Ordinance No. 123119

Council Bill No. 116645

AN ORDINANCE relating to the City Light Department; authorizing execution of a 20-year agreement with the King County Wastewater Treatment Division for the purchase of renewable power and environmental attributes of power generated at the West Point Wastewater Treatment Facility and other related agreements that are necessary or convenient to establish and operate the generator interconnection.

CF No. _____

Date Introduced: 9.8.09	
Date 1st Referred:	To: (committee) Energy + Tech
Date Re - Referred:	To: (committee)
Date Re - Referred:	To: (committee)
Date of Final Passage: 10-5-09	Full Council Vote: 9-0
Date Presented to Mayor: 10-6-09	Date Approved: 10.8.09
Date Returned to City Clerk: 10.8.09	Date Published: T.O. ✓ F.T. ___
Date Vetoed by Mayor:	Date Veto Published:
Date Passed Over Veto:	Veto Sustained:

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Bruce Harrell

Councilmember

Committee Action:

09/30/09 PASS AS AMENDED BH, JG, RC

10-5-09 Passed 9-0

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

LAW DEPARTMENT

Law Dept. Review	OMP Review	City Clerk Review	Electronic Copy Loaded	Indexed

ORDINANCE 123119

AN ORDINANCE relating to the City Light Department; authorizing execution of a 20-year agreement with the King County Wastewater Treatment Division for the purchase of renewable power and environmental attributes of power generated at the West Point Wastewater Treatment Facility and other related agreements that are necessary or convenient to establish and operate the generator interconnection.

WHEREAS, the King County Waste Treatment Division ("WTD") intends to build, own and operate a 4.6 MW electric generating facility comprised of two 2.3 MW Caterpillar engines ("Initial Generation Facility") fueled exclusively by wastewater gas produced at its West Point Wastewater Treatment Facility ("West Point") located in Seattle, Washington; and

WHEREAS, the West Point generating facilities will be interconnected with the City's electric system pursuant to a small generator interconnection agreement with City Light; and

WHEREAS, WTD may elect to expand the generation capacity at West Point beyond the capacity of the Initial Generation Facility during the term of the proposed agreement and has agreed to offer City Light a right of first refusal to negotiate and execute a purchase agreement for the additional electrical output and environmental attributes that would be associated with an expansion of the Initial Generation Facility ("Generation Expansion"); and

WHEREAS, the West Point generating facilities represent a renewable energy resource that will comply with Washington State's green house gas performance standards and qualify as a an eligible resource under R.C.W. 19.285 ("I-937"); and

WHEREAS, the West Point generating facilities constitute a desirable renewable energy resource to serve the city's retail electric load with respect to Seattle's Climate Action Plan, the 2008 Integrated Resource Plan, and various City policies; and

WHEREAS, WTD wishes to sell and City Light wishes to purchase all electrical output and associated environmental attributes generated at West Point for a 20-year period; NOW, THEREFORE,

COUNCIL CLERK

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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

Section 2. The Superintendent, or his designee, is hereby further authorized to execute for and on behalf of the City of Seattle a small generator interconnection agreement and other agreements as necessary or convenient for City Light to safely and reliably interconnect and transmit the West Point generating facilities to City Light's electrical system.

Section 3. Should WTD give notice of its intent to proceed with a Generation Expansion during the term of the agreement authorized pursuant to Section 1 above, the Superintendent, or his designee, is hereby further authorized to negotiate and execute for and on behalf of the City a renewable power purchase agreement for the electrical output and/or environmental attributes associated the Generation Expansion, which, in the Superintendent's view, best meets the needs of City Light's customers and is consistent with City policies, Washington State law and City Light's most recent City Council-approved Integrated Resource Plan.

Section 4. Upon determining the availability of surplus of environmental attributes within City Light's resource portfolio, the Superintendent, or his designee, is further authorized to execute for and on behalf of the City agreements for the sale of all or a portion of the

COUNCIL CLERK

environmental attributes purchased under the agreements authorized in sections 1 and 3 above, on terms and conditions that the Superintendent deems in the best interests of City Light, provided, however, that no such sale shall jeopardize City Light's compliance with R.C.W. 19.285, *et. seq*.

Section 5. As required by R.C.W. 80.80.070, the City Council finds that the West Point generation facilities comply with the green house gas performance standards required by R.C.W. 80.80.040 because these will be powered exclusively by wastewater gas, a renewable resource as defined by R.C.W. 19.280.020.

COUNCIL CLERK

Section 6. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

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

President _____ of the City Council

Approved by me this 8th day of October, 2009.

Gregory J. Nickels, Mayor

Filed by me this 8th day of October, 2009.

City Clerk

(Seal)

Attachment 1: Renewable Power Purchase Agreement

COUNCIL CLERK

RENEWABLE POWER PURCHASE AGREEMENT

between

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

and

KING COUNTY
BY AND THROUGH ITS WASTEWATER TREATMENT DIVISION

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TABLE OF CONTENTS

RECITALS

ARTICLES PAGE NO.

1. DEFINITIONS....2
2. TERM AND TERMINATION; APPROVALS....12
3. RENEWABLE POWER PURCHASE AND SALE....16
4. PERMITTING, CONSTRUCTION AND MONITORING....21
5. OPERATION, MAINTENANCE AND REPORTING....23
6. PERFORMANCE GUARANTEES....24
7. MEASUREMENT AND METERING, FACILITY DATA....26
8. CONTRACT RATE....28
9. BILLING AND PAYMENT, REC ATTESTATION....29
10. RECORDS, AUDITS AND DISPUTES....31
11. NOTICES AND CONTACT INFORMATION....33
12. DEFAULTS AND REMEDIES....34
13. FORCE MAJEURE; LIMITATION OF LIABILITY....37
14. DISPUTE RESOLUTION....38
15. ASSIGNMENT; BINDING EFFECT....40
16. REPRESENTATIONS AND WARRANTIES....41
17. MISCELLANEOUS....42

EXHIBITS

A. FACILITY DESCRIPTION....45
B. FACILITY MAP....47
C. DESCRIPTION OF GENERATORS....49
D. ONE-LINE DIAGRAM....51
E. NOTICE OF COMMERCIAL OPERATION....53
F. REC ATTESTATION AND BILL OF SALE....55
G. CONTRACT RATE....57
H. OPERATING PROCEDURES....59
I. REPLACEMENT ENERGY COST....63
J. CONTACT INFORMATION....65

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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 King County, a Washington county, by and through its Wastewater Treatment Division with principal offices located at 201 South Jackson Street, Suite 500, Seattle, Washington 98104 ("**WTD**"), and The City of Seattle, a Washington municipal corporation, by and through its City Light Department with principal offices located at 700 5th Avenue, Suite 3200, Seattle, WA 98104, ("**City Light**"). WTD and City Light are sometimes referred to in this Agreement collectively as the "**Parties**" and individually as a "**Party**."

RECITALS

WHEREAS, WTD operates the West Point Wastewater Treatment Facility which is located at 1400 West Utah Street, Seattle, Washington ("**West Point**").

WHEREAS, West Point generates methane as a byproduct of the anaerobic digestion process, which is also known as "**Digester Gas**".

WHEREAS, the priority use of Digester Gas is to supply fuel to the raw sewage pump engines at the treatment facility.

WHEREAS, WTD intends to build, own and operate an electric generating facility fueled exclusively by Digester Gas extracted from West Point that is not needed for the priority use of supplying fuel to the raw sewage pumps (the "**West Point Cogeneration Facility**");

WHEREAS, the West Point Cogeneration Facility is expected to have 4.6 MW of installed capacity with an estimated net peak capacity of 3.7 MW and an estimated net annual output of 21,500 MWh;

WHEREAS, the West Point Cogeneration Facility will be interconnected with City Light;

WHEREAS, WTD wishes to sell and City Light wishes to purchase all Electrical Output generated by the West Point Cogeneration Facility, together with all associated Environmental Attributes related to the Generator Output from

the West Point Cogeneration Facility for a period of twenty (20) years expected to begin about July 1, 2012; 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 WTD 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.

"**Additional Output"** means any installed generation capacity in excess of 4.6 MW resulting from a plant expansion at the West Point Cogeneration Facility.

"**Agreement**" means this Renewable 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 WTD, West Point, and the West Point Cogeneration Facility.

"**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 the Electric Reliability Council of Texas (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.

"**Business Day**" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday; and does not relate to the operational scheduling of energy.

"**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.

"**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.

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

"**Claiming Party**" means either party to this agreement who is precluded by a Force Majeure act or event from carrying out, in whole or part, its obligations under this agreement and who shall be obligated to provide notice of the Force Majeure act or event to the non-claiming party as soon as practicable.

"**Commercial Operation Date**" or "**COD**" means the date as memorialized in a written communication from WTD to City Light, on which the generators included in the West Point Cogeneration Facility, and all other portions of the West Point Cogeneration Facility necessary to put the West Point Cogeneration 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 City Light's system in accordance with Prudent Electrical Practices and Applicable Law.

"**Contract Capacity**" means 4.6 MW plus any amounts of capacity added by WTD pursuant to Section 3.6.

"**Contract Rate**" means the rate, expressed in dollars per MWh, payable by City Light to WTD for the purchase of Electrical Output, Test Power and Environmental Attributes generated by the West Point Cogeneration 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.

"**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.

"**Default**" means the failure of a party to perform a material obligation under this agreement, including but not limited to those specifically identified in Section 12 of this agreement.

"**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.

"**Digester Gas**" means that combustible methane gas which is a by-product of the anaerobic digestion of solids removed from the wastewater within West Point.

"**Electrical Output**" means Capacity, Energy and Resource Adequacy Benefits of the West Point Cogeneration Facility and/or any reporting rights associated with any of the foregoing.

"**Energy**" means any and all electrical energy generated by the West Point Cogeneration Facility in excess of energy consumed in connection with the generation of electricity or the preparation of Digester Gas for use specifically as fuel for electrical power generation and in excess of electrical generating station load, as measured in MWh at the Meter but no more than that amount of electrical energy associated with the Contract Capacity.

"**Engine**" means the two (2) 2.3 MW Caterpillar Model 3612 engines used to generate the Electrical Output or functionally equivalent replacement(s).

"**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 West Point Cogeneration 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, nitrogen oxides, carbon monoxide, and other pollutants; (2) any avoided emissions of carbon dioxide, methane and other greenhouse gases 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 West Point Cogeneration Facility, or (2) fuel-related subsidies or "tipping fees" that may be paid to WTD 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 WTD receives any tradable Environmental Attributes based on the greenhouse gas reduction benefits attributed to its fuel usage for the West Point Cogeneration 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 West Point Cogeneration Facility. The term Environmental Attributes includes any other environmental

credits or benefits recognized in the future and attributable to the energy generated by the West Point Cogeneration 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 without 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.

