

AVISTA CORPORATION  
STATE OF WASHINGTON  
DOCKET NO. UE-011595  
POWER COST DEFERRAL REPORT  
MONTH OF MARCH 2020

Avista Utilities  
 ERM Balances and Activity  
 (excluding interest)

Wa Alloc % 65.73%

Year/Month	Actual Power Cost	Auth. Power Costs	Actual - Auth. Power Costs c = a - b	Resource Optimization	Adj. Net Expense e = c + d	WA Allocation	Retail Rev. Adj.	Net Power Cost (+) Surcharge (-) Credit h = f + g	Company's Band Share	Ratepayer's Band Share (deferral)
202001	\$13,561,488	\$18,199,665	(\$4,638,177)	\$490,080	(\$4,148,097)	(\$2,726,544)	\$369,390	(\$2,357,154)	(\$2,357,154)	\$0
202002	\$11,470,087	\$17,200,889	(\$5,730,802)	\$92,925	(\$5,637,877)	(\$3,705,777)	\$199,735	(\$3,506,042)	(\$2,108,645)	(\$1,397,397)
202003	\$10,433,249	\$15,081,709	(\$4,648,460)	\$148,644	(\$4,499,816)	(\$2,957,729)	\$142,381	(\$2,815,348)	(\$703,837)	(\$2,111,511)
202004			\$0		\$0	\$0		\$0	\$0	\$0
202005			\$0		\$0	\$0		\$0	\$0	\$0
202006			\$0		\$0	\$0		\$0	\$0	\$0
202007			\$0		\$0	\$0		\$0	\$0	\$0
202008			\$0		\$0	\$0		\$0	\$0	\$0
202009			\$0		\$0	\$0		\$0	\$0	\$0
202010			\$0		\$0	\$0		\$0	\$0	\$0
202011			\$0		\$0	\$0		\$0	\$0	\$0
202012			\$0		\$0	\$0		\$0	\$0	\$0
<b>YTD Totals</b>	\$35,464,824	\$50,482,263	(\$15,017,439)	\$731,649	(\$14,285,790)	(\$9,390,050)	\$711,506	(\$8,678,544)	(\$5,169,636)	(\$3,508,908)

Avista Utilities  
 ERM Activity

186280 Current Year Deferral				
Year/Month	Beginning Balance	Deferral	Interest	Ending Balance
202001	(\$1,098,494.0)	\$1,098,494.0	\$0.0	\$0.0
202002	\$0	(\$1,397,397)	(\$2,341)	(\$1,399,738)
202003	(\$1,399,738)	(\$2,111,511)	(\$28,220)	(\$3,539,469)
202004				
202005				
202006				
202007				
202008				
202009				
202010				
202011				
202012				
<b>YTD Totals</b>	<b>(\$1,399,738)</b>	<b>(\$2,111,511)</b>	<b>(\$28,220)</b>	<b>(\$3,539,469)</b>

	Total	Absorbed (Avista)	Deferred (Customer)
First \$4M at 100%	\$ (4,000,000)	\$ (4,000,000)	\$ -
\$4M to \$10M at 25% (rebate)	\$ (4,678,544)	\$ (1,169,636)	\$ (3,508,908)
\$4M to \$10M at 50% (surcharge)	\$ -	\$ -	\$ -
Over \$10M at 10%	\$ -	\$ -	\$ -
	\$ (8,678,544)	\$ (5,169,636)	\$ (3,508,908)

Avista Utilities  
 ERM Activity

186290 Pending				
Year/Month	Beginning Balance	Other Adjustments	Interest	Ending Balance
202001	(\$10,109,388)	(\$1,098,494)	(\$37,556)	(\$11,245,438)
202002	(\$11,245,438)		(\$37,556)	(\$11,282,994)
202003	(\$11,282,994)	\$10,358,581	(\$37,556)	(\$961,969)
202004				
202005				
202006				
202007				
202008				
202009				
202010				
202011				
202012				
<b>YTD Totals</b>				\$0

**Reconciliation of Amounts:**

2019 Balance transfer to 182350 ERM Amortization	\$	(10,109,388.00)
Power Supply Disallowance for Colstrip Replacement Power	\$	(2,946,818.00)
Total Year End UE-190334/UG-190335/UE-190222 Consolidated	\$	(13,056,206.00)

**March Adjustment:\***

Transferred to Account 182350 For Amortizing	\$	13,056,206.00
Power Supply Disallowance for Colstrip Replacement Power	\$	(2,946,818.00)
2019 Solar Select Activity	\$	249,193.00
	\$	10,358,581.00

Avista Utilities  
 ERM Activity

182350 Approved for Amortization				
Year/Month	Beginning Balance	Other Adjustments	Interest	Ending Balance
202001	(\$25,802,794)		(\$86,463)	(\$25,889,257)
202002	(\$25,889,257)		(\$86,463)	(\$25,975,720)
202003	(\$25,975,720)	(\$13,056,206)	(\$86,463)	(\$39,118,389)
202004				
202005				
202006				
202007				
202008				
202009				
202010				
202011				
202012				
<b>YTD Totals</b>				\$0

Balance in Account will be transferred to new balance sheet account for amortization with the effective period beginning April 2020.

Attachment A

Avista Corporation  
Monthly Power Cost Deferral Report  
Month of March 2020

ERM Deferral Journal

**Avista Corporation Journal Entry**

Journal: 481-WA ERM  
 Team: Resource Accounting  
 Type: C  
 Category: DJ  
 Currency: USD

Last Saved by: Cheryl Kettner  
 Submitted by: Cheryl Kettner  
 Approved by:

Effective Date: 202003  
 Last Update: 04/06/2020 10:37 AM  
 Approval Requested: 04/06/2020 10:38 AM

Seq.	Co.	FERC	Ser.	Jur.	S.I.	Debit	Credit	Comment
140	001	186290 - REGULATORY ASSET ERM DEFERRED LAST YEAR	ED	WA	DL	0.00	✓ 249,193.00	Solar Select Deferral Expense
<b>Totals:</b>						<b>18,495,967.00</b>	<b>18,495,967.00</b>	

Explanation:  
 Record current month deferred power supply costs, and interest per WA accounting order.

<u>Cheryl A Kettner</u>	<u>04/06/20</u>
Prepared by Cheryl Kettner	Date
<u>Jan McJannet</u>	<u>4/6/2020</u>
Reviewed by	Date
_____ Approved for Entry Corporate Accounting use Only	_____ Date

**Avista Corporation Journal Entry**

Journal: 481-WA ERM

Effective Date: 202003

Team: Resource Accounting

Last Saved by: Cheryl Kettner

Last Update: 04/06/2020 10:37 AM

Type: C

Submitted by: Cheryl Kettner

Approval Requested: 04/06/2020 10:38 AM

Category: DJ

Approved by:

Currency: USD

Seq.	Co.	FERC	Ser.	Jur.	S.I.	Debit	Credit	Comment
10	001	182350 - REGULATORY ASSET ERM APPROVED FOR RECOVERY	ED	WA	DL	0.00	86,463.00	Interest Accrual for Amortization Balance
20	001	431600 - INTEREST EXPENSE ENERGY DEFERRALS	ED	WA	DL	86,463.00	0.00	Interest Expense on Amortization Balance
30	001	186280 - REGULATORY ASSET ERM DEFERRED CURRENT YEAR	ED	WA	DL	0.00	2,111,511.00	Current Year ERM (2020)
40	001	557280 - DEFERRED POWER SUPPLY EXPENSE	ED	WA	DL	2,111,511.00	0.00	Current Year ERM Deferral Expense (2020)
50	001	186280 - REGULATORY ASSET ERM DEFERRED CURRENT YEAR	ED	WA	DL	0.00	8,220.00	Current Year ERM Interest Accrual (2020)
60	001	431600 - INTEREST EXPENSE ENERGY DEFERRALS	ED	WA	DL	8,220.00	0.00	Current Year ERM Interest Expense (2020)
70	001	431600 - INTEREST EXPENSE ENERGY DEFERRALS	ED	WA	DL	37,556.00	0.00	Interest Expense on Pending Balance
80	001	186290 - REGULATORY ASSET ERM DEFERRED LAST YEAR	ED	WA	DL	0.00	37,556.00	Interest Expense on Pending Balance
90	001	426500 - MISC INCOME DEDUCTIONS-OTHER DEDUCT	ED	WA	DL	2,946,818.00	0.00	Misc Income Deduction-Colstrip Disallowance
100	001	186290 - REGULATORY ASSET ERM DEFERRED LAST YEAR	ED	WA	DL	0.00	2,946,818.00	ERM Deferred Last Year-Colstrip Disallowance
110	001	186290 - REGULATORY ASSET ERM DEFERRED LAST YEAR	ED	WA	DL	13,056,206.00	0.00	Transfer of Total Approved in the 2019 GRC
120	001	182350 - REGULATORY ASSET ERM APPROVED FOR RECOVERY	ED	WA	DL	0.00	13,056,206.00	Transfer of Total Approved in the 2019 GRC
130	001	557175 - SOLAR SELECT DEFERRAL	ED	WA	DL	249,193.00	0.00	Solar Select Deferral Expense



Avista Corp.  
 DJ480 and DJ481  
 Manager Review

**Power Deferral Calculation Workbook for ID PCA & WA ERM**  
Mar-20

Preparer Checklist	
Data Input Validation	Sign-off/Date
Verify that total amounts agree to the underlying detail on attached system reports, noting any exceptions. <b>[source data accuracy and completeness]</b>	Primary information is from GL Wand. Other data inputs come from: Cognos - Billed Revenue Usage and Rates Department amortization calculations.
Attach relevant screen shots of system reports, ensuring that the necessary parameters are appropriately displayed. <b>[parameters accuracy and completeness]</b>	Cognos - Billed Revenue Usage reports attached, parameters reviewed and noted to be correct for March 2020.
Agree total amount(s) to relevant journal entries in the GL. <b>[source data accuracy and completeness]</b>	Total deferral amounts calculated from workbook agree to journal entry line items for March 2020.
Validate that check totals equal \$0 or variances are immaterial (note all variances). <b>[report logic accuracy and completeness]</b>	Updated workbooks for 2020 authorized, updated PT ratio, validated formulas, added line items fo new applicable accounts. Updated ID PCA for new Authorized that go into place December 2019.
When rolling forward the document, ensure that all formulas are updated appropriately.	Validated for March 2020.

