times under this Agreement shall be references to Pacific Standard or Pacific Daylight Savings Time, whichever is then prevailing.

17.8 Counterparts. This Agreement may be executed in multiple counterparts, each of which is an original and all of which constitute one and the same instrument.

17.9 Insurance. WM shall maintain in effect during term of this Agreement an insurance policy for comprehensive general liability in the amount of \$2,000,000 to provide protection against claims for damages resulting from WM's operations under this Agreement. WM shall cause City Light to be named as an additional insured on the policy.

17.10 No Partnership. The relationship between the Parties is one of independent contract. Nothing in this Agreement shall be construed as creating a partnership, joint venture, agency or other relationship.

17.11 Forward Contract. The Parties intend that this Agreement and the transactions contemplated by this Agreement constitute a "**Forward Contract**" within the meaning of the United States Bankruptcy Code and that WM is a "**Forward Contract Merchant**" within the meaning of the United States Bankruptcy Code.

IN WITNESS WHEREOF, City Light and WM have executed this Agreement as of the date first set out above.

WM RENEWABLE ENERGY, LLC

SEATTLE CITY LIGHT

By:
James Dowland
Vice President

By:
Jorge Carrasco
Superintendent

Date:

Date



**EXHIBIT A
FACILITY DESCRIPTION**





**EXHIBIT B
FACILITY MAP**





EXHIBIT C
DESCRIPTION OF GENERATORS





**EXHIBIT D
ONE-LINE DIAGRAM**





EXHIBIT E
NOTICE OF COMMERCIAL OPERATION

NOTICE OF FACILITY FINAL COMPLETION AND COMMERCIAL OPERATION

FACILITY NAME: COLUMBIA RIDGE LANDFILL GAS TO ENERGY FACILITY

DATE OF ISSUANCE: _____

OWNER: WM RENEWABLE ENERGY, LLC

CONTRACTOR: _____

CONTRACTOR FIRM:

OWNER ADDRESS:

WM, RENEWABLE ENERGY, LLC, as Owner for this Facility hereby certifies that the Facility is complete, that the generators included in the Facility, and all other portions of the Facility necessary to put the Facility into operation along with the Interconnection Facilities are installed and capable of producing Energy and delivering such Energy, less real power losses, to the Delivery Point on the BPA's Transmission System in accordance with Prudent Electrical Practices and Applicable Law.

Executed by the Owner on _____.

Date: _____

By: _____

(Authorized Signature)





RENEWABLE ATTESTATION OF REC PROVIDER

I. REC Provider Information

Name of REC Provider: _____

Address of Provider: _____

Contact Person: _____ Title: _____

Telephone: _____ Fax: _____ Email: _____

II. Declaration

I, (print name and title) _____ declare that the (indicate with "x")¹ _____ electricity bundled with renewable attributes / _____ renewable attributes only² listed below were sold exclusively from: (name of REC Provider) _____ ("Provider") to: (name of REC provider, utility or electric service provider) _____ ("Purchaser").

I further declare that:

- 1) all the renewable attributes (including CO₂ benefits), including any emissions offsets, reductions or claims, represented by the renewable electricity generation listed below were transferred to Purchaser;
- 2) to the best of the Provider's knowledge, the renewable attributes were not sold, marketed or otherwise claimed by a third party;
- 3) Provider sold the renewable attributes only once;
- 4) the renewable attributes or the electricity that was generated with the attributes was not used to meet any federal, state or local renewable energy requirement, renewable energy procurement, renewable portfolio standard, or other renewable energy mandate by Provider, nor, to the best of the Provider's knowledge, by any other entity;
- 5) the electrical energy that was generated with the attributes was not separately sold, separately marketed or otherwise separately represented as renewable energy by Provider, or, to the best of the Provider's knowledge, by any other entity; and
- 6) the facilities that generated all of the renewable electricity / renewable attributes (as indicated above) sold to Purchaser are listed below by fuel type.

¹ Use separate forms to report electricity and REC sales.

² If Seller purchased electricity bundled with renewable attributes and has stripped off those attributes to sell in this transaction, and is selling the undifferentiated electricity to a utility or load-serving entity, see section III also.