"**Exclusive Window**" is a period of exclusive negotiation between WTD and the City of Seattle during which the Parties intend to reach agreement on the terms for purchase by the City of Seattle of the Additional Output and the associated Environmental Attributes.

"**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, or 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, lightning, 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 Digester Gas; breakage of or damage to machinery, equipment or pipelines provided such act or event is not related to failure by WTD to adhere to Prudent Electrical Practices.

Additionally, the Parties deem it a Force Majeure event if any law, rule, regulation, or other acts of federal, state, or local governmental authorities: (i) increases WTD's annual operating costs associated with the West Point Cogeneration Facility by 100% or more within any twelve (12) month period, or (ii) eliminates 100% of the economic value of the environmental attributes to City Light; provided however, that neither Party may create an event of Force Majeure by enacting an ordinance, resolution or other act that either causes or results in the conditions stated in subsections (i) and (ii) of this paragraph.

In addition, City Light's failure to receive delivery of Energy as required hereunder due to curtailment of transmission 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, have transmission capacity available to it for capable of providing for such deliveries.

"**Forced Outage**" means an occurrence, as reasonably declared by WTD to City Light, of an unplanned reduction or interruption of the generation of Electrical Output from the West Point Cogeneration 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 West Point Wastewater Treatment Plant 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 pre-schedule.

"**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.

"**Gas Forecast**" shall have the meaning given it in Section 6.1.

"**Generators**" means the engine and generator sets described in **Exhibit C**.

"**Generator Output**" means the sum of the output of the Generators as measured by West Point Cogeneration Facility Meters.

"**Guaranteed Output**" means, beginning in the third Contract Year of this Agreement, as calculated for the second Contract Year, 80% of the Annual Expected MWh of Generation.

"**Interest Rate**" means, on any date, the monthly rate of interest equal to the Prime Rate as published in the Wall Street Journal on the first day of the applicable month (the interest rate for a period longer than one month shall be the average monthly prime rate over the applicable period), provided the Interest Rate shall never exceed the maximum rate permitted by applicable law.

"**Interconnection Facilities**" means the facilities and controls and other equipment between the West Point Cogeneration Facility and the Delivery Point, including, without limitation, controls and protective devices, metering facilities, and transformation, if any, belonging to WTD that are 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 West Point Cogeneration Facility to the Delivery Point, City Light or other entity that operates such transmission or distribution system facilities.

"**Market Price**" means the Dow Jones Mid-Columbia Electricity Firm Daily Index. 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 WTD.

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

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

"**Meter**" means the instrument or instruments meeting applicable Technical Requirements and electric industry standards, installed, repaired and calibrated in accordance with City Light'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.

"**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 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 wastewater 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, as may be changed from time to time.

"**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 West Point Cogeneration 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 Force Majeure or Forced Outage or routine maintenance including without limitation oil changes or spark plug changes.

"**Small Generator Interconnection Agreement**" or "**SGIA**" means the interconnection agreement(s), between City Light and WTD, pursuant to which the Interconnection Facilities will be constructed, operated, and maintained during the Term.

"**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 West Point Cogeneration 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.

"**WECC**" means the Western Electric Coordinating Council.

"**Wastewater Treatment Division**" or "**WTD**" shall have the meaning given to it in the Preamble.

"**West Point**" shall have the meaning given to it in the Recitals and as more particularly described in **Exhibits A** through **D** hereto and otherwise meeting the requirements of this Agreement.

"West Point Cogeneration Facility" means the facilities and equipment specifically required for and dedicated to generation of electrical power and heat from Digester Gas at the West Point wastewater treatment facility; however, electric energy expended to capture heat from the West Point Cogeneration

Facility for use in other West Point facilities shall not be counted as station load towards reduction of electrical power output from generators.

"**West Point Cogeneration Facility Meters**" shall mean:

(1) the "**Distribution Bus Meter**" is the meter at the distribution bus prior to delivery of energy for station service or other uses by WTD at West Point for purposes of determining the quantity of environmental attributes created by the West Point Cogeneration Facility, and

(2) the "**Interconnection Meter**" is the meter at the point of interconnection between WTD and City Light, consistent with City Light's Small Generation Interconnection Agreement.

"**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 the later of twenty (20) years from the COD or March 31, 2033 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 and approved by their respective Executive and Legislative authorities.

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 WTD of a Puget Sound Clean Air Permit for the West Point Cogeneration Facility reasonably acceptable in form and substance to WTD and to King County;

2.3.2 Execution of a SGIA between WTD and City Light;

2.3.3 Receipt by WTD of a National Environmental Policy Act determination of compliance;

2.3.4 Receipt by WTD of a State Environmental Policy Act determination of compliance,;

2.3.5 Receipt by WTD of a building permit;

2.3.6 The Agreement has been executed by properly authorized representatives of WTD and the City of Seattle;

2.3.7 The Agreement has been approved by a lawfully enacted ordinance of the City of Seattle and a lawfully enacted ordinance of King County.

2.4 Suspension and Termination.

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

2.4.1.1 City Light's Right to Suspend. 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 West Point Cogeneration Facility:

(a) Fails to generate a minimum of 17,500 MWh of Energy during any twelve (12) consecutive months, after the COD, for reasons other than the occurrence of an event of Force Majeure, Forced Outage or an act or omission of, or a condition affecting City Light's ability to receive generation from the West Point Cogeneration Facility; or

(b) The COD does not occur on or before January 1, 2014 by reasons other than Force Majeure; or

(c) Fails to comply in any material respect with any federal, state or local law, regulation or ordinance applicable to such facility, and

(d) WTD does not cure such failure(s) within forty (40) Days after WTD receives notice from City Light 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, WTD will have additional time to cure the event of non-compliance if WTD: (i) commences to cure the failure within the forty-day cure period, (ii) diligently pursues the cure, and (iii) the failure is capable of being cured and is in fact cured within no more than one-hundred sixty (160) Days after WTD receives notice of the failure from City Light. 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). WTD 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. WTD 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: (i) WTD corrects to City Light's reasonable satisfaction the non-compliance described in City Light's notice, and (ii) WTD gives City Light notice that the non-compliance has been corrected.

2.4.1.2 City Light's Right to Terminate If any suspension under this Section 2.4.1.1 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 WTD at least thirty (30) Days prior written notice of termination, after the above suspension procedures have been exhausted.

2.4.2 Notice of Termination

2.4.2.1 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) WTD 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, WTD may sell the West Point Cogeneration Facility's Electrical Output and Environmental Attributes to a third party, but if WTD sells such Electrical Output and Environmental Attributes at a combined price greater than the Contract Rate, City Light shall be entitled to receive fifty percent (50%) of the amount paid for such Electrical Output and Environmental Attributes in excess of the Contract Rate for the balance of the Contract Term. This amount shall be due and payable to City Light on the 20th Day of the month following the month in which the WTD receives payment for such Electrical Output and Environmental Attributes.

ARTICLE 3
RENEWABLE POWER PURCHASE AND SALE

3.1 Notice of Commercial Operation. WTD shall notify City Light in writing at least thirty (30) Days prior to the expected COD. Within ten (10) Business Days after the COD has occurred, WTD 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 COD will occur on or about April 1, 2013, but WTD shall not be in default pursuant to this Agreement and shall have no liability to City Light if the COD is delayed beyond such anticipated date. As requested by City Light, WTD will provide updated estimates of the COD.

3.2 Purchase and Sale of Electrical Output. In accordance with and subject to the provisions hereof, commencing on the COD and continuing throughout the Term, WTD shall sell and deliver to City Light at the Delivery Point, and City Light shall purchase and receive from WTD at the Delivery Point, the Electrical Output and all title and interest in and to the Electrical Output and Environmental Attributes of the West Point Cogeneration Facility, measured in MWh at the Meter for Electrical Output and measured in MWh at the West Point

Cogeneration 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 COD, WTD shall sell and deliver to City Light at the Delivery Point, and City Light shall purchase and accept from WTD at the Delivery Point, all Test Power. Such amount of Test Power will be measured at the Meter. City Light will pay 90% of the average monthly light load hour Mid-Columbia daily firm index price plus $5/MWh for all Environmental Attributes on the gross output of the West Point Cogeneration Facility during the Test Power period.

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

3.5 Resource Adequacy. WTD hereby grants, pledges, assigns and otherwise commits to City Light the full Electrical Output of the West Point Cogeneration 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, WTD 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. WTD represents, warrants and covenants to City Light that WTD will not, during the Term, use, grant, pledge assign or otherwise commit any portion of the West Point Cogeneration 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 West Point Cogeneration Facility for City Light's sole benefit throughout the Term.

3.6 Additional Output of the West Point Cogeneration Facility. From time to time WTD shall provide City Light with timely updates as to possible plant expansion. If at any time during the Term WTD installs generation capacity at the West Point Cogeneration Facility in excess of 4.6 MW and WTD 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 West Point, then WTD 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 WTD and City Light for such Additional Output and Environmental Attributes (the "**Exclusive Window**"). During the Exclusive Window, City Light and WTD shall timely and diligently negotiate in good faith with each other. Upon receipt by City Light of a written notice provided by WTD of future availability of Additional Output and associated Environmental Attributes, WTD 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 WTD 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 WTD's notice. If WTD 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 WTD shall be free to sell such Additional Output, and associated Environmental Attributes to third parties, provided however, that such sales are based on rates, terms and conditions that are substantially the same as that offered to City Light.

If WTD has sold Additional Output to a party or parties other than City Light, and the West Point Cogeneration Facility's output is reduced, WTD 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 WTD 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 West Point Cogeneration Facility will be interconnected with City Light through agreed-on points of common coupling (nominally the 13 kV transformer breakers). City Light will accept and take delivery of the Electrical Output at this location (hereafter referred to as the Delivery Point). WTD shall obtain and maintain throughout the Term, at WTD's expense, all services and agreements including any SGIA 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 West Point Cogeneration Facility, WTD 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 West Point Cogeneration Facility. WTD shall, to the fullest extent permitted by Applicable Law, make the Environmental Attributes available to City Light immediately upon WTD's obtaining the Environmental Attributes associated with such Generator Output. WTD 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 WTD acknowledge that the quantity of Environmental Attributes are equal to two times the Generator Output as measured at the West Point Cogeneration Facility Meter and will exceed the quantity of Electrical Output. City Light will pay for both the Environmental Attributes and the Electrical Output based solely on the Electrical Output quantity as measured at the Interconnection 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 West Point Cogeneration Facility Meter(s).