Reviewer Checklist	
Data Input Validation	Sign-off/Date
Review system parameters to ensure that the appropriate filters are used. <b>[parameters accuracy and completeness]</b>	Reviewed to make sure that March data was used in all spreadsheets and reports. IM
Agree the system report screen shots to the system export data in the report. <b>[source data accuracy and completeness]</b>	Some data is from GL with use of GL wand. Agreed volumes from Cognos report to Load Adjustment and RRC. IM
Verify that total amounts agree to the underlying detail on attached reports. <b>[source data accuracy and completeness]</b>	Agreed totals to respective reports and journal entry. IM
Validate that check totals equal \$0 or are immaterial, as noted above. <b>[source data accuracy and completeness]</b>	Data checks equal \$0. IM
Spreadsheet Logic Validation	Sign-off/Date
Review report to ensure that any assumption and/or threshold for investigation used in the document are appropriate. <b>[completeness]</b>	Noted that March data was used and spreadsheet appeared rolled forward. IM
Spot check formulas to ensure that they have been appropriately rolled forward and use the appropriate inputs. <b>[accuracy]</b>	Spot checked formulas in the spreadsheet and noted no issues. IM
Review explanations for all items to ensure appropriateness, and that all relevant considerations have been sufficiently documented.	In March we are in the 75%/25% customer sharing band in WA. Verified sharing was calculated appropriately.
Review all comments left by preparer.	IM
Ensure all comments/questions resolved on a timely basis.	IM

**NOTE: ANY COMMENT OR QUESTION SHOULD BE DOCUMENTED BELOW**

Comment/Question	Response	Follow-Up
In March, there was a disallowance of \$2.9M related to Colstrip costs from 2018 in the ERM. Verified the write-off of these costs to below the line costs.		
In March there was a true-up WA solar select costs to ensure all the benefits flow to customers. Added balance to ERM which is appropriate.		

**Washington Energy Recovery Mechanism (ERM) Amortizing Deferral Balance**

Changes Semiannually on January 1 and July 1

The rate is based on Avista's actual cost of debt, updated semiannually.

The actual cost of debt calculated at 6/30 will be used for the interest calculation from July through December.

The actual cost of debt calculated at 12/31 will be used for the interest calculation from January through June.

Interest will be accrued monthly and compounded semi-annually.

Interest is calculated using the prior month ending balance plus 1/2 month of current month charges times the current after tax interest rate

Jan-June Interest Rate	0.33509%
Jul-Dec Interest Rate	0.35109%

**Account 182350**

Month Ending	Beg. Balance	Balance Transfer	Amortization	Adjustments	Interest	Interest Adjustments	End Balance before interest	Balance with Interest	GLW Balance	Check	Adjustment Notes
12/31/2019									(25,802,794)		
1/31/2020	(25,802,794)		0		(86,463)		(25,802,794)	(25,889,257)	(25,889,257)	0.00	
2/29/2020	(25,802,794)		0		(86,463)		(25,802,794)	(25,975,720)	(25,975,720)	0.00	
3/31/2020	(25,802,794)	(13,056,206)	0		(86,463)		(38,859,000)	(39,118,389)	(25,975,720)	13,142,669.00	
4/30/2020			0								
5/31/2020			0								
6/30/2020			0								
7/31/2020		0	0								
8/31/2020			0								
9/30/2020			0								
10/31/2020			0								
11/30/2020			0								
12/31/2020			0								

Entry:

	Debit	Credit	
182350 ED WA		0	Regulatory Asset ERM Approved For Recovery
557290 ED WA		0	WA ERM Amortization
431600 ED WA	86,463		Interest Expense Energy Deferrals
182350 ED WA		86,463	Regulatory Asset ERM Approved For Recovery

IM

Avista Corp. - Resource Accounting  
**Washington Energy Recovery Mechanism (ERM) Current Year Deferral**

Changes Semiannually on January 1 and July 1

The rate is based on Avista's actual cost of debt, updated semiannually.

The actual cost of debt calculated at 6/30 will be used for the interest calculation from July through December.

The actual cost of debt calculated at 12/31 will be used for the interest calculation from January through June.

Interest will be accrued monthly and compounded semi-annually.

Interest is calculated using the prior month ending balance plus 1/2 month of current month charges times the current after tax interest rate

watch interest (-) Balance Int Exp 431600 ED WA  
 watch interest (+) Balance Int Exp 419600 ED WA

Jan-June Interest Rate	0.33509%
Jul-Dec Interest Rate	0.35109%

**Account 186280**

Month Ending	Beg. Balance	Balance Transfer	Deferral - Sur./ (Reb.)	Adjustments	Interest	Interest Adjustments	End Balance before interest	Balance with Interest	GLW Balance	Check	Adjustment Notes
12/31/2019									(1,098,494)		
1/31/2020	(1,098,494)	1,098,494	0		0		0	0	0	0.00	
2/29/2020	0		(1,397,397)		(2,341)		(1,397,397)	(1,399,738)	(1,399,738)	0.00	
3/31/2020	(1,397,397)		(2,111,511)		(8,220)		(3,508,908)	(3,519,469)	(1,399,738)	2,119,731.00	
4/30/2020			0								
5/31/2020			0								
6/30/2020			0								
7/31/2020			0								
8/31/2020			0								
9/30/2020			0								
10/31/2020			0								
11/30/2020			0								
12/31/2020			0								

Entry:	Debit	Credit	
557280 ED WA	2,111,511.00		Deferred Power Supply Expense
186280 ED WA	-	2,111,511.00	Regulatory Asset ERM Deferred Current Year
431600 ED WA	8,220.00		Interest Expense Energy Deferrals
186280 ED WA		8,220.00	Regulatory Asset ERM Deferred Current Year

IM

Avista Corp. - Resource Accounting  
**Washington Energy Recovery Mechanism (ERM) Pending Deferral Balances from 2018**

Changes Semiannually on January 1 and July 1

The rate is based on Avista's actual cost of debt, updated semiannually.

The actual cost of debt calculated at 6/30 will be used for the interest calculation from July through December.

The actual cost of debt calculated at 12/31 will be used for the interest calculation from January through June.

Interest will be accrued monthly and compounded semi-annually.

Interest is calculated using the prior month ending balance plus 1/2 month of current month charges times the current after tax interest rate

Jan-June Interest Rate	0.33509%
Jul-Dec Interest Rate	0.35109%

**Account 186290**

Month Ending	Beg. Balance	Balance Transfer	Other Activity	Adjustments	Interest	Interest Adjustments	End Balance before interest	Balance with Interest	GLW Balance	Check	Adjustment Notes
12/31/2019									(10,109,388)		
1/31/2020	(10,109,388)	(1,098,494)			(37,556)		(11,207,882)	(11,245,438)	(11,245,438)	0.00	
2/29/2020	(11,207,882)	0			(37,556)		(11,207,882)	(11,282,994)	(11,282,994)	0.00	
3/31/2020	(11,207,882)	13,056,206	249,193	(2,946,818)	(37,556)		(849,301)	(961,969)	(11,282,994)	(10,321,025.00)	190334-AVA-BR-003-Attachment-E-93-Year 1
4/30/2020											
5/31/2020											
6/30/2020											
7/31/2020											
8/31/2020											
9/30/2020											
10/31/2020											
11/30/2020											
12/31/2020											

Entry:			
	Debit	Credit	
186280 ED WA	-	-	Balance Transfer from 186280 to 186290
186290 ED WA	-	-	Balance Transfer from 186280 to 186290
431600 ED WA	37,556	-	Interest Expense on Pending Balance
186290 ED WA	-	37,556	Interest Expense on Pending Balance
426500 ED WA	2,946,818		Misc Income Deduction - Colstrip Disallowance
186290 ED WA		2,946,818	ERM Deferred Last Year - Colstrip Disallowance
186290 ED WA	13,056,206		Transfer of Total Approved in the 2019 GRC
182350 ED WA		13,056,206	Transfer of Total Approved in the 2019 GRC
557175 ED WA	249,193		Solar Select Deferral Expense
186290 ED WA		249,193	Solar Select Deferral Expense

IM













## McLelland, Ian

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**From:** Brandon, Annette  
**Sent:** Wednesday, April 1, 2020 8:59 AM  
**To:** McLelland, Ian; Kettner, Cheryl  
**Subject:** RE: Adjusting Entries for Regulatory Reporting

For our meeting this morning, we have a few things to talk through. And now that I've thought about it (not out loud ☺) I would like you to consider these entries:

### For Colstrip

1. Record the disallowance to account 186290 in accordance with Ian's instructions from this email  
Dr. 426500.ED.WA      \$2,946,600  
    Cr. 186290 ED.WA              (\$2,946,000)

This will bring the balance approved in the 2019 GRC to \$13,055,988 (2019 YE \$10,109,388 + \$2,946,600)

2. Transfer the total approved balance from the pending account 186290 to the approved account for amortization of 182350  
Dr. 186290 ED.WA      \$13,055,988  
    Cr. 182350              (\$13,055,988)

### For Solar Select

1. Establish the amount to be reviewed for Prudency. We were in a benefit situation so it needs to increase the credit in the pending account (as you said Cheryl) 186290. The exact expense account was a guess on my part. My thought process was that these costs and revenues are already included in the income statement in the appropriate account either 555 or 447. It was just removed from the deferral calculation – so it should go to a deferral expense account which is 557. Something for your consideration.