EXHIBIT F
REC ATTESTATION AND BILL OF SALE

List the renewable MWhs sold or transferred to Purchaser identified below by quarter of generation as a separate line item.

Generator Name	Generator ID Number (EIA or QF)	Nameplate Capacity (MW)	Fuel Type (if biomass, be specific; i.e. Landfill Gas)	# MWhs RECs / Elec. Sold	First Date of Generator Operation (mm/yy) ³	Period of Generation (quarter#/yy or mm/yy)

As an authorized agent of Provider, I attest that the above statements are true and correct.

Signature

Date

Place of Execution

III. Additional Statement required of Seller selling electricity to Purchaser

(Check box if not applicable: [])

I declare that the electricity listed above was delivered into the WECC region or California ISO.

By signing below, I attest to the accuracy of all Additional Statements above:

Signature

Date

Place of Execution

³ For facilities that have added new renewable capacity, please indicate the amount and operational date of the new capacity and the existing capacity.



**EXHIBIT G
CONTRACT RATE**

For each MWh of Energy or Test Power measured at the Meter, City Light shall pay according to the following schedule.

Contract Year	Contract Rate (\$ per MWh)
2009*	51.50
2010	52.53
2011	53.58
2012	54.65
2013	55.75
2014	56.86
2015	58.00
2016	59.16
2017	60.34
2018	61.55
2019	62.78
2020	64.03
2021	65.31
2022	66.62
2023	67.95
2024	69.31
2025	70.70
2026	72.11
2027	73.55
2028	75.03

* 2009 will be a partial contract year starting with the delivery of Test Power.





**EXHIBIT H
OPERATING PROCEDURES**

PAGE 1 OF 5

H.1 Interchange Accounting. City Light will dynamically transfer the output of the Facility from BPA Transmission (“**BPAT**”) Balancing Authority to City Light Balancing Authority using Dynamic Scheduling following applicable BPAT, WECC, and NERC tariffs, business practices, and standards. City Light Preschedule will author e-Tags containing estimates of both the maximum and average generation from the facility in the transmission allocation and energy profile respectively. During the operating hour City Light will incorporate the actual instantaneous plant output provided by BPAT to City Light via ICCP as scheduled interchange. After each hour, the e-Tag will be electronically updated with the actual metered output of the Facility for the previous hour using meter data provided to City Light by BPAT via the Electric Industry Data Exchange protocol. This process for dynamic scheduling is subject to change based on BPAT’s business practices and tariff and applicable WECC and NERC business practices and standards.

H.2 Commencement of Scheduling. Scheduling shall commence on the prescheduling Day of the Commercial Operations Date.

H.3 Prescheduling. All deliveries pursuant to Agreement shall be prescheduled in accordance with NERC, NAESB, WECC, and applicable third party transmission system operator scheduling guidelines as amended from time to time.

H.4 Changes to Preschedule Quantities. Either Party may make delivery Day changes to the preschedule quantities to the extent caused by a Forced Outage and an event of Force Majeure to generating unit(s) and/or transmission curtailment but not for economic reasons.

H.5 Resumption of Deliveries after Forced Outage. Except as mutually agreed otherwise, if the Facility experiences any event of Force Majeure, Forced Outage or transmission curtailment of a duration greater than 24 hours, resumption of the deliveries shall begin with the next delivery Day for which prescheduling can reasonably be accomplished within the deadlines established by WECC, NAESB or NERC. Resumption of deliveries within the Delivery Day shall not begin until City Light Real-



Time Marketing (see **Exhibit K**, Contact Information) has authorized such resumption of deliveries. These requirements are in addition to all requirements specified in the Interconnection Agreement with CBEC and the Integration Agreement with BPA.

H.6 Third Party Scheduling. Either Party may from time to time designate a third party to handle scheduling on their behalf by giving the other Party notice at least ten (10) Business Days in advance.

H.7 Changes in Circumstances. If normal industry scheduling practices for electric energy change in a way that causes a conflict with the provisions of this **Exhibit H**, the Parties shall make commercially reasonable efforts to make necessary changes to this Agreement to conform to the prevailing industry scheduling practices or the requirements of dynamic scheduling in effect at that time.

H.8 WM Obligations.