3.10.3 WTD's Environmental Attributes and Renewable Energy Representations and Warranties. WTD 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 except as otherwise provided for in this Agreement; and all electricity generated by the West Point Cogeneration Facility will be fueled solely by Digester 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. WTD agrees to submit to City Light, or an entity designated by City Light, documentation of WTD'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. WTD 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 ("**REC Registration Entity**"), inspections, certification or other evidence of the quality and/or quantity of RECs. As the reporting entity, WTD will provide renewable generation data to the REC Registration Entity and the REC Registration Entity will create REC Certificates in WTD's name that WTD will transfer to City Light on a monthly basis. In the case of WREGIS, WREGIS will create WREGIS Certificates in WTD's name and WTD will transfer to City Light such WREGIS Certificates on a monthly basis. City Light will only reimburse WTD for any transfer charges incurred by WTD 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. If City Light elects to be the QRE, City Light will do so at no expense to WTD.

ARTICLE 4
PERMITTING, CONSTRUCTION AND MONITORING

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

4.2 WTD Permitting, Construction and Monitoring Representations, Warrants and Covenants. WTD represents, warrants and covenants throughout the Term that:

4.2.1 the West Point Cogeneration 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 West Point Cogeneration 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 it will develop and operate the West Point Cogeneration Facility as a renewable resource that complies with the definition of "Renewable resources" set forth in Section 19.280.020 of the Revised Code of Washington in effect as of the date of signing of the Agreement and as may be amended in the future.

4.3 Right to Monitor. During the design, procurement, construction, installation, start-up, and testing of the West Point Cogeneration Facility, WTD shall permit City Light and its advisors and consultants, at its own risk and expense, to:

4.3.1 monitor the construction of the West Point Cogeneration Facility to evaluate 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 COD, be present to witness the initial performance tests and review the results thereof;

4.3.3 perform such other examinations, inspections, and quality surveillance as, in the judgment of City Light, are appropriate and advisable to evaluate whether the West Point Cogeneration Facility has been designed, engineered and installed in accordance with this Agreement.

4.3.4 In conducting the foregoing monitoring activities, City Light's representatives shall comply with all requirements for visitors to the West Point Cogeneration Facility.

4.4 Reporting.

4.4.1 WTD agrees to provide to City Light periodic reports as to the status of the development, permitting, design, construction and installation of

the West Point Cogeneration Facility and other matters reasonably related to City Light's interest in the West Point Cogeneration Facility pursuant to this Agreement. Such reports shall be provided by WTD to City Light quarterly.

4.4.2 Prior to the COD WTD shall deliver to City Light a schedule for the initial performance tests.

ARTICLE 5
OPERATIONS, MAINTENANCE AND REPORTING

5.1 Operating Procedures. **Exhibit H** shall specify procedures that govern the operation of the West Point Cogeneration Facility, scheduling and coordination requirements for WTD and City Light. These procedures will be modified and/or amended as necessary to incorporate changes in industry standards, practices and procedures and conform to Seattle's Open Access Transmission Tariff and the Small Generation Interconnection Agreement provisions it contains, as may be changed from time to time.

5.2 Power Quality. All Energy delivered by WTD to the Delivery Point shall be 60 hertz, three phases, and shall be delivered in accordance with the voltage stated in the SGIA with City Light.

5.3 Operating Standards. WTD shall operate and maintain the West Point Cogeneration 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 West Point Cogeneration Facility and with all Applicable Laws.

5.4 Inspections, Maintenance and Repairs. WTD shall (a) develop and implement a plan of inspection, maintenance and repair for the West Point Cogeneration 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 West Point Cogeneration Facility. WTD shall permit City Light to

inspect the plan and records during regular business hours upon reasonable notice at SCL's expense.

5.5 Right to Monitor. Upon City Light's reasonable prior request to WTD, representatives of City Light shall be allowed to visit the West Point Cogeneration Facility and to ascertain the condition of the West Point Cogeneration 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.

5.6 Notice of Scheduled Major Maintenance Outages. At least sixty (60) Days before the beginning of each Contract Year, WTD shall provide City Light with written notice of Scheduled Major Maintenance Outages for the following Contract Year. WTD shall use commercially reasonable efforts to avoid Scheduled Major Maintenance Outages in July and August and between December and March and to attempt 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, and (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 Annual Report. Within ninety (90) Days after the end of each calendar year, WTD shall provide to City Light a written annual report, which shall include summaries of production of the Generators, operating and maintenance costs incurred, any other significant events related to the operation of the Generators, and any supporting information that City Light may reasonably request.

ARTICLE 6
ELECTRICAL ENERGY PRODUCTION PERFORMANCE GUARANTEE

6.1 Guaranteed Electrical Energy Output.

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

6.1.2 Beginning with the fourth Contract Year, City Light shall deliver to WTD, no later than February 10 of each Contract Year, an invoice showing City Light's computation of the number of MWh of Energy delivered to City Light by WTD as measured at the Meter and WTD's Guaranteed Output for the immediately preceding Contract Year as well as any amount due City Light as Replacement Energy Cost. WTD shall pay such amount to City Light by wire transfer of immediately available funds by the later of ten (10) Business Days after WTD'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 J, 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. WTD shall provide City Light with Replacement RECs in an amount equal to two times the number of MWh by which the Energy in any Contract Year (except for the first two Contract Years) is less than the guaranteed electrical energy output. Beginning with the third Contract Year, City Light shall inform WTD no later than February 10 of each Contract Year by written notice City Light's computation of the number of Replacement RECs due City Light from WTD for the prior Contract Year. No later than May 31 of the Contract Year following City Light's notice, WTD 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 WTD is unable to provide Replacement RECs to

City Light, then WTD 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, WTD will reimburse City Light for the cost of such Replacement RECs and the staff time necessary to acquire such Replacement RECs.

ARTICLE 7
MEASUREMENT AND METERING, FACILITY DATA

7.1 Metering. All Electrical Output delivered by WTD to City Light from the West Point Cogeneration Facility shall be measured at the Interconnection Meter. The Interconnection Meter will be installed, repaired, calibrated and read in accordance with the SGIA. Such Meter shall be used to calculate the Energy delivered to the Delivery Point by WTD and to compute the payments due to WTD from City Light. Both WTD's interconnection metering and distribution bus metering and data processing equipment shall meet or exceed the Technical Requirements.

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

7.3 Measurements. Readings of the Interconnection 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 Interconnection Meter is out of service or is determined, pursuant to Section 7.4 hereof, to be registering inaccurately, measurement of Electrical Output delivered under this Agreement shall be determined in the following sequence:

7.3.1 By using the Distribution Bus Meter and the hourly integrated instantaneous MW value used to monitor the Generator Output from the computer monitoring system (a) to compare to the hourly meter reading of the West Point Cogeneration Facility Interconnection Meter 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

7.3.2 by the computer monitoring system for each Generator included in the West Point Cogeneration Facility using a mathematical calculation agreed upon by WTD and City Light to adjust the output thereof to account for electrical losses in the gathering system and Generator's transformers and substation transformers up to the Delivery Point (if any); or

7.3.3 by estimating the unmeasured or inaccurately measured quantities by referring to the measurements made during other comparable time periods having similar conditions when the West Point Cogeneration Facility Interconnection Meter was registering accurately, subject to City Light's approval, which City Light shall not unreasonably withhold, condition or delay.

7.4 Distribution Bus Meter The Distribution Bus Meter will be used by WTD for purpose of measuring and reporting the quantity of environmental attributes to City Light and WREGIS, and when necessary, to confirm the Interconnection Meter readings.

7.5 Testing. City Light or an independent third party shall test, verify and calibrate the accuracy of the Distribution Bus Meter and the Interconnection Meter, at regular intervals but no less frequently than once every two (2) years.

7.6 Resolution of Disagreements Concerning Meter Accuracy. The Meter shall be maintained to be accurate within a two percent (2%) variance. If either party wishes to dispute the accuracy of a meter's accuracy or condition, it will so advise the other party and that party will test the meter. If the meter

registers within the permitted two percent (2%) variance, the party contesting accuracy shall bear the cost of inspection; otherwise, the cost shall be borne by the non-contesting party.

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 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 7.3. 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, WTD 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.

ARTICLE 8
CONTRACT RATE

8.1 Contract Rate. City Light shall pay WTD for all Electrical Output and Environmental Attributes delivered to City Light hereunder at the Contract Rate set out in **Exhibit G** unless adjusted pursuant to Section 8.2.

8.2 Year Eleven through Twenty Cost Adjustment Opportunity. In the event that that actual cost of operations and maintenance have been significantly above or below the current, forecast of costs, either party may request in year ten that the other party agree to adjust the contract payment amount for years eleven through twenty up or down by no more than 10% of the price that would otherwise be in effect starting in year eleven and escalating per the terms of the agreement thereafter for the remaining term of the contract. During years one through ten the cost reporting that WTD shall provide to City

Light shall be the basis for either party's request to adjust the contract rate for years eleven through twenty. If City Light believes any costs are not prudently incurred by WTD or are not properly attributable to the generation of the energy and environmental attributes subject to this agreement (i.e. costs associated with the other operations of the West Point facility) the parties shall meet and confer to resolve any such disagreements at any time, up to and including during the year ten discussion of adjusting costs for years eleven through twenty. In the event the parties are unable to reach agreement on whether to adjust the contract rate for years eleven through twenty, or by how much, the dispute resolution provisions of Article 14 shall be applicable.

8.3 Taxes. WTD shall be responsible for paying all existing and any new taxes imposed by any federal, state or local governmental agency on the West Point Cogeneration 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 WTD otherwise would be required to collect in connection with the sale of Electrical Output and Environmental Attributes, then City Light shall provide WTD with all necessary documentation to evidence such exemption.

ARTICLE 9
BILLING AND PAYMENT, REC ATTESTATION

9.1 Monthly Billing. No later than the tenth (10^{th}) Day of each calendar month during the Term, WTD 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**. WTD 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. WTD will include with each invoice sufficient detail to allow City Light to verify the amount due.

9.2 Payments to WTD. City Light shall pay the amount specified in the bill and 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 WTD's statement or the twentieth (20^{th}) Day of the month in accordance with the wire transfer instructions set out in **Exhibit J,** 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. WTD 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 2 times the West Point Cogeneration Facility output as measured by the Distribution Bus Meter. WTD shall also deliver the WREGIS Certificate as it becomes available from WREGIS and City Light shall reimburse WTD for the cost imposed by WREGIS of transferring the WREGIS Certificate from WTD 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 errors or other errors affecting amounts due hereunder, WTD 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 WTD. Should the audit discover an under-billing error or errors, City Light shall compensate WTD 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 WTD.

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 WTD 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 WTD disagrees with City Light as to the allegation of error, then WTD shall so notify City Light within sixty (60) Days 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 WTD'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 WTD is found to be in error, WTD 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 date on which City Light paid the disputed amount to WTD until the date on which City Light receives payment in full of the amount owed to it.

10.4 Corrected Invoices. If WTD 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 WTD 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 WTD to reimburse City Light for amounts previously paid by City Light, WTD 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 WTD. If the error requires City Light to pay WTD additional amounts, WTD 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 date on which City Light payment should have been due under this Agreement.