DR. 557.XX .ED.WA      \$249, 193  
    CR. 186290 ED.WA              (\$249,193)

2. Once prudency is determined it will be transferred in July to 182350.

Two other things to discuss:

1. We have an entry which will need to be made to remove \$500,000 from the approved deferral balance for Colstrip accelerated depreciation. This will happen for April's closing.
2. Who will be doing the Remand accounting?

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**From:** McLelland, Ian  
**Sent:** Wednesday, March 25, 2020 2:09 PM  
**To:** Andrews, Liz <Liz.Andrews@avistacorp.com>; Brandon, Annette <Annette.Brandon@avistacorp.com>; Knox, Tara

# Current Month Journal Entry

## Jurisdiction: ID

Revenue Class	Revenue Class Desc	Town Code	Revenue Class	Rate Schedule	Gross Unbilled kWh	Total Unbilled + Basic Charge
01	01 RESIDENTIAL	3800	01	022	291,703	\$20,933
	01 RESIDENTIAL	3800	01	001	53,041,569	\$5,064,269
	01 RESIDENTIAL	3800	01	032	88,145	\$11,680
	01 RESIDENTIAL	3800	01	012	1,350,557	\$154,048
<b>01 - Summary</b>					<b>54,771,973</b>	<b>\$5,250,931</b>
21	21 FIRM COMMERCIAL	3800	21	021	21,496,924	\$1,539,178
	21 FIRM COMMERCIAL	3800	21	025	4,966,543	\$309,154
	21 FIRM COMMERCIAL	3800	21	031	979,711	\$93,625
	21 FIRM COMMERCIAL	3800	21	011	14,562,717	\$1,336,723
<b>21 - Summary</b>					<b>42,005,895</b>	<b>\$3,278,680</b>
31	31 FIRM-INDUSTRIAL	3800	31	025	22,716,437	\$1,401,921
	31 FIRM- INDUSTRIAL	3800	31	031	484,543	\$45,637
	31 FIRM INDUSTRIAL	3800	31	025P	31,097,113	\$1,760,230
	31 FIRM- INDUSTRIAL	3800	31	021	2,609,120	\$173,992
	31 FIRM- INDUSTRIAL	3800	31	011	204,812	\$18,054
	31 FIRM-INDUSTRIAL	3800	31	025PG	38,238,000	\$936,831
<b>31 - Summary</b>					<b>95,350,026</b>	<b>\$4,336,665</b>
<b>ID - Summary</b>					<b>192,127,894</b>	<b>\$12,866,276</b>

## Jurisdiction: WA

Revenue Class	Revenue Class Desc	Town Code	Revenue Class	Rate Schedule	Gross Unbilled kWh	Total Unbilled + Basic Charge
01	01 RESIDENTIAL	2800	01	032	129,302	\$23,224
	01 RESIDENTIAL	2800	01	012	2,811,290	\$423,555
	01 RESIDENTIAL	2800	01	022	1,435,443	\$120,668
	01 RESIDENTIAL	2800	01	001	105,943,512	\$10,055,173
	01 RESIDENTIAL	2800	01	002	259,688	\$2,136,764
<b>01 - Summary</b>					<b>110,579,235</b>	<b>\$12,759,384</b>
21	21 FIRM COMMERCIAL	2800	21	025	22,368,392	\$1,507,681
	21 FIRM COMMERCIAL	2800	21	021	47,365,770	\$4,210,189
	21 FIRM COMMERCIAL	2800	21	031	1,489,505	\$142,261
	21 FIRM COMMERCIAL	2800	21	011	22,278,199	\$2,755,723
<b>21 - Summary</b>					<b>93,501,866</b>	<b>\$8,615,853</b>
31	31 FIRM- INDUSTRIAL	2800	31	031	304,990	\$29,094
	31 FIRM-INDUSTRIAL	2800	31	025	58,590,847	\$3,802,560
	31 FIRM- INDUSTRIAL	2800	31	011	260,068	\$30,739
	31 FIRM- INDUSTRIAL	2800	31	021	3,739,268	\$315,462
<b>31 - Summary</b>					<b>62,895,173</b>	<b>\$4,177,855</b>
<b>WA - Summary</b>					<b>266,976,274</b>	<b>\$25,553,092</b>
<b>Overall - Summary</b>					<b>459,104,168</b>	<b>\$38,419,368</b>

	SB	Entry
	\$268,612	\$1,868,152
	\$10,891,232	\$1,868,152

IM



**Revenue By Revenue Class**

Data Source: Financial Reporting

Electric

Data Updated Daily

State Code: WA

Accounting Period	Service	Revenue Class	Revenue Class Desc	Meter Qty	Usage Qty	Revenue Amt	YTD Average Meters	YTD Usage	YTD Revenue Amt
202003	ED	01	01 RESIDENTIAL	231,769	230,492,636	22,768,859	231,695	748,648,751	73,914,425
		21	21 FIRM COMMERCIAL	25,440	171,493,097	18,536,055	25,386	536,620,327	57,645,511
		31	31 FIRM- INDUSTRIAL	353	68,495,974	4,671,088	348	223,273,758	14,836,858
		39	39 FIRM-PUMPING-IRRIGATION ONLY	526	224,277	31,274	522	646,142	91,860
		51	51 LIGHTING-PUBLIC STREET AND HIWAY	461	882,057	387,078	463	2,680,249	1,112,890
		80	80 INTERDEPARTMENT REVENUE	93	1,036,723	110,689	95	3,156,283	336,300
		83	83 MISC-SERVICE REVENUE SNP	0	0	17,856	0	0	80,435
		85	85 MISC-RENT FROM ELECTRIC PROPERTY	0	0	25,209	0	0	75,626
<b>ED - Summary</b>				<b>258,642</b>	<b>472,624,763</b>	<b>46,548,108</b>	<b>258,510</b>	<b>1,515,025,509</b>	<b>148,093,905</b>
<b>202003 - Summary</b>				<b>258,642</b>	<b>472,624,763</b>	<b>46,548,108</b>	<b>258,510</b>	<b>1,515,025,509</b>	<b>148,093,905</b>
<b>Overall - Summary</b>				<b>258,642</b>	<b>472,624,763</b>	<b>46,548,108</b>	<b>258,510</b>	<b>1,515,025,509</b>	<b>148,093,905</b>

**For Internal Use Only**

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Avista

Hourly Data

04/05/2020 14:41 PM

DAY	HOUR	27096	27120	27157
Element Key----->		SOLAR SEL GEN	PDX MidC-Hourly	Solar Sel Power Cost
Short Name----->				
3/31/2020	H01	0		-
3/31/2020	H02	0		-
3/31/2020	H03	0		-
3/31/2020	H04	0		-
3/31/2020	H05	0		-
3/31/2020	H06	0		-
3/31/2020	H07	0		-
3/31/2020	H08	4		-
3/31/2020	H09	14		-
3/31/2020	H10	15		-
3/31/2020	H11	15		-
3/31/2020	H12	17		-
3/31/2020	H13	17		-
3/31/2020	H14	15		-
3/31/2020	H15	10		-
3/31/2020	H16	7		-
3/31/2020	H17	14		-
3/31/2020	H18	2		-
3/31/2020	H19	3		-
3/31/2020	H20	0		-
3/31/2020	H21	0		-
3/31/2020	H22	0		-
3/31/2020	H23	0		-
3/31/2020	H24	0		-
				70,643.13 Download
				20,793.00 Powerdex Estimate
				<b>91,436.13 Total</b>

Attachment B

Avista Corporation  
Monthly Power Cost Deferral Report  
Month of March 2020  
  
REC Deferral Journal

**Avista Corporation Journal Entry**

Journal: 475-WASHINGTON REC DEFERRAL  
 Team: Resource Accounting  
 Type: C  
 Category: DJ  
 Currency: USD

Last Saved by: Carolyn Groome  
 Submitted by: Carolyn Groome  
 Approved by:

Effective Date: 202003  
 Last Update: 04/03/2020 4:55 PM  
 Approval Requested: 04/03/2020 4:57 PM

Seq.	Co.	FERC	Ser.	Jur.	S.I.	Debit	Credit	Comment
180	001	419600 - INTEREST ON ENERGY DEFERRALS	ED	WA	DL	17.53 ✓	0.00	Correcting entry-Feb20 interest WA REC
<b>Totals:</b>						<b>292,423.77</b>	<b>292,423.77</b>	

Explanation:

To account for the Washington REC Deferral per Washington Commission Orders.