H.8.1 Notice for Scheduling. WM shall provide (or cause to be provided) to City Light's Preschedule contact (See **Exhibit K**, Contact Information) no later than 5:30 AM PPT or an alternative time as mutually agreed on the applicable WECC prescheduling Day, a notice for scheduling that includes the expected Energy in whole MW per hour for each hour for the next Day or Days on which the delivery of the Energy is to be made, *provided, however*, that for the notice for scheduling of deliveries on weekends and holidays (as defined by NERC) WM and City Light or their respective designees shall follow prevailing scheduling practices within the WECC. WM or its designee shall make commercially reasonable efforts to provide accurate forecasts of the Energy given then available information. In the event WM fails to provide timely and accurate scheduling information resulting in additional charges and/or penalties to City Light, WM shall reimburse City Light for such charges and/or penalties.

H.8.2 Availability Notification. WM must notify City Light Real-Time Marketing (see **Exhibit K**, Contact Information) as soon as reasonably practicable when a Forced Outage, event of Force Majeure or a transmission curtailment of the Interconnection Facilities affecting the Facility occurs and when the Facility recovers from such contingency.



H.8.3 Reliability Curtailments. If City Light receives an E-Tag Reliability Adjustment City Light will immediately (within 10 minutes) inform WM of receiving such curtailment instruction. WM must immediately (within 10 minutes) adjust its generation schedule to a value less than or equal to the curtailed value. Penalties for failure to comply with a curtailment notice will be born by the Party that failed to take timely action in response to such notice.

H.8.4 Delivery Service. WM shall enter into one or more agreements with the Interconnection Provider and BPA to deliver Energy to City Light at the Delivery Point. WM shall be solely responsible for negotiating and maintaining such transmission, distribution, delivery, interconnection and integration agreements during the Term of this Agreement. This Agreement does not provide for such interconnection, integration and transmission service charges. WM shall arrange for delivery services from the Interconnection Provider to the Delivery Point during the Term at its expense and shall be responsible for arranging any Interconnection and Integration services with the Interconnection Provider and BPA during the Term.

H.8.5 Losses. WM will only be responsible for losses to the extent charged by the Interconnection Provider.

H.8.6 Reserves. The BPA Balancing Authority will compute the WECC Contingency Reserve Obligation (CRO) for the Facility based on the applicable standard.

H.8.7 Notice of Changes to Scheduled Major Maintenance Outages. WM shall promptly notify City Light of any changes to the schedule of major maintenance outages provided under the notice provisions of Section 5.6 of the Agreement. Such change notice will include the following information: (i) beginning date (day, month, year), (ii) beginning time (hour), (iii) end date (day, month, year), (iv) end time (hour), (v) number of units affected, (vi) estimated Energy during the outage period.



H. 9 City Light Obligations.

H.9.1 Schedule and Tagging. To the extent not prevented by an event of Force Majeure or curtailment of firm transmission, not later than noon or an alternative time as mutually agreed on the applicable WECC prescheduling Day or Days, City Light or its designee shall schedule the Energy as specified in WM's Notice for Scheduling H.8.1.

H.9.2 Reliability Curtailments. If City Light receives an E-Tag Reliability Adjustment City Light will immediately (within 10 minutes) inform WM of receiving such curtailment instruction. WM must immediately (within 10 minutes) adjust its generation schedule to a value less than or equal to the curtailed value. Penalties for failure to comply with a curtailment notice will be born by the Party that failed to take timely action in response to such notice.

H.9.3 Transmission Services. City Light shall arrange Transmission Service with the Transmission Provider to deliver the Energy to City Light's points of interconnection with the Transmission Provider. City Light shall be solely responsible for negotiating and maintaining such transmission and delivery agreements during the Term of this Agreement. City Light is responsible for the following two (2) Transmission Service charges: (i) Schedule 1: Scheduling, System Control and Dispatch, and (ii) Schedule 7: Firm Point-to-Point Service. City Light shall arrange for Transmission Services during the Term at its expense and shall be responsible for arranging any OASIS, tagging, transmission scheduling or similar protocols with any transmission providers during the Term.

H.9.4 Losses. City Light shall be responsible for real power loss return to the Transmission Provider.