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 J**, 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 J**, 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 J**, 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 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;

12.1.2 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;

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

12.1.4 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**." In the event of a Default, 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 , 12.1.2, and 12.1.4 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 pursuant to Section 12.1.3, 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 Sections 12.4-12.6.

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, 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 WTD receives and timely implements a Reliability Adjustment from City Light in accordance with **Exhibit H** instructing the West Point Cogeneration 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 WTD 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 J**, 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 least 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 Mediation. WTD and City Light will confer and determine whether both Parties are willing to jointly engage in a non-binding, third-party mediation process prior to seeking arbitration. If both parties agree to mediation they will jointly select a mediator.

14.3 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 request 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, (i) the responding party rejects the arbitration request; or (ii) 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.

14.4 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 14.3 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 WTD Assignment Restriction. WTD 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 WTD'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
GENERAL REPRESENTATIONS AND WARRANTIES

16.1 General 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 WTD Additional Representations and Warranties.

16.2.1 WTD represents and warrants to City Light that:

16.2.1.1 the West Point Cogeneration 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 West Point Cogeneration Facility will be fueled by Digester Gas.

ARTICLE 17
MISCELLANOUS

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. WTD shall self-insure to provide protection against claims for damages resulting from West Point Cogeneration Facility's operations under this Agreement.

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 WTD is a "**Forward Contract Merchant**" within the meaning of the United States Bankruptcy Code.

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

KING COUNTY WASTEWATER TREATMENT DIVISION	**THE CITY OF SEATTLE CITY, CITY LIGHT DEPARTMENT**
By:	By:
Theresa Jennings Director, King County Department of Natural Resources and Parks	Jorge Carrasco Superintendent
Date:	Date:

EXHIBIT A

THE WEST POINT COGENERATION FACILITY DESCRIPTION

EXHIBIT B

THE WEST POINT COGENERATION FACILITY MAP

PAGE 1 OF

Description of Generators

NOTICE OF THE WEST POINT COGENERATION FACILITY FINAL COMPLETION AND COMMERCIAL OPERATION

Name: West Point Cogeneration Facility

Date of Issuance: _____

Owner: King County Wastewater Treatment Division

Contractor: _____

Contractor Firm: _____

Owner Address: _____

King County Wastewater Treatment Division, as Owner of the West Point Cogeneration Facility hereby certifies that the West Point Cogeneration Facility is complete, that the generators and all other portions of the West Point Cogeneration Facility necessary to put it 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 City Light's system in accordance with Prudent Electrical Practices and Applicable Law.

Executed by the Owner on: _____

Contractor Signature:_____

Name: _____

Date: _____

ENVIRONMENTAL ATTRIBUTE 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 environmental attributes / ____ renewable attributes only[2] 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 environmental attributes (including CO_2 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 environmental attributes were not sold, marketed or otherwise claimed by a third party;

3) Provider sold the environmental attributes only once;

4) the environmental 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 environmental 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.

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 Digester 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.

For each MWh of Energy measured at the Meter, City Light shall pay according to the following schedule unless modified pursuant to Article 8.

Contract Year	Contract Rate ($ per MWh)
2010	82.00
2011	84.05
2012	86.15
2013	88.31
2014	90.51
2015	92.78
2016	95.09
2017	97.47
2018	99.91
2019	102.41
2020	104.97
2021	107.59
2022	110.28
2023	113.04
2024	115.86
2025	118.76
2026	121.73
2027	124.77
2028	127.89
2029	131.09
2030	134.37
2031	137.73
2032	141.17
2033	144.70

H.1 Digester Gas application shall follow the priority order presented here unless specifically modified by representatives of the West Point Wastewater Treatment Plant, in order to ensure proper operation of the Plant and public health and safety:

H.1.1. Gas-powered Raw Sewage Pumps

H.1.2. West Point Plant heating loop heat requirements

H.1.3. Cogeneration plant for generation of electricity

H.2 Resumption of Deliveries after Forced Outage. Except as mutually agreed otherwise, if the West Point Cogeneration 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 pre-scheduling 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 J,** Contact Information) has authorized such resumption of deliveries. These requirements are in addition to all requirements specified in the Generation Interconnection Agreement with City Light.

H.3 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.4 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.

H.5 WTD Obligations.

H.5.1 Notice for Scheduling. WTD shall provide (or cause to be provided) to City Light's Preschedule contact (See **Exhibit J,** 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) WTD and City Light or their respective designees shall follow prevailing scheduling practices within the WECC. WTD or its designee shall make commercially reasonable efforts to provide accurate forecasts of the Energy given then available information. In the event WTD fails to provide timely and accurate scheduling information resulting in additional charges and/or penalties to City Light, WTD shall reimburse City Light for such charges and/or penalties.

H.5.2 Availability Notification. WTD must notify City Light Real-Time Marketing (see **Exhibit J**, 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 West Point Cogeneration Facility occurs and when the West Point Cogeneration Facility recovers from such contingency.

H.5.3 Reliability Curtailments. If City Light receives an E-Tag Reliability Adjustment City Light will immediately (within 10 minutes) inform WTD of receiving such curtailment instruction. WTD 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.5.4 Losses. WTD will only be responsible for losses to the extent charged by the Interconnection Provider.

H.5.5 Reserves. City Light will compute the WECC Contingency Reserve Obligation (CRO) for the West Point Cogeneration Facility based on the applicable standard.

H.5.6 Notice of Changes to Scheduled Major Maintenance Outages. WTD 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. 6. City Light Obligations.

H.6.1 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 pre-scheduling Day or Days, City Light or its designee shall schedule the Energy.

H.6.2 Reliability Curtailments. If City Light receives an E-Tag Reliability Adjustment City Light will immediately (within 10 minutes) inform WTD of receiving such curtailment instruction. WTD 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 borne by the Party that failed to take timely action in response to such notice.

H.6.3 Reserves. City Light will self-supply contingency reserves for the Energy purchased pursuant to this Agreement.

H.6.4 Curtailments.

(i) Curtailments by WTD. City Light acknowledges that the WTD may curtail deliveries of Electrical Output in accordance with Prudent Electrical Practices and in a commercially reasonable manner if WTD 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 West Point Cogeneration Facility's equipment or is deemed necessary by WTD to protect life or property.

(ii) Curtailments by the Interconnection Provider. City Light acknowledges that the WTD shall curtail deliveries of Energy if notified by the Interconnection Provider pursuant to the SGIA 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 City Light to protect life or property but only so long as such condition exists, and only to the extent required by such Interconnection Provider.

H. 7. City Light Control Center.

City Light's Regulatory Compliance Staff and Control Center Staff will meet and confer with WTD's West Point Cogeneration Facility Staff to revise or develop additional operating procedures as required by the North American Electric Reliability Corporation's ("NERC") reliability standards, as may be amended from time to time.

If the annual Energy during the contract year (MWh) is less than Guaranteed Output (MWh) then WTD 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.

"**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.

DATE: SEPTEMBER 30, 2009

Name: **King County Wastewater Treatment Division, Department of Natural Resources and Parks** All Notices: Street: 201 S. Jackson St., KSC-NR-0501 City: Seattle, WA Zip: 98104-3855 **Director, Wastewater Treatment Division** Attn: Christie True Phone: (206) 684-1236 Facsimile: (206) 684-1741 Email: christie.true@kingcounty.gov Duns: 135108934 Federal Tax ID Number: 91-6001327		Name: **Seattle City Light** All Notices: Physical Delivery: Street: 700 5th Avenue, Suite 3200 City: Seattle, WA Zip: 98104 USPS: Street: PO Box 34023 City: Seattle, WA Zip: 98124-4023 **Director, Power Contracts and Resource Acquisition:** Attn: Robert W. Cromwell, Jr. Phone: (206) 684-3856 Facsimile: (206) 386-4555 Email: robert.cromwell@seattle.gov Duns: 009483629 Federal Tax ID Number: 91-6001275
Name: **West Point Treatment Plant - King County Waste Treatment Division** All Notices: Street: Administration Building 1400 Utah St. W City: Seattle, WA Zip: 98199 **Contract Administration** Attn: Pam Elardo, Plant Manager Phone: (206) 263-3825 Facsimile: (206) 263-3850 Email: Pam.Elardo@kingcounty.gov Duns: 135108934 Federal Tax ID Number: 91-6001327		Name: **Seattle City Light – Power Contracts & Resource Acquisition Division** All Notices: Street: PO Box 34023 City: Seattle, WA Zip: 98124-4023 **Contract Administration:** Attn: Doris Clemence Phone: (206) 684-4537 Facsimile: (206) 386-4555 Email: doris.clemence@seattle.gov Duns: 009483629 Federal Tax ID Number: 91-6001275

Operations: Attn: Pam Elardo, Plant Manager Phone: (206) 263-3825 Facsimile: (206) 263-3850 Email: Pam.Elardo@kingcounty.gov		**Preschedule:** Attn: Doug Carmichael Phone: (206) 615-0963 Facsimile: (206) 615-0969 Email: doug.carmichael@seattle.gov, siriphan.clayton@seattle.gov, or sclpwrsched@seattle.gov
		Real Time Marketing: Attn: Real Time Desk Phone: (206) 615-0966 Facsimile: (206) 615-0969 Email: n/a
		Confirms: Attn: Nhung Mach Phone: (206) 684-3535 Facsimile: (206) 287-5138 Email: nhung.mach@seattle.gov
Invoices: Attn: Pam Elardo, Plant Manager Phone: (206) 263-3825 Facsimile: (206) 263-3850 Email: Pam.Elardo@kingcounty.gov		**Invoices:** Attn: Linda Colby Phone: (206) 386-4535 Facsimile: (206) 386-4555 Email: sclpoweraccounts@seattle.gov
Payments: Attn: Steve Tull Phone: (206) 684-1515 Facsimile: (206) 684-1741 Email: steve.tull@kingcounty.gov		**Payments:** Attn: Linda Colby Phone: (206) 386-4535 Facsimile: (206) 386-4555 Email: sclpoweraccounts@seattle.gov
Wire Transfer: BNK: Key Bank ABA: 125000574 ACCT: 1652710 Account Name: King County Finance		**Wire Transfer:** BNK: Wells Fargo Bank ABA: 121000248 ACCT: 4758359921

Credit and Collections: Attn: Steve Tull Phone: (206) 684-1515 Facsimile: (206) 684-1741 Email: steve.tull@kingcounty.gov		**Credit and Collections:** Attn: Mike Yaley Phone: (206) 233-2756 Facsimile: (206) 287-5120 Email: mike.yaley@seattle.gov
Dispute Resolution Representative (Article 14): Attn: Christie True Phone: (206) 684-1236 Facsimile: (206) 684-1741 Email: christie.true@kingcounty.gov		**Dispute Resolution Representative** (Article 14): Attn: Robert W. Cromwell, Jr. Phone: (206) 684-3856 Facsimile: (206) 386-4555 Email: robert.cromwell@seattle.gov
With additional Notices of an **Event of Default, Termination** or **Potential Event of Default** to: Attn: Pam Elardo, Plant Manager Phone: (206) 263-3825 Facsimile: (206) 263-3850 Email: Pam.Elardo@kingcounty.gov		With additional Notices of an **Event of Default, Termination** or **Potential Event of Default** to: Attn: Marilynn Semro Phone: (206) 386-4539 Facsimile: (206) 386-4555 Email: marilynn.semro@seattle.gov
Contact Information Modification: Any modifications to the Contact Information shall be provided to the other Party in writing and shall be mailed, faxed or e-mailed to Contract Administration.		