<i>Carolyn Groome</i> Prepared by Carolyn Groome	4/3/2020 Date
<i>Jan McCalland</i> Reviewed by	4/3/2020 Date
Approved for Entry Corporate Accounting use Only	Date

Journal: 475-WASHINGTON REC DEFERRAL

Effective Date: 202003

Team: Resource Accounting

Last Saved by: Carolyn Groome

Last Update: 04/03/2020 4:55 PM

Type: C

Submitted by: Carolyn Groome

Approval Requested: 04/03/2020 4:57 PM

Category: DJ

Approved by:

Currency: USD

Seq.	Co.	FERC	Ser.	Jur.	S.I.	Debit	Credit	Comment
10	001	186323 - MISC DEF DEBIT-WA REC 2	ED	WA	DL	0.00	1,130.42	WA REC Deferral Interest
20	001	431016 - INTEREST EXPENSE ON REC DEFERRAL	ED	WA	DL	1,130.42	0.00	WA REC Deferral Interest
30	001	186323 - MISC DEF DEBIT-WA REC 2	ED	WA	DL	0.00	174,686.00	WA REC Deferral 201908-202006
40	001	557322 - DEF POWER SUPPLY EXP-RECS	ED	WA	DL	174,686.00	0.00	WA REC Deferral 201908-202006
50	001	186322 - MISC DEF DEBIT - WA REC 1	ED	WA	DL	3,208.05	0.00	WA REC Deferral Amort Interest
60	001	419600 - INTEREST ON ENERGY DEFERRALS	ED	WA	DL	0.00	3,208.05	WA REC Deferral Amort Interest
70	001	186322 - MISC DEF DEBIT - WA REC 1	ED	WA	DL	113,147.00	0.00	WA Rec Deferral Amort
80	001	557324 - DEF POWER SUPPLY EXP-REC AMORT	ED	WA	DL	0.00	113,147.00	WA Rec Deferral Amort
90	001	186324 - MISC DEF DEBIT-WA REC 3	ED	WA	DL	0.00	0.00	Annual Transfer of Deferral balance to amortization
100	001	186322 - MISC DEF DEBIT - WA REC 1	ED	WA	DL	0.00	0.00	Annual transfer of Deferral balance to amortization
110	001	186323 - MISC DEF DEBIT-WA REC 2	ED	WA	DL	108.62	0.00	Correcting entry- Jan20 interest WA REC
120	001	431016 - INTEREST EXPENSE ON REC DEFERRAL	ED	WA	DL	0.00	108.62	Correcting entry-Jan20 interest WA REC
130	001	186323 - MISC DEF DEBIT-WA REC 2	ED	WA	DL	108.63	0.00	Correcting entry-Feb20 interest WA REC
140	001	431016 - INTEREST EXPENSE ON REC DEFERRAL	ED	WA	DL	0.00	108.63	Correcting entry-Feb20 interest WA REC
150	001	186322 - MISC DEF DEBIT - WA REC 1	ED	WA	DL	0.00	17.52	Correcting entry-Jan20 interest WA REC
160	001	419600 - INTEREST ON ENERGY DEFERRALS	ED	WA	DL	17.52	0.00	Correcting entry-Jan20 interest WA REC
170	001	186322 - MISC DEF DEBIT - WA REC 1	ED	WA	DL	0.00	17.53	Correcting entry-Feb20 interest WA REC



**DJ475 - Washington REC Deferral (Current Amortization)**

The rate is based on WA Rate Order for REC deferral

Interest will be accrued monthly and compounded semi-annually.

Interest is calculated using the prior month ending balance plus 1/2 month of current month charges times the current monthly interest rate

186322 ED WA									186322 RECON			
Month Ending	Balance before Interest	Balance Transfer	Amortization	Adjustments	Monthly Interest Rate	Interest	Interest Adjustments	End Balance before interest	End Balance with Interest	GL Wand Balance	Variance	Notes
201901	339,478.56		182,008.00		0.57417%	2,471.70		521,486.56	523,958.26	523,958.26	0.00	Semi-Annual Compounding
201902	521,486.56		171,867.00		0.57417%	3,487.62		693,353.56	699,312.88	699,312.88	0.00	
201903	693,353.56		181,119.00		0.57417%	4,500.99		874,472.56	884,932.87	884,932.87	0.00	
201904	874,472.56		148,142.00		0.57417%	5,446.25		1,022,614.56	1,038,521.12	1,038,521.12	0.00	
201905	1,022,614.56		136,185.00		0.57417%	6,262.51		1,158,799.56	1,180,968.63	1,180,968.63	0.00	
201906	1,158,799.56		140,278.00		0.57417%	7,056.20		1,299,077.56	1,328,302.83	1,328,302.83	0.00	
201907	1,328,302.83	(1,771,401.27)	134,254.00		0.57417%	(2,158.72)		(308,844.44)	(311,003.16)	(311,003.16)	0.00	-Semi-Annual Compounding -Transfer 186324 Def balance to 186322 for amortization
201908	(308,844.44)		113,955.00		0.57417%	(1,446.14)		(194,889.44)	(198,494.30)	(198,494.30)	0.00	
201909	(194,889.44)		111,872.00		0.57417%	(797.83)		(83,017.44)	(87,420.13)	(87,420.13)	0.00	
201910	(83,017.44)		103,052.00		0.57417%	(180.81)		20,034.56	15,451.06	15,451.06	0.00	
201911	20,034.56		108,717.00		0.57417%	427.14		128,751.56	124,595.20	124,595.20	0.00	
201912	128,751.56		127,023.00		0.57417%	1,103.92		255,774.56	252,722.12	252,722.12	0.00	
202001	252,722.12		128,660.00		0.57417%	1,820.42		381,382.12	383,202.54	383,220.06	17.52	Semi-Annual Compounding
202002	381,382.12		120,773.00		0.57417%	2,536.50		502,155.12	506,512.04	506,547.09	35.05	
202003	502,155.12		113,147.00		0.57417%	3,208.05		615,302.12	622,867.09	506,547.09	(116,320.00)	
202004	615,302.12		-		0.57417%	3,532.88		615,302.12	626,399.97	506,547.09	(119,852.88)	
202005	615,302.12		-		0.57417%	3,532.88		615,302.12	629,932.85	-	(629,932.85)	
202006	615,302.12		-		0.57417%	3,532.88		615,302.12	633,465.73	-	(633,465.73)	
202007	615,302.12		-		0.57417%	3,532.88		615,302.12	636,998.61	-	(636,998.61)	
current month entry			113,147.00			3,208.05						

**202003 UPDATE DATE TO CALC JET ENTRY**

JET ENTRY:	DR	CR
186322 ED WA	3,208.05	
419600 ED WA		3,208.05
186322 ED WA	113,147.00	
557324 ED WA		113,147.00

Misc Def Debit - WA Rec 1  
 Interest on Energy Deferrals  
 Misc Def Debit - WA Rec 1  
 Def Power Supply Exp - Rec Amort

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**DJ475 - Washington REC Deferral (Current Amortization)**

The rate is based on WA Rate Order for REC deferral

Interest will be accrued monthly and compounded semi-annually.

Interest is calculated using the prior month ending balance plus 1/2 month of current month charges times the current monthly interest

Jan 2020 Posted As		
	DR	CR
186322 ED WA	1,837.94	
419600 ED WA		1,837.94

Jan 2020 Should Be		
	DR	CR
186322 ED WA	1,820.42	
419600 ED WA		1,820.42

Jan 2020 Correcting Entry			Interest was not calculated correctly (s/b compounded)
	DR	CR	
186322 ED WA		17.52	Misc Def Debit - WA Rec 1 Interest on Energy Deferrals
419600 ED WA	17.52		

IM

Feb 2020 Posted As		
	DR	CR
186322 ED WA	2,554.03	
419600 ED WA		2,554.03

Feb 2020 Should Be		
	DR	CR
186322 ED WA	2,536.50	
419600 ED WA		2,536.50

Feb 2020 Correcting Entry			Interest was not calculated correctly (s/b compounded)
	DR	CR	
186322 ED WA		17.53	Misc Def Debit - WA Rec 1 Interest on Energy Deferrals
419600 ED WA	17.53		

**DJ475 - Washington REC Deferral - Account 186323**

The rate is based on WA Rate Order for REC deferral

Interest will be accrued monthly and compounded semi-annually.