H.9.5 Reserves. City Light will self-supply contingency reserves for the Energy purchased pursuant to this Agreement.



H.9.6 Curtailments.

H.9.6.1 Curtailments by WM. City Light acknowledges that the WM may curtail deliveries of Electrical Output in accordance with Prudent Electrical Practices and in a commercially reasonable manner if WM reasonably believes that curtailment is necessary: (i) to construct, install, maintain, repair, replace, remove or inspect any of the Generators or such facility's equipment, or (ii) in connection with an emergency condition likely to result in significant damage to Generators or to the Facility's equipment or is deemed necessary by WM to protect life or property.

H.9.6.2 Curtailments by the Interconnection Provider. City Light acknowledges that the WM shall curtail deliveries of Energy if notified by the Interconnection Provider pursuant to the GIA that a curtailment is necessary: (i) to construct, install, maintain, repair, replace, remove or inspect any of the transmission and/or distribution or related facility's equipment, or (ii) in connection with an emergency condition likely to result in significant damage to transmission and/or distribution facility's equipment or is deemed necessary by CBEC to protect life or property but only so long as such condition exists, and only to the extent required by such Interconnection Provider.





**EXHIBIT I
REPLACEMENT ENERGY COST**

If the annual Energy during the contract year (MWh) is less than Guaranteed Output (MWh) then WM shall pay to City Light an amount calculated as follows:

For each Month that the Market Price is greater than the Contract Rate the payment shall equal ((Guaranteed Output – annual Energy)/9) multiplied by (Market Price – Contract Rate).

Total annual payment will be equal to the sum of all nine months payments.

Definitions:

“**Month**” means each of January, February, March, July, August, September, October, November, and December.

“**Monthly Shortage**” means (Guaranteed Output minus Energy) divided by 9.

“**Guaranteed Output**” means 44,500 minus adjustment due to Force Majeure events.

“**Monthly Payment**” means monthly shortage multiplied by (Market Price minus the Contract Rate).

“**Market Price**” means the simple average of daily firm flat prices at Mid-C reported by Dow Jones for each Month.

Example:

Assumptions:

Contract Rate = \$50/MWh.

Market Price for January is \$57, for March is \$45, for July is \$65.

Annual Energy = 30,000 MWh.

Force Majeure Event = 5,500 MWh.

Guaranteed Output = 44,500 MWh – Force Majeure event of 5,500 MWh = 39,000 MWh.

Monthly shortage = (Guaranteed Output minus annual Energy) divided by 9 or $(39,000 - 30,000) / 9 = 1,000$ MWh.

Calculations:

January payment = $(\$57 - \$50) * 1,000 = \$7,000$.

March payment = $(\$45 - \$50) * 1,000 = \$0$.

July Payment = $(\$65 - \$50) * 1,000 = \$15,000$.

Etc.





STATE OF WASHINGTON – KING COUNTY

--SS.

237519
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

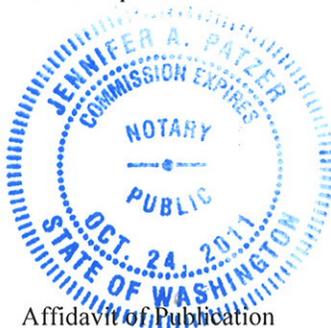
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122953-122955

was published on

04/17/09

The amount of the fee charged for the foregoing publication is the sum of \$ 56.60, which amount has been paid in full.



Affidavit of Publication

[Signature]

Subscribed and sworn to before me on
04/17/09 *[Signature]*

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on April 6, 2009, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 122955

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

ORDINANCE NO. 122954

AN ORDINANCE relating to the City Light Department; authorizing execution of a 20-year agreement with WM Renewable Energy, LLC for the purchase of renewable power and environmental attributes and other related agreements that are necessary or convenient for transmitting the power from the Columbia Ridge landfill.

ORDINANCE NO. 122953

AN ORDINANCE relating to the Mercer Corridor project; amending the 2009 Adopted Budget of the Seattle Department of Transportation by restricting the use of the appropriation for the Major Projects Control Level (19002).

Publication ordered by JUDITH PIPPIN,
City Clerk

Date of publication in the Seattle Daily
Journal of Commerce, April 17, 2009.
4/17(237519)