Form revised May 26, 2009

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
City Light	Robert Cromwell/684-3856	Karl Stickel/684-8085

Legislation Title:

AN ORDINANCE relating to the City Light Department; authorizing execution of a 20-year agreement with the King County Wastewater Treatment Division for the purchase of renewable power and environmental attributes of power generated at the West Point Wastewater Treatment Facility and other related agreements that are necessary or convenient to establish and operate the generator interconnection.

- **Summary of the Legislation:**
  The proposed ordinance will enable City Light to execute a contract with King County Wastewater Treatment Division ("WTD") to purchase renewable power and environmental attributes from a generating facility at the West Point Wastewater Treatment Plant ("West Point") for a 20-year period. It also provides for City Light to execute other agreements necessary or convenient to establish and operate the generator interconnection (e.g., a generator interconnection agreement) and exercise a right of first refusal for a second power purchase agreement should King County elect to expand the generating capability at West Point during the term of the contract. Finally, it provides explicit authority for City Light to sell any Renewable Energy Credits (RECs) from West Point that are surplus to the City's needs.

- **Background:**
  WTD has purchased two 2.3 MW Caterpillar engines and intends to build, own and operate a new electric generating facility at West Point. Over the past two years, King County and City Light staffs have negotiated terms and conditions under which WTD would sell and City Light would purchase the electrical output and associated environmental attributes (i.e., RECs) of these facilities.

  WTD has offered to sell City Light all of the electrical output and associated environmental attributes for a period of 20 years from the date of commercial operation. The expected on-line date is currently April 2013, thus the expected delivery period would extend through March 2033. The 4.6 aMW generating facility, which is expected to yield approximately 2.5 aMW year-around (21,500 MWh per year), will be a base load (i.e., relatively constant) resource that will contribute to mitigating City Light's future winter load deficit indentified in the 2008 Integrated Resource Plan ("IRP"). WTD has agreed to guarantee a certain level of energy and RECs production after the second production year.

  One other attractive economic feature of this particular resource is that the generating facility will be interconnected directly to City Light's electric system, so there is no need to acquire

COUNCIL CLERK

additional external transmission with its associated losses replacement and reserves requirements.

West Point is an eligible renewable resource under RCW 19.285 (also known as "I-937") and complies with Washington State's greenhouse gas emissions rules for base load generation. In addition, because the West Point generating facility is considered a distributed generation facility under I-937, City Light can count the environmental attributes purchased under this agreement twice for compliance purposes. Thus, City Light expects to receive approximately 43,000 RECs per year from this resource. Its acquisition by City Light is consistent with the 2008 IRP, Seattle's Climate Action Plan, and other City policies that emphasize the acquisition of renewable resources to serve retail loads in Seattle.

The purchase price of this resource will increase each year starting at $80 per MWh in 2009 and escalate at 2.5 percent per year through the 20-year delivery period. The parties have agreed that either party may reopen the pricing based on actual production costs in the 10th year of the contract, but price changes would be capped at plus or minus 10 percent. Benefits include energy, RECs, transmission savings, and resource adequacy. City Light's Resource Acquisition staff have determined that this contract will yield a positive net present value of at least $3 million under the current price structure.

Should WTD expand its generating capability during the term of the agreement, it has agreed to work with the City for a short period of time (90 days) to attempt to negotiate and execute a second mutually agreeable renewable power purchase agreement for the power and environmental attributes associated with the new or expanded generating facilities. If City Light is unable to exercise its option to sign the resulting purchase agreement within the limited time frame granted by WTD, then WTD will be free to sell the incremental generation (and/or RECs) to a third party. City Light would prefer to be able to secure this new renewable resource for its customers, providing the terms, including price, are satisfactory. Thus, in the proposed ordinance, City Light is seeking authority to exercise a right of first refusal and execute a second renewable power purchase agreement; provided the Superintendent finds that it "best meets the needs of City Light's customers and is consistent with City policies, Washington State law and City Light's most current Council-approved Integrated Resource Plan".

Finally, City Light is seeking specific authority to sell the surplus environmental attributes (i.e., RECs), if any, that arise from the power purchase agreement(s) with WTD for renewable generation from West Point if during the term of the contract there are years where the RECs are in excess to City Light's legal requirements.

- *Please check one of the following:*

____ **This legislation does not have any financial implications.**

__x__ **This legislation has financial implications.**

COUNCIL CLERK

Appropriations:

Fund Name and Number	Department	Budget Control Level*	2009 Appropriation	2010 Anticipated Appropriation
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

Notes: There are no financial implications until the resource's commercial operation date estimated to be April, 2013. The initial annual expected cost is about $2 million per year escalating at 2.5% annually each January 1.

Anticipated Revenue/Reimbursement: Resulting From This Legislation:

Fund Name and Number	Department	Revenue Source	2009 Revenue	2010 Revenue
TOTAL				

Notes: While no separate budget item will be included for the revenue potential of this resource, it will implicitly be included in Power Management's wholesale revenue forecast.

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact:

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2009 Positions	2009 FTE	2010 Positions*	2010 FTE*
TOTAL							

** 2010 positions and FTE are total 2010 position changes resulting from this legislation, not incremental changes. Therefore, under 2010, please be sure to include any continuing positions from 2009.*

- **Do positions sunset in the future?**
  Not applicable.

Spending/Cash Flow:

Fund Name & #	Department	Budget Control Level*	2009 Expenditures	2010 Anticipated Expenditures
TOTAL				

COUNCIL CLERK

** See budget book to obtain the appropriate Budget Control Level for your department.*

Notes: Not applicable.

- **What is the financial cost of not implementing the legislation?**
  The cost of not implementing this legislation is that City Light would miss out on net present value benefits of $3-4 million over the 20-year life of the foregone agreement.

- **Does this legislation affect any departments besides the originating department?**
  No.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
  City Light could start developing its own new renewable resources or negotiate renewable energy contracts with other developers.

- **Other Issues**:
  None.

- **List attachments to the fiscal note below:**
  None.

COUNCIL CLERK

City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 25, 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 would authorize the Superintendent of the City Light Department to execute a 20-year agreement with King County Wastewater Treatment Division for the purchase of renewable power and environmental attributes generated by wastewater gas at the West Point Wastewater Treatment Facility in Seattle, Washington. This arrangement advances my Seattle Climate Action Plan and is a great example of our partnership with King County to develop renewable resources.

The renewable energy obtained under this agreement will also allow City Light to satisfy the requirements of Initiative 937. In addition, City Light has developed an Integrated Resource Plan (IRP) which the City Council approved in 2008, that provides guidance to City Light as to the amount, resource type, and timing of renewable resource acquisitions that will comply with City policies and state law. The proposed Council Bill will help City Light meet these requirements in a manner consistent with the 2008 IRP, Seattle's Climate Action Plan and other City policies that emphasize the acquisition of renewable resources to serve City Light's customers.

Thank you for your consideration of this legislation. Should you have questions, please contact Robert Cromwell at (206) 684-3856.

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
An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

RENEWABLE POWER PURCHASE AGREEMENT

between

THE CITY OF SEATTLE,

BY AND THROUGH ITS CITY LIGHT DEPARTMENT

and

KING COUNTY

BY AND THROUGH ITS WASTEWATER TREATMENT DIVISION

COUNCIL CLERK

TABLE OF CONTENTS

RECITALS

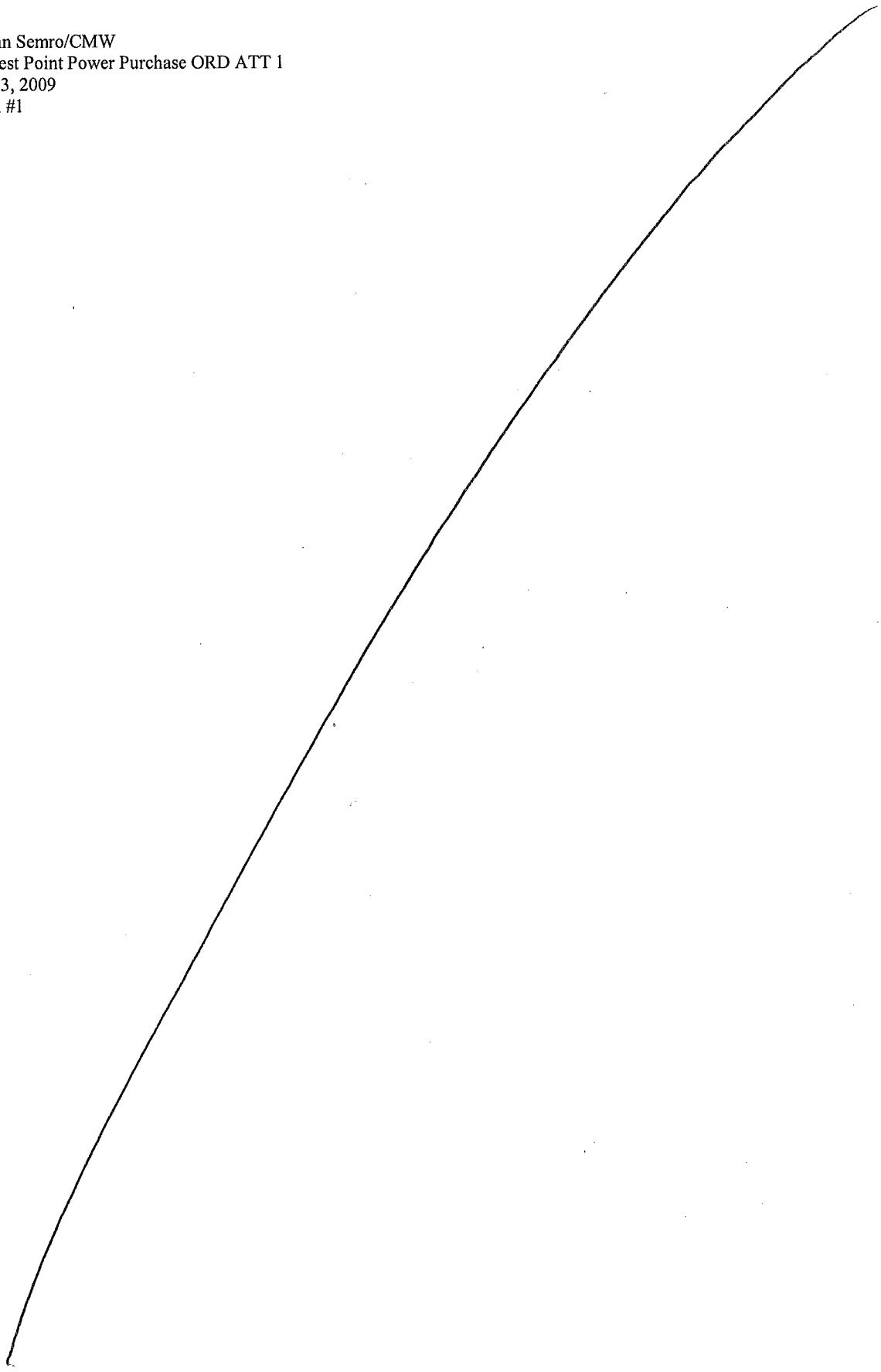
ARTICLES PAGE NO.