Interest is calculated using the prior month ending balance plus 1/2 month of current month charges times the current monthly interest rate

Account 186323 ED WA								
Month Ending	Balance before Interest	Balance Transfer	Deferral	WA I-937 RPS	Monthly Interest Rate	Interest	Interest Adjustments	End Balance before interest
201901	-		-		0.57417%	-		-
201902	-		-		0.57417%	-		-
201903	-		-		0.57417%	-		-
201904	-		-		0.57417%	-		-
201905	-		-		0.57417%	-		-
201906	-		-		0.57417%	-		-
201907	-		(158,513.00)	857,009.74	0.57417%	4,465.63		698,496.74
201908	698,496.74		(78,816.00)		0.57417%	3,784.29		619,680.74
201909	619,680.74		(70,681.00)		0.57417%	3,355.11		548,999.74
201910	548,999.74		(79,693.00)		0.57417%	2,923.41		469,306.74
201911	469,306.74		(73,634.00)		0.57417%	2,483.23		395,672.74
201912	395,672.74		(127,049.00)		0.57417%	1,907.10		268,623.74
202001	287,542.51		(207,454.00)		0.57417%	1,055.41		80,088.51
202002	80,088.51		(189,625.00)		0.57417%	(84.54)		(109,536.49)
202003	(109,536.49)		(174,686.00)		0.57417%	(1,130.42)		(284,222.49)
202004	(284,222.49)		-		0.57417%	(1,631.92)		(284,222.49)
202005	(284,222.49)		-		0.57417%	(1,631.92)		(284,222.49)
202006	(284,222.49)		-		0.57417%	(1,631.92)		(284,222.49)
current month entry			(174,686.00)			(1,130.42)		

186323 RECON			
End Balance with Interest	GL Wand Balance	Variance	Notes
-	-	0.00	Semi-Annual Compounding
-	-	0.00	
-	-	0.00	
-	-	0.00	
-	-	0.00	
-	-	0.00	
702,962.37	702,962.37	0.00	Semi-Annual Compounding
627,930.66	627,930.66	0.00	
560,604.77	560,604.77	0.00	
483,835.18	483,835.18	0.00	
412,684.41	412,684.41	0.00	
287,542.51	287,542.51	0.00	
81,143.92	81,035.30	(108.62)	Semi-Annual Compounding
(108,565.62)	(108,782.87)	(217.25)	
(284,382.04)	(108,782.87)	175,599.17	
(286,013.96)	(108,782.87)	177,231.09	
(287,645.88)	-	287,645.88	
(289,277.80)	-	289,277.80	

**202003 UPDATE DATE TO CALC JET ENTRY**

JET ENTRY:	DR	CR
186323 ED WA		1,130.42
431016 ED WA	1,130.42	
186323 ED WA		174,686.00
557322 ED WA	174,686.00	

Misc Def Debit - WA Rec 2  
 Interest Exp on Rec Def  
 Misc Def Debit - WA Rec 2  
 Def Power Supply Exp - RECs

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(173,555.58) TTL

**DJ475 - Washington REC Deferral - Account 186323**

The rate is based on WA Rate Order for REC deferral

Interest will be accrued monthly and compounded semi-annually.

Interest is calculated using the prior month ending balance plus 1/2 month of current month charges times the current monthly interest r:

Jan 2020 Posted As		
	DR	CR
186323 ED WA	946.79	
431016 ED WA		946.79

Jan 2020 Should Be		
	DR	CR
186323 ED WA	1,055.41	
431016 ED WA		1,055.41

Jan 2020 Correcting Entry			Interest was not calculated correctly (s/b compounded)
	DR	CR	
186323 ED WA	108.62		Misc Def Debit - WA Rec 2 Interest Exp on Rec Def
431016 ED WA		108.62	

Feb 2020 Posted As		
	DR	CR
186323 ED WA		193.17
431016 ED WA	193.17	

Feb 2020 Should Be		
	DR	CR
186323 ED WA		84.54
431016 ED WA	84.54	

Feb 2020 Correcting Entry			Interest was not calculated correctly (s/b compounded)
	DR	CR	
186323 ED WA	108.63		Misc Def Debit - WA Rec 2 Interest Exp on Rec Def
431016 ED WA		108.63	

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Avista Corp. - Resource Accounting  
 DJ 475 - Washington REC Deferral  
 2020 REC Revenue and Expense Deferral Calculation

REC Revenue and Expense	Source	202001	202002	202003	202004	202005	202006	202007	202008	202009	202010	202011	202012	Total
Voluntary REC Revenue	456016-ED-AN	(318,217)	(288,636)	(273,452)	-	-	-	-	-	-	-	-	-	\$ (880,305)
Voluntary REC Broker Fee Expense	557171-ED-AN	2,601	146	7,689	-	-	-	-	-	-	-	-	-	\$ 10,437
<b>Total</b>		<b>\$ (315,615)</b>	<b>\$ (288,490)</b>	<b>\$ (265,763)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (869,868)</b>

Washington State Share														
Voluntary REC Revenue	65.73%	(209,164)	(189,721)	(179,740)	-	-	-	-	-	-	-	-	-	\$ (578,624)
Voluntary REC Broker Fee Expense	65.73%	1,710	96	5,054	-	-	-	-	-	-	-	-	-	\$ 6,860
<b>Total Surcharge (+) or Rebate (-)</b>		<b>\$ (207,454)</b>	<b>\$ (189,625)</b>	<b>\$ (174,686)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (571,765)</b>

Accounting Entries				
186323.ED.WA (201907 thru 202006)	Credit	Credit	Credit	
557322.ED.WA	Debit	Debit	Debit	

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### Revenue By Rate Schedule

Data Source: Financial Reporting  
 Data Updated Daily

State Code: ALL

Revenue Class: ALL

Billing Determinant: RIDER 98

Accounting Period	Service	State Code	Rate Schedule	Rate Schedule Desc	FERC Acct	Revenue Class Desc	Meter Qty	Usage Qty	Revenue Amt	Average Meter	YTD Usage	YTD Revenue Amt
202003	ED	ID	0011	0011 - GENERAL SERVICE	442200	21 FIRM COMMERCIAL	0	0	0	0	0	5
<b>ID - Total</b>							<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>
		WA	0001	0001 - RESIDENTIAL	440000	01 RESIDENTIAL	0	0	-55,189	0	0	-179,396
			0001	0001 - RESIDENTIAL	448000	80 INTERDEPARTMENT REVENUE	0	0	-3	0	0	-9
			0002	0002 - RESIDENTIAL DISCOUNT	440000	01 RESIDENTIAL	0	0	-135	0	0	-419
			0011	0011 - GENERAL SERVICE	442200	21 FIRM COMMERCIAL	0	0	-11,577	0	0	-36,395
			0011	0011 - GENERAL SERVICE	442300	31 FIRM- INDUSTRIAL	0	0	-135	0	0	-431
			0011	0011 - GENERAL SERVICE	448000	80 INTERDEPARTMENT REVENUE	0	0	-62	0	0	-181
			0012	0012 - RESID&FARM-GEN SERV	440000	01 RESIDENTIAL	0	0	-1,464	0	0	-4,695
			0012	0012 - RESID&FARM-GEN SERV	448000	80 INTERDEPARTMENT REVENUE	0	0	0	0	0	0
			0021	0021 - LARGE GENERAL SERV	442200	21 FIRM COMMERCIAL	0	0	-25,648	0	0	-80,377
			0021	0021 - LARGE GENERAL SERV	442300	31 FIRM- INDUSTRIAL	0	0	-2,025	0	0	-5,885
			0021	0021 - LARGE GENERAL SERV	448000	80 INTERDEPARTMENT REVENUE	0	0	-190	0	0	-581
			0022	0022 - RESID&FRM-LGE GEN SE	440000	01 RESIDENTIAL	0	0	-777	0	0	-2,508
			0025	0025 - EXTRA LGE GEN SERV	442200	21 FIRM COMMERCIAL	0	0	-5,522	0	0	-17,240
			0025	0025 - EXTRA LGE GEN SERV	442300	31 FIRM- INDUSTRIAL	0	0	-14,285	0	0	-47,248
			0030	0030 - PUMPING SERV-SPECIAL	440000	01 RESIDENTIAL	0	0	0	0	0	0
			0030	0030 - PUMPING SERV-SPECIAL	442300	39 FIRM-PUMPING-IRRIGATION ONLY	0	0	-13	0	0	-17
			0031	0031 - PUMPING SERVICE	442200	21 FIRM COMMERCIAL	0	0	-745	0	0	-2,161
			0031	0031 - PUMPING SERVICE	442300	31 FIRM- INDUSTRIAL	0	0	-152	0	0	-484
			0031	0031 - PUMPING SERVICE	442300	39 FIRM-PUMPING-IRRIGATION ONLY	0	0	-36	0	0	-124
			0031	0031 - PUMPING SERVICE	448000	80 INTERDEPARTMENT REVENUE	0	0	-10	0	0	-33
			0032	0032 - PUMPING SVC RES&FRM	440000	01 RESIDENTIAL	0	0	-64	0	0	-205
			0032	0032 - PUMPING SVC RES&FRM	442300	39 FIRM-PUMPING-IRRIGATION ONLY	0	0	-4	0	0	-14
			0041	0041 - CO OWNED ST LIGHTS	444000	51 LIGHTING-PUBLIC STREET AND HIWAY	0	0	-1	0	0	-2
			0042	0042 - CO OWND ST LTS SO VA	444000	51 LIGHTING-PUBLIC STREET AND HIWAY	0	0	-331	0	0	-1,006
			0044	0044 - CST OWND ST LT SO VA	444000	51 LIGHTING-PUBLIC STREET AND HIWAY	0	0	-7	0	0	-21
			0045	0045 - CUST OWND ST LT ENGY	444000	51 LIGHTING-PUBLIC STREET AND HIWAY	0	0	-16	0	0	-49
			0046	0046 - CUST OWND ST LT S V	444000	51 LIGHTING-PUBLIC STREET AND HIWAY	0	0	-40	0	0	-120
			0047	0047 - AREA LIGHT-COM&INDUS	442200	21 FIRM COMMERCIAL	0	0	-159	0	0	-442
			0047	0047 - AREA LIGHT-COM&INDUS	442300	31 FIRM- INDUSTRIAL	0	0	-4	0	0	-13
			0047	0047 - AREA LIGHT-COM&INDUS	442300	39 FIRM-PUMPING-IRRIGATION ONLY	0	0	0	0	0	-1
			0047	0047 - AREA LIGHT-COM&INDUS	448000	80 INTERDEPARTMENT REVENUE	0	0	-3	0	0	-10
			0048	0048 - AREA LGHT-FARM&RESID	440000	01 RESIDENTIAL	0	0	-88	0	0	-265
			0048	0048 - AREA LGHT-FARM&RESID	442300	39 FIRM-PUMPING-IRRIGATION ONLY	0	0	0	0	0	0
			0048	0048 - AREA LGHT-FARM&RESID	448000	80 INTERDEPARTMENT REVENUE	0	0	0	0	0	0
<b>WA - Total</b>							<b>0</b>	<b>0</b>	<b>-118,687</b>	<b>0</b>	<b>0</b>	<b>-380,333</b>
<b>ED - Total</b>							<b>0</b>	<b>0</b>	<b>-118,687</b>	<b>0</b>	<b>0</b>	<b>-380,328</b>
<b>202003 - Total</b>							<b>0</b>	<b>0</b>	<b>-118,687</b>	<b>0</b>	<b>0</b>	<b>-380,328</b>
<b>Overall - Total</b>							<b>0</b>	<b>0</b>	<b>-118,687</b>	<b>0</b>	<b>0</b>	<b>-380,328</b>