1. DEFINITIONS
2. TERM AND TERMINATION; APPROVALS
3. RENEWABLE POWER PURCHASE AND SALE
4. PERMITTING, CONSTRUCTION AND MONITORING
5. OPERATION, MAINTENANCE AND REPORTING
6. PERFORMANCE GUARANTEES
7. MEASUREMENT AND METERING, FACILITY DATA
8. CONTRACT RATE
9. BILLING AND PAYMENT, REC ATTESTATION
10. RECORDS, AUDITS AND DISPUTES
11. NOTICES AND CONTACT INFORMATION
12. DEFAULTS AND REMEDIES
13. FORCE MAJEURE; LIMITATION OF LIABILITY
14. DISPUTE RESOLUTION
15. ASSIGNMENT; BINDING EFFECT
16. REPRESENTATIONS AND WARRANTIES
17. MISCELLANEOUS

EXHIBITS

A. FACILITY DESCRIPTION
B. FACILITY MAP
C. DESCRIPTION OF GENERATORS
D. ONE-LINE DIAGRAM
E. NOTICE OF COMMERCIAL OPERATION
F. REC ATTESTATION AND BILL OF SALE
G. CONTRACT RATE
H. OPERATING PROCEDURES
I. REPLACEMENT ENERGY COST
J. CONTACT INFORMATION

COUNCIL CLERK



COUNCIL CLERK

This working draft agreement for the purchase of electrical output from the West Point Renewable Energy Facility is for the purpose of furthering discussions and is not intended to bind City Light or WTD to any course of action, terms or agreement. Any actions taken by a party in reliance on the terms set forth in this working draft shall be at that party's own risk. Until the Agreement is signed by both parties, neither party shall have any legal obligations, expressed or implied, or arising in any other manner under this working draft agreement. Any agreement requires the approval of WTD and City Light management and will require Seattle's Mayor and City Council approvals.

RENEWABLE POWER PURCHASE AGREEMENT

This Renewable Power Purchase Agreement is entered into as of the _____ day of _____, 2009, by and between King County, a Washington county, by and through its Wastewater Treatment Division with principal offices located at _____, Seattle, Washington _____ ("**WTD**"), 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**"). WTD and City Light are sometimes referred to in this Agreement collectively as the "**Parties**" and individually as a "**Party**."

RECITALS

WHEREAS, WTD intends to build, own and operate an electric generating facility fueled exclusively by Wastewater Gas, extracted from the West Point Wastewater Treatment Facility which is located at 1400 West Utah Street, Seattle Washington ("**West Point**");

WHEREAS, West Point is expected to have 4.6 MW of installed capacity with an estimated net peak capacity of 3.7 MW and an estimated net annual output of 21,500 MWh;

WHEREAS, West Point will be interconnected with City Light;

WHEREAS, WTD wishes to sell and City Light wishes to purchase all Electrical Output generated by West Point, together with all associated Environmental Attributes related to the Generator Output from West Point for a period of twenty (20) years beginning about July 1, 2012; and

COUNCIL CLERK

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.

"**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**" or "**COD**" means the date as memorialized in a written communication from WTD to City Light, on which the generators included in West Point, and all other portions of West Point necessary to put it 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 City Light's system in accordance with Prudent Electrical Practices and Applicable Law.

"**Contract Capacity**" means 4.6 MW plus any amounts of capacity added by WTD pursuant to Section 3.6.

"**Contract Rate**" means the rate, expressed in dollars per MWh, payable by City Light to WTD for the purchase of Electrical Output, Test Power and Environmental Attributes generated by West Point 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.

"**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.

COUNCIL CLERK

based on the greenhouse gas reduction benefits attributed to its fuel usage for West Point 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 West Point. The term Environmental Attributes includes any other environmental credits or benefits recognized in the future and attributable to the energy generated by West Point 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.

"**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 Wastewater Gas; breakage of or damage to machinery,

COUNCIL CLERK

"**Interconnection Facilities**" means the facilities and control and other equipment between West Point and the Delivery Point, including, without limitation, control and protective devices, metering facilities, and WTD'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 West Point to the Delivery Point, City Light or other entity that operates such transmission or distribution system facilities.

"**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 WTD.

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

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

"**Meter**" means the instrument or instruments meeting applicable Technical Requirements and electric industry standards, installed, repaired and calibrated in accordance with City Light'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.

"**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

COUNCIL CLERK

"**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.

"**Small Generator Interconnection Agreement**" or "**SGIA**" means the interconnection agreement(s), between City Light and WTD, pursuant to which the Interconnection Facilities will be constructed, operated, and maintained during the Term.

"**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 West Point 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.

COUNCIL CLERK

2.3.1 Receipt by WTD of a Puget Sound Clean Air Permit for West Point reasonably acceptable in form and substance to WTD and to King County;

2.3.2 Execution of a SGIA between WTD and City Light reasonably acceptable to WTD in cost, form and substance;

2.3.3 Receipt by WTD of a National Environmental Policy Act determination of compliance;

2.3.4 Receipt by WTD of a State Environmental Policy Act determination of compliance,;

2.3.5 Receipt by WTD of a building permit;

2.3.6 The Agreement has been executed by a properly authorized representative of WTD;

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

2.3.8 If before all the conditions precedent are satisfied the Seattle City Council or the King County Council 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 King County Council, or

(iii) Terminate discussions.

2.4 Suspension and Termination.

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

COUNCIL CLERK

such extended cure period). WTD 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. WTD 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) WTD corrects to City Light's reasonable satisfaction the non-compliance described in City Light's notice, and (y) WTD 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 WTD at least fifteen (15) Days prior written notice of termination.

2.4.2 WTD's Right to Terminate. WM shall have the right to terminate this Agreement on _____Days written notice if _____

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 2.4.

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.

COUNCIL CLERK

3.2 Purchase and Sale of Electrical Output. In accordance with and subject to the provisions hereof, commencing on the COD and continuing throughout the Term, WTD shall sell and deliver to City Light at the Delivery Point, and City Light shall purchase and receive from WTD at the Delivery Point, the Electrical Output and all title and interest in and to the Electrical Output and Environmental Attributes of West Point, measured in MWh [due to size do we want kWh?] at the Meter for Electrical Output and measured in MWh [due to size do we want kWh?] at the West Point 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 COD, WTD shall sell and deliver to City Light at the Delivery Point, and City Light shall purchase and accept from WTD at the Delivery Point, all Test Power. Such amount of Test Power will be measured at the Meter. City Light will pay 90% of the average monthly light load hour Mid-Columbia daily firm index price plus $5/MWh for all Environmental Attributes on the gross output of West Point during the Test Power period.

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

3.5 Resource Adequacy. WTD hereby grants, pledges, assigns and otherwise commits to City Light the full Electrical Output of West Point during the Term for all purposes, including among other things satisfying any Resource Adequacy Requirement that may be applicable to City Light; provided, however, WTD 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. WTD represents, warrants and covenants to City Light that WTD will not, during the Term, use, grant, pledge assign or otherwise commit any portion of West Point'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

COUNCIL CLERK

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 WTD 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. West Point will be interconnected with City Light by means of a _____ tap onto _____ transmission line. City Light will accept and take delivery of the Electrical Output at the point where City Light ownership begins ("**Delivery Point**"). Electrical Output sold to City Light under this Agreement shall be delivered to City Light at the Delivery Point. WTD shall obtain and maintain throughout the Term, at WTD's expense, all services and agreements including any SGIA 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 West Point, WTD 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 West Point Meters whether now existing or acquired by WTD or that hereafter come into existence or are acquired by WTD during the Term. WTD shall, to the fullest extent permitted by Applicable Law, make the Environmental Attributes available to City Light immediately upon WTD's obtaining the Environmental Attributes associated with such Generator Output. WTD 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 WTD acknowledge that the quantity of Environmental Attributes are equal to two times the Generator Output as measured at the West Point Meter and will exceed the quantity of Electrical Output.

COUNCIL CLERK

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 West Point Design, Permitting, Construction and Installation. WTD shall develop, obtain all necessary permits and authorizations and construct West Point at no cost to City Light.

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

4.2.1 West Point 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 West Point 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 West Point 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 or as may be amended in the future.

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

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

COUNCIL CLERK

ARTICLE 5
OPERATIONS, MAINTENANCE AND REPORTING

5.1 Operating Procedures. Exhibit H shall specify procedures that govern the operation of West Point, scheduling and coordination requirements for WTD 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 WTD to the Delivery Point shall be 60 hertz, three phase, and shall be delivered in accordance with the voltage stated in the SGIA with City Light.

5.3 Operating Standards. WTD shall operate and maintain West Point 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 West Point and with all Applicable Laws.

5.4 Inspections, Maintenance and Repairs. WTD shall (a) develop and implement a plan of inspection, maintenance and repair for West Point 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 West Point. WTD 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 WTD, representatives of City Light shall be allowed to visit West Point and to ascertain the condition of West Point, 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.

5.6 Notice of Scheduled Major Maintenance Outages. At least sixty (60) Days before the beginning of each Contract Year, WTD shall provide City Light with written notice of Scheduled Major Maintenance Outages for the following Contract Year.

COUNCIL CLERK

the WTD shall be deemed to be acceptable. If City Light reasonably disagrees that the WTD selected independent engineer or independent engineering firm is acceptable, the Parties shall cooperate promptly and in good faith to address City Light's concerns and agree upon an independent engineer or independent engineering firm. If the Parties are unable to agree to an independent engineer or independent engineering firm within ten (10) Business Days of City Light's notice of disagreement, either Party may utilize the dispute resolution provisions of this Agreement.