IM

Attachment C

Avista Corporation  
Monthly Power Cost Deferral Report  
Month of March 2020

Long Term Power Purchase Agreements

**POWER PURCHASE AGREEMENT**  
**BETWEEN**  
**HYDRO TECHNOLOGY SYSTEMS, INC.**  
**AND**  
**AVISTA CORPORATION**



## POWER PURCHASE AGREEMENT

This Agreement is made by and between Avista Corporation, a Washington corporation (“Avista”), and Hydro Technology Systems, Inc. (“Seller”). Avista and Seller are sometimes referred to individually as a “Party” and collectively as the “Parties.”

### RECITALS

WHEREAS, Seller will own, operate and maintain an electric power generating facility with a Nameplate Capacity Rating of five (5) MW Alternating Current (AC) or less, as more fully described in Exhibit A (“Facility”);

WHEREAS, Seller will operate the Facility as a Qualifying Facility, as defined by the Public Utility Regulatory Policies Act of 1978 (“PURPA”); and

WHEREAS, Seller will deliver and sell, and Avista will purchase, output generated from the Facility subject to the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual agreements set forth herein, the Parties agree as follows.

### 1. DEFINITIONS

Except as otherwise defined in this Agreement, whenever used in this Agreement and exhibits hereto, the following terms shall have the following meanings:

1.1 “**Agreement**” means this Power Purchase Agreement, including all exhibits, and any written amendments.

1.2 “**Alternate Point of Delivery**” shall have the meaning provided in Section 11.3 of this Agreement.

1.3 “**Ancillary Services**” means those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the electrical systems in accordance with Prudent Utility Practices and any existing or future WECC requirements.

1.4 “**Avoided Cost Rates**” shall have the meaning provided in Section 7.2 or Section 7.3, as applicable, of this Agreement.

1.5 “**aMW**” means average megawatt(s). An average megawatt is calculated by dividing the total generation in MWh over a given period of time (e.g., a calendar month) by the number of hours in that period of time.

**1.6 “Balancing Authority Area”** 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.

**1.7 “Base Energy Amount”** means monthly Net Output less than or equal to 110 percent of the Monthly Net Output Estimate.

**1.8 “Business Day”** means every day other than a Saturday or Sunday or a national holiday. National holidays shall be those holidays observed NERC.

**1.9 Reserved.**

**1.10 “Commercial Operation Date”** means the date upon which all milestones set forth in Exhibit J required to be satisfied prior to achieving commercial operation, including Start-Up Testing, are satisfied. Upon achieving the Commercial Operation Date, Seller shall, within five Business Days, provide Avista written notice of the Commercial Operation Date. Such written notice shall certify that all such milestones were satisfied as of the Commercial Operation Date set forth in such notice.

**1.11 “Commission”** means the Washington Utilities and Transportation Commission, or its successor.

**1.12 Reserved.**

**1.13 “Effective Date”** shall have the meaning provided in Section 4 of this Agreement.

**1.14 “Environmental Attributes”** means any and all certificates, credits, benefits, emissions reductions, environmental air quality credits and emissions reduction credits, offsets and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance attributable to the Facility or the generation of energy by the Facility, and the delivery of such energy to the electricity grid, and include without limitation, any of the same arising out of any current or future 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 (“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 (collectively with any state or federal entity given jurisdiction over a program involving transferability of Environmental Attributes, the “CAMD”), but specifically excluding investment tax credits, production tax credits, and cash grants associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with ownership of the Facility that are applicable to a state or federal income tax obligation, if any. Environmental Attributes also include the reporting rights or Renewable Energy Certificates (“RECs”) associated with these Environmental Attributes. Environmental Attributes include without limitation all “Environmental Attributes” and all “Green Attributes” as those terms are defined in Appendix A-1 and Appendix A-2 of California Public Utilities Commission D. 08-08-028 in R. 06-02-012. RECS are accumulated on a MWh basis and one REC

represents the Environmental Attributes associated with one MWh of energy. Environmental Attributes do not include any energy, capacity, reliability or other power attributes from the Facility.

**1.15** “Excess Energy” shall have the meaning provided in Section 7.3.4 of this Agreement.

**1.16** “Facility” means the electric energy generating facilities, including all equipment and structures necessary to generate and supply electric energy, more particularly described at Exhibit A.

**1.17** “Facility Service Power” means the electric energy generated and used by the Facility during its operation to operate equipment that is auxiliary to primary generation equipment including, but not limited to, pumping, generator excitation, cooling or other operations related to the production of electric energy by the Facility.

**1.18** “Force Majeure” shall have the meaning provided in Section 13 of this Agreement.

**1.19** “FERC” means the Federal Energy Regulatory Commission, or its successor.

**1.20** “Independent Engineering Certification” means certifications detailed in Section 3.3 provided by a professional engineer registered in the state in which the Facility is located, who has no direct or indirect, legal, or equitable ownership interest in the Facility.

**1.21** “Initial Capacity Determination” shall have the meaning provided in Section 3.4 of this Agreement.

**1.22** “Initial Delivery Date” shall mean the date upon which Seller first schedules Net Output to Avista pursuant to this Agreement. , which shall be January 1, 2021 at 0000 hours.

**1.23** “Initial Year Monthly Net Output Estimates” shall have the meaning provided in Section 5.1 of this Agreement.

**1.24** “Interconnection Agreement” means, as applicable, the agreement between Seller and Avista or Seller and a Transmitting Entity that is providing interconnection service which governs how the Net Output is delivered to Avista’s or the Transmitting Entity’s electrical system at the Point of Interconnection during the Term of this Agreement.

**1.25** “Interconnection Facilities” means all facilities required to connect the Facility to the Point of Interconnection, including connection, transformation, switching, relaying and safety equipment. Interconnection Facilities shall also include all telemetry, metering, cellular telephone, and/or communication equipment required under this Agreement regardless of location.

**1.26** “Losses” means the loss of electrical energy occurring as a result of the transformation and transmission of energy between the Point of Interconnection and the Point of

Delivery. For purposes of this Agreement, Losses shall equal \_\_\_ percent of the total generation of the Facility as metered at the Facility.

1.27 “**MW**” means megawatt. One thousand kilowatts equals one megawatt.

1.28 “**MWh**” means megawatt-hour. One thousand kilowatt-hours equals one megawatt-hour.

1.29 “**Market Energy Price**” means the PowerDex hourly Mid-Columbia (“Mid-C”) index price, or other mutually agreed to index; *provided, however*, that during any hours in which the Mid-C index price is less than zero, the Market Energy Price shall mean 115 percent (115%) of such index price.

1.30 “**Monthly Net Output Estimate**” means, as applicable, the Initial Year Monthly Net Output Estimates provided pursuant to Section 5.1 or the Subsequent Monthly Net Output Estimates provided pursuant to Section 5.2.

1.31 “**Nameplate Capacity Rating**” means the maximum generating capacity of the Facility, as determined by the manufacturer, and expressed in megawatts (MW) or kilowatts (kW).

1.32 “**NERC**” means the North American Electric Reliability Corporation or its successor.

1.33 “**Net Output**” means the capability and electric energy generated by the Facility, less Facility Service Power and Losses expressed in megawatt-hours (MWh) or kilowatt-hours (kWh). To the extent that any electric energy is delivered to the Point of Delivery in excess of the Initial Capacity Determination, such electric energy shall be Surplus Energy.

1.36 “**Operating Year**” means each 12-month period from January 1 through December 31.

1.37 “**Point of Delivery**” means the location, as specified in Exhibit A of this Agreement, where Seller’s Facility interconnects with Avista’s electrical system or, if the Facility is not interconnected with Avista’s electrical system, the point where the electric energy produced by the Facility is delivered to Avista’s electrical system.

1.38 “**Point of Interconnection**” means the high voltage side of Seller’s step-up transformer at the point of interconnection between Seller’s Facility and the Transmitting Entity’s electric system, which is commonly referred to as the “busbar.”

1.39 “**Prudent Utility Practices**” means the practices, methods, and acts commonly and ordinarily used in electrical engineering and operations by a significant portion of the electric power generation and transmission industry, in the exercise of reasonable judgment in the light of the facts known or that should have been known at the time a decision was made, that would have been expected to accomplish the desired result in a manner consistent with law, regulation, reliability, safety, environmental protection, economy, and expedition.

**1.40** “Qualifying Facility” or “QF” means a generating facility which meets the requirements for “QF” status under PURPA and part 292 of FERC’s Regulations, 18 C.F.R. Part 292, and which has obtained certification of its QF status.

**1.41** “Scheduled Commercial Operation Date” means a date not later than three (3) years after the Effective Date upon which the Facility is scheduled to achieve the Commercial Operation Date.

**1.42** “Scheduled Outage” means any outage which is scheduled by the Seller to remove electrical or mechanical equipment from service for repair, replacement, maintenance, safety or any other reason, and which thereby limits the generating capability of the Facility to less than the Initial Capacity Determination.

**1.43** “Shortfall Energy” shall have the meaning provided in section 7.3.3 of this Agreement.

**1.44** “Shortfall Energy Price” shall mean the price Avista will pay Seller for Shortfall Energy as provided in section 7.3.3 of this Agreement.

**1.45** “Start-Up Testing” means the start-up tests required by the manufacturer and/or Avista that prove that the Facility is reliably producing electric energy.

**1.46** “Surplus Energy” means (i) Net Output during any month which exceeds 110 percent of the Monthly Net Output Estimate for the corresponding month; and (ii) any electric energy that is scheduled by Seller and delivered to the Point of Delivery in excess of the Net Output.

**1.47** “Surplus Energy Price” shall have the meaning provided in section 7.3.2 of this Agreement.

**1.48** “Term” shall have the meaning provided in Section 4.1 of this Agreement.

**1.49** “Test Energy” shall mean Net Output during Start-Up Testing and before the Commercial Operation Date.

**1.50** “Transmitting Entity” means any entity or entities that provide transmission and/or interconnection service to deliver electric energy from the Facility to Avista’s electrical system at the Point of Delivery.

**1.51** “Transmission Agreement” means any agreement(s) entered into between Seller and a Transmitting Entity under which the Transmitting Entity shall provide firm transmission from the Facility to Point of Delivery for the Term of this Agreement. The Transmission Agreement is attached hereto as Exhibit F.

**1.52** “WECC” means the Western Electricity Coordinating Council or its successor.

**1.53** “**WREGIS**” means the Western Renewable Energy Generation Information System, or a successor.

**1.54** “**WREGIS Operating Rules**” means the then current operating rules and requirements adopted by WREGIS, as such rules and requirements may be amended, supplemented or replaced (in whole or in part) from time to time.

## **2. WARRANTIES**

**2.1** **No Warranty by Avista.** Avista makes no warranties, expressed or implied, regarding any aspect of Seller’s design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility, and any review, acceptance or failure to review Seller’s design, specifications, equipment or Facility shall not be an endorsement or a confirmation by Avista. Avista assumes no responsibility or obligation with regard to any NERC and/or WECC reliability standard associated with the Facility or the delivery of electric energy from the Facility to the Point of Delivery.

**2.2** **Seller’s Warranty.** Seller warrants and represents that: (a) Seller has investigated and determined that it is capable of performing and will perform the obligations hereunder and has not relied upon the advice, experience or expertise of Avista in connection with the transactions contemplated by this Agreement; (b) all professionals and experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller; (c) Seller will comply with all applicable laws and regulations and shall obtain and comply with applicable licenses, permits and approvals in the design, construction, operation and maintenance of the Facility; and (d) the Facility is, and during the Term of this Agreement will remain, a Qualifying Facility as that term is used in 18 C.F.R Part 292. Seller’s failure to maintain Qualifying Facility status will be a material breach of this Agreement. Avista reserves the right to review the Seller’s Qualifying Facility status and associated support and compliance documents at any time during the Term of this Agreement.

## **3. CONDITIONS PRIOR TO DELIVERY OF NET OUTPUT**

**3.1.** **Time is of the Essence.** Time is of the essence in the performance of this Agreement and Seller understands and agrees that Avista is relying on Seller to meet the requirements of Section 4.2 on or before the Scheduled Commercial Operation Date. Seller understands and agrees that Avista’s acceptance of deliveries of energy from Seller is contingent upon Seller fully satisfying each of the requirements in Section 3 of this Agreement prior to the commencement of the first delivery of Net Output to Avista.

**3.2** **Opinion of Counsel.** Required: Yes\_\_\_ No  X  If required by Avista (as indicated by Avista checking “Yes” to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall submit to Avista an opinion letter signed by an attorney admitted to practice and in good standing in the state where the Facility is located providing an opinion that Seller’s licenses, permits and approvals (including, but not limited to,

*Final*  
*03/10/20*

evidence of compliance with Subpart B, 18 C.F.R. § 292.207, tribal, state and local business licenses, environmental permits, easements, leases and all other required approvals) are legally and validly issued, are held in the name of the Seller, and based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of such opinion letter. The opinion letter will be in a form acceptable to Avista and will acknowledge that the attorney rendering the opinion understands that Avista is relying on said opinion. Avista's acceptance of the form shall not be unreasonably withheld.

**3.3 Independent Engineering Certifications.** Required: Yes \_\_\_ No X If required by Avista (as indicated by Avista checking "Yes" to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall submit to Avista applicable Independent Engineering Certifications for Construction Adequacy for a Qualifying Facility. The Independent Engineering Certification shall be signed by a licensed professional engineer in good standing submitted in a form acceptable to Avista and will acknowledge that the licensed professional engineer rendering the opinion understands that Avista is relying on said opinion. Avista's acceptance of such forms shall not be unreasonably withheld.

**3.4 Initial Capacity Determination.** Required: Yes \_\_\_ No X If required by Avista (as indicated by Avista checking "Yes" to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall submit to Avista the maximum hourly generation capability of the Facility ("Initial Capacity Determination"). Such Initial Capacity Determination shall be determined either by use of the Nameplate Capacity Rating or such other means acceptable to Avista and shall be documented and submitted to Avista by Seller. Such documentation shall include the information listed in Exhibit E. Upon receipt of Seller's Initial Capacity Determination, Avista will review such determination within a reasonable time and, if acceptable to Avista, Avista shall issue to Seller its written approval of the Initial Capacity Determination. If the Initial Capacity Determination submitted by Seller is not acceptable to Avista, Avista will promptly notify Seller that Avista will not accept its Initial Capacity Determination. In such event, Avista shall engage, at Seller's sole expense, an independent qualified consultant to determine the Initial Capacity Determination. During the Term of this Agreement, Seller shall not cause the capacity of the Facility to be greater than the Initial Capacity Determination by any means, including by addition, upgrade, or replacement.

In any event, Seller shall operate the Facility in a manner such that under normal design conditions the Net Output does not exceed 5 MW.

**3.5 Interconnection Agreement.** Prior to the Effective Date, Seller shall provide Avista a copy of its Interconnection Agreement, which shall be attached hereto as Exhibit G.

**3.6 Ancillary Services.** In the event that the Facility is located outside of Avista's Balancing Authority Area, Seller shall be responsible at its sole expense for obtaining any and all necessary Ancillary Services.

**3.7 Insurance; Security.** Prior to the commencement of the first delivery of Net Output to Avista, Seller shall submit to Avista evidence of compliance with Sections 9.1 and 9.2.

*Final*  
*03/10/20*

**3.8 Network Resource Designation.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking “Yes” to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall provide to Avista all data required by Avista to enable the Facility to be designated by Avista as a network resource.

**3.9 Written Acceptance.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking “Yes” to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall request and obtain from Avista written confirmation that all conditions to acceptance of electric energy have been fulfilled. Avista shall use reasonable commercial efforts to promptly provide Seller written confirmation that all conditions to acceptance of electric energy have been fulfilled or provide notice that such conditions have not been fulfilled.

#### **4. TERM OF AGREEMENT**

**4.1** This Agreement shall be effective on the date last signed below or such other date set by Commission order (the “Effective Date”) and shall continue for 5 years (through Dec 31, 2025) after the Effective Date (the “Term”), unless otherwise terminated as provided herein.

**4.2** In the event that the Seller fails to achieve the milestones set forth in Exhibit J, including achieving the Commercial Operation Date of the Facility within three (3) years of the Effective date, Avista may terminate this Agreement by providing Seller written notice of termination.

#### **5. NET OUTPUT AMOUNTS**

**5.1 Initial Monthly Net Output Estimates.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking “Yes” to this Section), Seller shall provide to Avista Net Output estimates for each of the twelve consecutive months that begin with the month containing the Initial Delivery Date, counting the month during which the Initial Delivery Date occurs as month one (“Initial Year Monthly Net Output Estimates”). Seller shall provide to Avista such Initial Year Monthly Net Output Estimates by written notice in accordance with Section 30 no later than thirty (30) calendar days prior to the commencement of the first delivery of Net Output to Avista.

**5.2 Subsequent Monthly Net Output Estimates.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking “Yes” to this Section), at the end of month three following the Initial Delivery Date, and at the end of every month thereafter, Seller shall provide to Avista Net Output estimates pertaining to each additional consecutive month for which Seller has not yet delivered to Avista Net Output estimates. Seller shall provide such Net Output estimates to Avista by written notice in accordance with Section 30, no later than 5:00 p.m. of the last Business Day of the month during which they are required to be provided.