6.1.2 No later than October 1st of each calendar year, WTD will provide City Light with a report and a Wastewater gas forecast, stamped and approved by the independent professional engineer or the independent engineering firm specified above, containing at the minimum, certification of the following:

6.1.2.1 Current status of the Wastewater gas resource in comparison to the previous status of the resource. This information will include a detailed description of any changes from the last forecast, the apparent cause of such changes, assessment of future status of the resource and its ability to sustain its current level of output in consideration of the requirements of Section 6.1 of this Agreement,

6.1.2.2 Estimated lost Wastewater gas production associated with scheduled outages that are planned to occur for the next twenty-four (24) months beginning with November 1st of the current year,

6.1.2.3 Estimated Wastewater gas production (in mmBTU) that will be able to be delivered to the Generators for each of the next twenty-four (24) months beginning with November of the current year, and

6.1.2.4 The assumptions used by the engineer.

6.1.3 No later than thirty (30) Business Days after WTD provides a written copy of the certification as specified above to City Light, City Light shall send WTD a written notice, either (i) approving the certification, or (ii) setting forth in reasonable detail City Light's reasons for concluding that the certification is not acceptable. If City Light does not respond on or before the end of the thirty (30th)

COUNCIL CLERK

the later of ten (10) Days after WTD'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 J, 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.

6.3 Replacement RECs. WTD shall provide City Light with Replacement RECs in an amount equal to two times 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 WTD by written notice showing City Light's computation of the number of Replacement RECs due City Light from WTD for the prior Contract Year. No later than May 31 WTD 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 WTD is unable to provide Replacement RECs to City Light, then WTD 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, WTD will reimburse City Light for the cost of such Replacement RECs and the staff time necessary to acquire such Replacement RECs.

ARTICLE 7
MEASUREMENT AND METERING, FACILITY DATA

7.1 Metering. All Electrical Output delivered by WTD to City Light from West Point shall be measured at the Meter. The Meter will be installed, repaired, calibrated and read in accordance with the SGIA. Such Meter shall be used to calculate the Energy delivered to the Delivery Point by WTD and to compute the payments due to WTD from City Light. WTD's metering and data processing equipment shall meet or exceed the Technical Requirements.

COUNCIL CLERK

allowed 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.

7.5 Resolution of Disagreements Concerning Meter Accuracy. The Meter 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 WTD and WTD 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 WTD.

7.6 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 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 7.3. 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, WTD 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.

ARTICLE 8
CONTRACT RATE

8.1 Contract Rate. City Light shall pay WTD for all Electrical Output and Environmental Attributes delivered to City Light hereunder at the Contract Rate set out in **Exhibit G** unless adjusted pursuant to Section 8.2.

8.2 Contract Rate Adjustment.

COUNCIL CLERK

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 WTD otherwise would be required to collect in connection with the sale of Electrical Output and Environmental Attributes, then City Light shall provide WTD with all necessary documentation to evidence such exemption.

8.4 Financial Statements.

8.4.1 If requested by City Light, WTD shall provide City Light with the following:

8.4.1.1 Within sixty (60) Days after the close of each calendar quarter (commencing with the calendar quarter ending _____, the unaudited financial statements of WTD for the calendar quarter just ended; and

8.4.1.2 Within one hundred and twenty (120) Days after the close of each calendar year (commencing with the calendar year ending ____), the unaudited financial statements of WTD, provided, that if WTD otherwise has audited financial statements prepared for the applicable calendar year, then such audited financial statements of WTD shall be provided instead of the unaudited financial statements.

ARTICLE 9
BILLING AND PAYMENT, REC ATTESTATION

9.1 Monthly Billing. No later than the tenth (10^{th}) Day of each calendar month during the Term, WTD 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**. WTD shall also bill City Light for any cost of transferring WREGIS Certificates to City Light. Any other amounts due will be supported by

COUNCIL CLERK

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 errors or other errors affecting amounts due hereunder, WTD 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 WTD. Should the audit discover an under-billing error or errors, City Light shall compensate WTD 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 WTD.

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 WTD 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 WTD disagrees with City Light as to the allegation of error, then WTD 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 WTD'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 WTD is found to be in error, WTD 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

COUNCIL CLERK

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 J**, 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 J**, 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 J**, 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:

COUNCIL CLERK

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

COUNCIL CLERK

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 WTD receives and timely implements a Reliability Adjustment from City Light in accordance with **Exhibit H** Section H.__ instructing West Point 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

COUNCIL CLERK

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 WTD Assignment Restriction. WTD 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 WTD'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

COUNCIL CLERK

16.2.1.1 West Point 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 West Point will be fueled by Wastewater 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.

COUNCIL CLERK

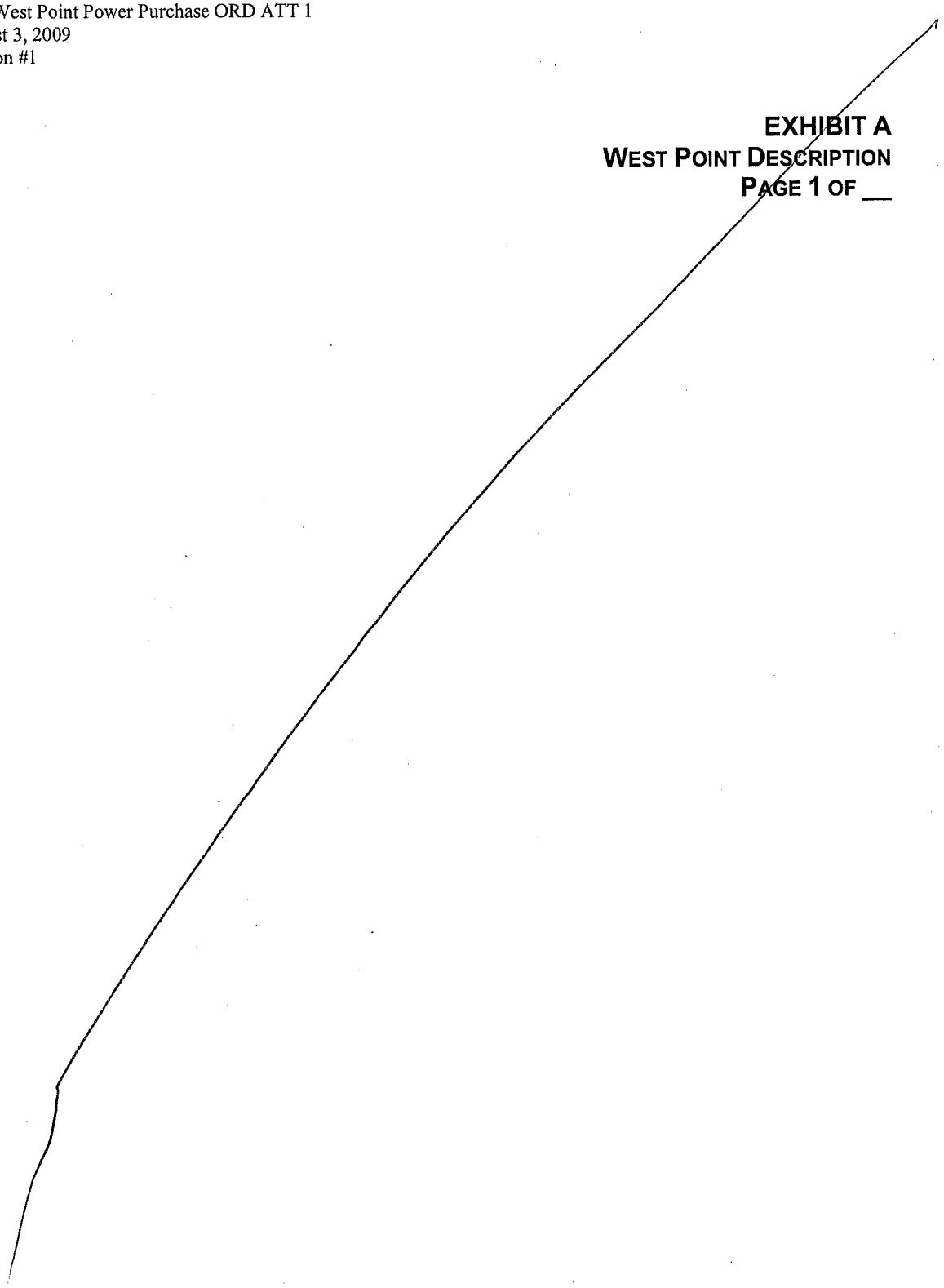
17.11 Forward Contract. The Parties intend that this Agreement and the transactions contemplated by this Agreement constitute a "**Forward Contract**" within the meaning of the United States Bankruptcy Code and that WTD is a "**Forward Contract Merchant**" within the meaning of the United States Bankruptcy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

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

KING COUNTY WASTEWATER TREATMENT DIVISION	**SEATTLE CITY LIGHT**
By: _____	By: _____ Jorge Carrasco Superintendent
Date: _____	Date _____

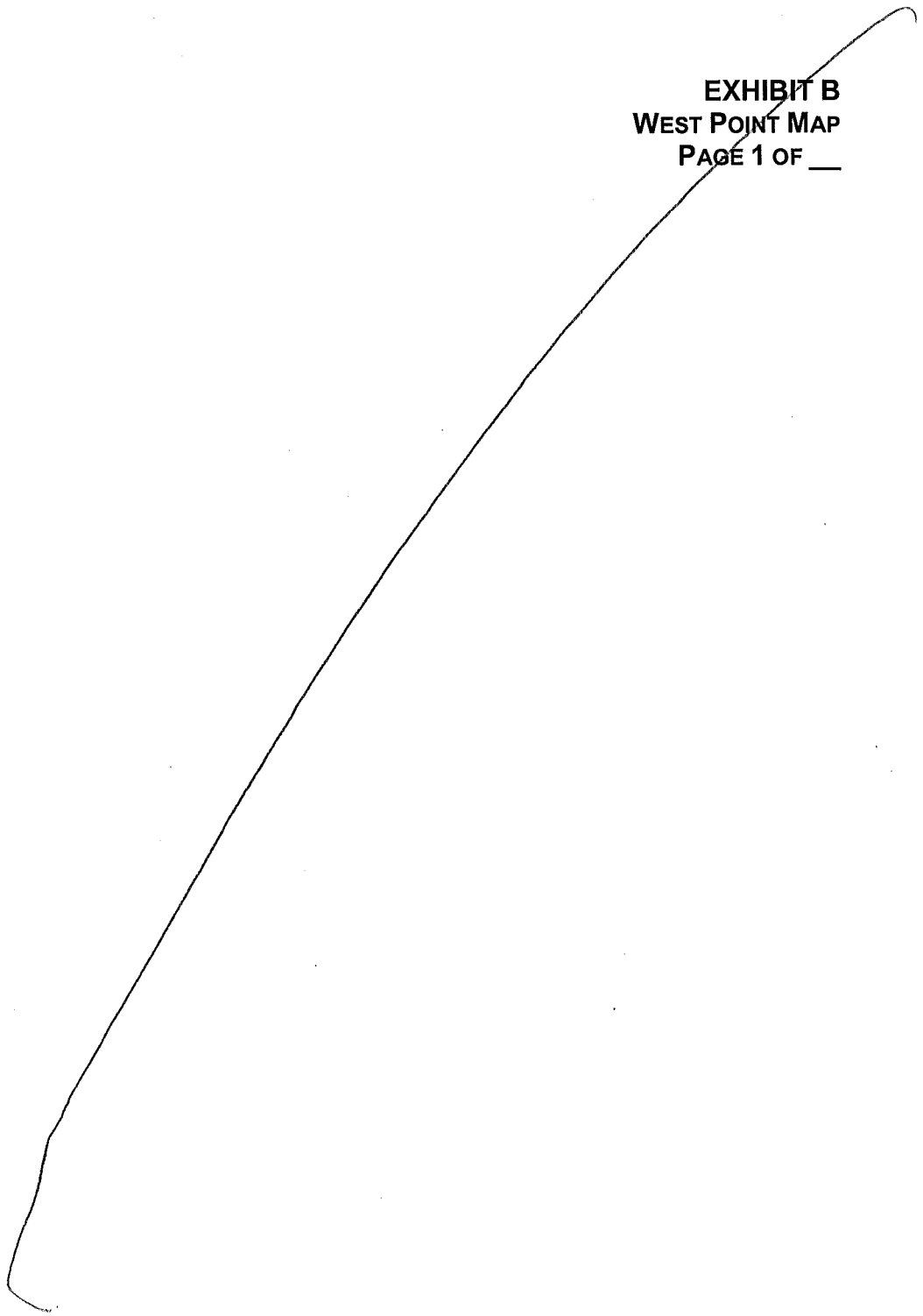
COUNCIL CLERK

EXHIBIT A
WEST POINT DESCRIPTION
PAGE 1 OF __



COUNCIL CLERK

EXHIBIT B
WEST POINT MAP
PAGE 1 OF __



COUNCIL CLERK

EXHIBIT C
DESCRIPTION OF GENERATORS
PAGE 1 OF _

Description of Generators

COUNCIL CLERK

EXHIBIT D
ONE-LINE DIAGRAMS
PAGE 1 OF _

COUNCIL CLERK

EXHIBIT E
NOTICE OF COMMERCIAL OPERATION
PAGE 1 OF 1

NOTICE OF WEST POINT FINAL COMPLETION AND COMMERCIAL OPERATION

WEST POINT NAME: WEST POINT WASTEWATER GAS TO ENERGY WEST POINT

DATE OF ISSUANCE: _____

OWNER: KING COUNTY WASTEWATER TREATMENT DIVISION

CONTRACTOR: _____

CONTRACTOR FIRM:

OWNER ADDRESS:

KING COUNTY WASTEWATER TREATMENT DIVISION, as Owner of West Point hereby certifies that West Point is complete, that the generators and all other portions of West Point necessary to put it 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 City Light's system in accordance with Prudent Electrical Practices and Applicable Law.

Executed by the Owner on _____.

Date: _____

By: _____
(Authorized Signature)

COUNCIL CLERK

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 only[2] 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 CO_2 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;

---

[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.

COUNCIL CLERK

EXHIBIT F
REC ATTESTATION AND BILL OF SALE
PAGE 2 OF 2

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 Wastewater 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.

COUNCIL CLERK

H.1 Resumption of Deliveries after Forced Outage. Except as mutually agreed otherwise, if West Point 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 J,** Contact Information) has authorized such resumption of deliveries. These requirements are in addition to all requirements specified in the Generation Interconnection Agreement with City Light.

H.2 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.3 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.

H.4 WTD Obligations.

H.4.1 Notice for Scheduling. WTD shall provide (or cause to be provided) to City Light's Preschedule contact (See **Exhibit J,** 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) WTD and City Light or their respective designees shall follow prevailing scheduling practices within the WECC. WTD or its

COUNCIL CLERK

H.4.5 Losses. WTD will only be responsible for losses to the extent charged by the Interconnection Provider.

H.4.6 Reserves. The BPA Balancing Authority will compute the WECC Contingency Reserve Obligation (CRO) for West Point based on the applicable standard.

H.4.7 Notice of Changes to Scheduled Major Maintenance Outages. WTD 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. 5 City Light Obligations.

H.5.1 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 WTD's Notice for Scheduling H.8.1.

H.5.2 Reliability Curtailments. If City Light receives an E-Tag Reliability Adjustment City Light will immediately (within 10 minutes) inform WTD of receiving such curtailment instruction. WTD 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.5.3 Reserves. City Light will self-supply contingency reserves for the Energy purchased pursuant to this Agreement.

COUNCIL CLERK

EXHIBIT I
REPLACEMENT ENERGY COST
PAGE 1 OF 1

If the annual Energy during the contract year (MWh) is less than Guaranteed Output (MWh) then WTD 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.

"**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.

COUNCIL CLERK

EXHIBIT K
CONTACT INFORMATION
PAGE 1 OF 2

DATE: JULY __, 2009

Name: **King County Waste Treatment Division** All Notices: Street: __ City: Zip: Attn: **Contract Administration** Phone:_____ Facsimile:__ _____ Email:_____ _____ Duns:_____ _____ Federal Tax ID Number: ____		Name: **Seattle City Light** All Notices: Street: PO Box 34023 City: Seattle, WA Zip: 98124-4023 Attn: **Contract Administration** Phone: (206) 684-4537 Facsimile: (206) 386-4555 Email: doris.clemence@seattle.gov Duns: 009483629 Federal Tax ID Number: 91-6001275
Operations: Attn: _____ _____ Phone:_____ Facsimile:__ _____ Email:____ _____		**Preschedule:** Attn: Doug Carmichael Phone: (206) 615-0963 Facsimile⊗206) 615-0969 Email: doug.carmichael@seattle.gov, siriphan.clayton@seattle.gov, or sclpwrsched@seattle.gov
		Real Time Marketing: Attn: Real Time Desk Phone: (206) 615-0966 Facsimile: (206) 615-0969 Email: n/a
		Confirms: Attn: Nhung Mach Phone: (206) 684-3535 Facsimile: (206) 287-5138 Email: nhung.mach@seattle.gov
Invoices: Attn:_____ Phone:____ _____ Facsimile: _____ Email:_____ _____		**Invoices:** Attn: Linda Colby Phone: (206) 386-3545 Facsimile: (206) 386-4555 Email: sclpoweraccounts@seattle.gov

COUNCIL CLERK

EXHIBIT K
CONTACT INFORMATION
PAGE 2 OF 2

Payments: Attn:_____ Phone:_____ Facsimile: _____ Email:_____		**Payments:** Attn: Linda Colby Phone: (206) 386-3545 Facsimile: (206) 386-4555 Email: sclpoweraccounts@seattle.gov
Wire Transfer: BNK:_____ ABA:_____ ACCT:_____ Account Name:_ _		**Wire Transfer:** BNK: Wells Fargo Bank ABA: 121000248 ACCT: 4758359921
Credit and Collections: Attn:_____ Phone:_____ Facsimile: _____ Email:_____		**Credit and Collections:** Attn: Mike Yaley Phone: (206) 233-2756 Facsimile: (206) 287-5120 Email: mike.yaley@seattle.gov
Dispute Resolution Representative (Article 14): Attn:_____ Phone:_____ Facsimile:_____ Email_____		**Dispute Resolution Representative** (Article 14): Attn: Robert Cromwell Phone: (206) 6784-3856 Facsimile: (206) 386-4555 Email: robert.cromwell@seattle.gov
With additional Notices of an **Event of Default, Termination** or **Potential Event of Default** to: Attn:_____ Phone:_____ Facsimile:_ _____ Email:_____		With additional Notices of an **Event of Default, Termination** or **Potential Event of Default** to: Attn: Marilynn Semro Phone: (206) 386-4539 Facsimile: (206) 386-4555 Email: marilynn.semro@seattle.gov
Contact Information Modification: Any modifications to the Contact Information shall be provided to the other Party in writing and shall be mailed, faxed or e-mailed to Contract Administration.		

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STATE OF WASHINGTON – KING COUNTY

--ss.

245936 No. TITLE ONLY

CITY OF SEATTLE,CLERKS OFFICE

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:123117-19,21,23,24,26 .

was published on

10/14/09

The amount of the fee charged for the foregoing publication is the sum of $ 106.13, which amount has been paid in full.

JENNIFER A. PARKER
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
OCT. 24, 2011

Subscribed and sworn to before me on

10/14/09

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on October 5, 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. 123127

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

ORDINANCE NO. 123126

AN ORDINANCE relating to the City Light Department, declaring as surplus and authorizing the Superintendent of the City Light Department to release three (3) easements for electrical service over properties located at 1318 Western Avenue, 12738 33rd Avenue NE, and 14027 Lake City Way NE in Seattle, Washington, and ratifying and confirming certain prior acts.

ORDINANCE NO. 123124

AN ORDINANCE relating to the Seattle Center Department; authorizing the execution of a facility use agreement with Seattle University, for use and occupancy of KeyArena and adjacent areas at the Seattle Center.

ORDINANCE NO. 123123

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of an agreement with Theatre Puget Sound to manage and operate space in the Seattle Center House for use by non-profit arts organizations and individual artists.

ORDINANCE NO. 123121

AN ORDINANCE authorizing the Superintendent of the Department of Parks and Recreation to execute a lease amendment between the City of Seattle and Fu Quan, LLC, a Washington limited liability company, for property located at 800 Maynard Avenue South.

ORDINANCE NO. 123119

AN ORDINANCE relating to the City Light Department; authorizing execution of a 20-year agreement with the King County Wastewater Treatment Division for the purchase of renewable power and environmental attributes of power generated at the West Point Wastewater Treatment Facility and other related agreements that are necessary or convenient to establish and operate the generator interconnection.

ORDINANCE NO. 123117

AN ORDINANCE relating to the Seattle Center Department; authorizing execution of an agreement with AEG Management WA, LLC for AEG to provide certain marketing, sales, technical operations and other services related to KeyArena at Seattle Center.

ORDINANCE NO. 123118

AN ORDINANCE relating to the Seattle Streetcar, authorizing an agreement with the Central Puget Sound Regional Transit Authority for implementation of the First Hill Streetcar Connector Project.

Publication ordered by the City Clerk
Date of publication in the Seattle Daily Journal of Commerce, October 14, 2009.
10/14(245936)