**5.3 Content of Net Output Estimates.** All Net Output estimates shall be expressed in kilowatt-hours by month.



**5.4 Failure to Provide Net Output Estimates.** In the event that Seller fails to provide Monthly Output Estimates when required herein, Avista may determine the Monthly Net Output Estimates pertaining to such month or months, and the Monthly Net Output Estimates determined by Avista shall be binding for purposes of the Agreement as though they were prepared by Seller and provided to Avista as required by the Agreement. Failure of Seller to provide any required Monthly Output Estimates for three (3) consecutive months shall be a material breach of this Agreement and Avista may, in its sole discretion, terminate this Agreement.

**5.5 Avista Adjustment of Monthly Net Output Estimate.** If, pursuant to Section 10 or 11.2, Avista is excused from accepting the Seller's Net Output, the Monthly Net Output Estimate for the specific month in which the reduction or suspension occurs will be reduced by an amount commensurate to such curtailment (the Monthly Net Output Estimated as adjusted is referred to as the "Adjusted Net Output"). This Adjusted Net Output estimate will be used in applicable Surplus Energy calculations for only the specific month in which Avista was excused from accepting the Net Output or the Seller's Declared Suspension of Net Output.

**5.6** Unless excused by an event of Force Majeure or due to Avista curtailments pursuant to Section 10 or 11.2, Seller's failure to deliver Net Output in any Operating Year in an amount equal to at least ten percent of the sum of the Initial Year Monthly Net Output Estimates as specified pursuant to Section 5.1 shall constitute a material breach of this Agreement.

## **6. SCHEDULING**

**6.1** This Section 6 shall only apply to a Facility that is not directly interconnected to Avista's electrical system. To the extent that the Facility is directly interconnected to Avista's electrical system, the provisions of this Section 6 are not applicable.

**6.2** Seller is responsible for supplying day(s)-ahead energy pre-schedules for each hour. Such schedules will, to the extent practical, be based on the anticipated actual generation of the Facility for each such hour. Seller shall submit energy pre-schedules for the next Business Day by email, or by other mutually agreed upon means, to Avista no later than 5:30 am on the Business Day immediately preceding the day on which energy deliveries are to be made; *provided, however*, that for estimates of deliveries on weekends and holidays (as defined by NERC), Seller and Avista shall follow scheduling procedures in accordance with then-current standard scheduling practices.

**6.3** Seller shall create an electronic tag (e-Tag) that reflects the day-ahead hourly estimate no later than 2:00 pm on the Business Day immediately preceding the day on which energy deliveries are to be made; *provided, however*, that for estimates of deliveries on weekends and holidays (as defined by NERC), Seller and Avista shall follow scheduling procedures in accordance with then current standard scheduling practices.

**6.4** The day-ahead estimate shall be provided for preschedule purposes and shall not restrict Seller's right to submit revised hour-ahead schedules as provided herein. At least ninety (90) minutes prior to the start of each delivery hour during the delivery Business Day, Seller shall provide Avista with an updated electric tag (e-Tag) that reflects the firm schedule for that delivery

hour. Seller shall pay any energy imbalance charges or penalties imposed by the Transmission Entity on the delivery of the Net Output to the Point of Delivery.

**6.6** Email contact information with regard to pre-scheduling and telephone contact information with regard to generation level changes, interruptions or outages are specified in Exhibit C, Communication and Reporting.

**6.7** Should circumstances change in the WECC or WECC sub-region, within which Avista operates its electric system, dictate that scheduling protocols or timing of schedule notifications need to conform, then the Parties agree to negotiate in good faith to a mutually agreed modification of this Section 6 as necessary.

## **7. PURCHASE PRICES AND PAYMENT**

**7.1 Seller Election.** By checking the applicable space below, Seller elects to provide energy or capacity generated by the Facility to Buyer:

7.1.1  Pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the Seller exercised prior to the beginning of the specified term, be based on either:

(i)  The avoided costs calculated at the time of delivery; or

(ii)  The avoided costs calculated at the time the obligation is incurred.

7.1.2  As Seller determines energy generated by the Facility is available for sale to Buyer.

**7.2 Avoided Costs Calculated at the Time of Delivery.** To the extent that Seller elects to provide energy or capacity, as applicable, generated by the Facility to Buyer pursuant to Section 7.1.1(i) or Section 7.1.2, the rate to be paid to Seller shall be the avoided costs calculated at the time of delivery ("Avoided Cost Rates"), which shall, for each hour in which Seller delivers energy to Buyer at the Point of Deliver, the Market Energy Price for such hour expressed in \$ per kWh multiplied by the total kWh delivered to Buyer at the Point of Delivery for such hour.

**7.3 Avoided Costs Calculated at the Time the Obligation is Incurred.** To the extent that Seller elects to provide energy or capacity, as applicable, generated by the Facility to Buyer pursuant to Section 7.1.1, Seller shall, except when either Party's performance is excused as provided herein, for the Term of this Agreement, deliver all Net Output from the Facility to Avista at the Point of Delivery. For all Net Output delivered to Avista at the Point of Delivery, Avista shall pay the applicable rate specified in Sections 7.2, 7.3.1, 7.3.2, 7.3.3, 7.3.4 and 7.3.5 of this Agreement.

*Final*  
*03/10/20*

- 7.3.1 Base Energy. For all Base Energy delivered to Avista at the Point of Delivery, Avista shall pay Seller the applicable rate based upon its published Avoided Cost Rates as specified in Exhibit B (“the Avoided Cost Rates”). This Section 7.3.1 shall only apply to the to a Seller that elects to provide energy or capacity generated by its Facility pursuant to Section 7.1.1(ii) and will not apply to a Seller that elects to sell energy generated by the Facility pursuant to Sections 7.1.1(i) or 7.1.2.
- 7.3.2 Surplus Energy. For all Surplus Energy delivered to Avista at the Point of Delivery, Avista shall pay Seller the lower of the Market Energy Price or the Avoided Cost Rate specified in Exhibit B (“Surplus Energy Price”). This Section 7.3.2 shall only apply to the to a Seller that elects to provide energy or capacity generated by its Facility pursuant to Section 7.1.1(ii) and will not apply to a Seller that elects to sell energy generated by the Facility pursuant to Sections 7.1.1(i) or 7.1.2.
- 7.3.3 Shortfall Energy. Except to the extent due to Force Majeure event or Avista curtailment pursuant to Section 10 or 11.2, if the month’s Net Output is less than 90 percent of the Monthly Net Output Estimate for the corresponding month, Shortfall Energy will be the difference between 90 percent of the Monthly Net Output Estimate and the same month’s actual Net Output delivered to Avista at the Point of Delivery. For all Shortfall Energy delivered to Avista at the Point of Delivery, Avista shall pay the lower of the Market Energy Price or the Avoided Cost Rate specified in Exhibit B (“Shortfall Energy Price”). This Section 7.3.3 shall only apply to the to a Seller that elects to provide energy or capacity generated by its Facility pursuant to Section 7.1.1(ii) and will not apply to a Seller that elects to sell energy generated by the Facility pursuant to Sections 7.1.1(i) or 7.1.2.
- 7.3.4 Excess Energy. Excess Energy is Net Output, expressed in MWh, which Seller delivers to Avista at the Point of Delivery that exceeds a delivery rate in excess of 5 MW. Avista, at its sole discretion, may accept Excess Energy, but Avista will not pay for any Excess Energy. Where Avista does not elect to accept Excess Energy, and Seller delivers such energy after notification by Avista in accordance with Exhibit C, Seller shall pay Avista liquidated damages equal to \$100 per MWh of Excess Energy delivered to Avista. The Parties agree that the damages that Avista would incur due to Seller’s delivery of Excess Energy when Avista does not elect to accept Excess Energy would be difficult or impossible to predict with certainty and the liquidated damages contemplated by this provision are a fair and reasonable calculation of such damages and are not a penalty.
- 7.3.5 Test Energy. For all Test Energy delivered to Avista at the Point of Delivery, Avista shall pay the lower of 85 percent of the Market Energy Price or the Avoided Cost Rate specified in Exhibit B.

**7.4 Payments to Seller.** Avista shall prepare and submit to Seller monthly statements during the Term of the Agreement based upon Net Output delivered to Avista during the previous month. Payments owed by Avista shall be paid no later than the 20<sup>th</sup> day of the month following the end of the monthly billing period or five days after the receipt of a monthly statement, whichever is later. If the due date falls on a non-Business Day, then the payment shall be due on the next Business Day.

**7.5 Payments to Avista and Right of Set Off.** If Seller is obligated to make any payment or refund to Avista, Seller agrees that Avista may set off such payment or refund amount against any current or future payments due Seller under this Agreement. If Avista does not elect to set off, or if no current or future payment is owed by Avista, Avista shall submit an invoice to Seller for such payments. Seller shall pay Avista no later than the 20<sup>th</sup> day of the month following the end of the monthly billing period or five days after the receipt of a monthly statement, whichever is later. If the due date falls on a non-Business Day, then the payment shall be due on the next Business Day.

**7.6 Interest.** In addition to the remedies set forth in Section 17 of this Agreement, any amounts owing after the due date specified in Sections 7.4 and 7.5 will be subject to interest in the amount of one and one half percent (1.5%) per month, not to exceed the maximum rate allowed by the law, multiplied by the unpaid balance.

**7.7 Wire Transfer.** All payments shall be made by ACH or wire transfer in accordance with further agreement of the Parties.

**7.8 Title and Risk of Loss.** As between the Parties, Seller shall be deemed to be in control of the output from the Facility, including any Environmental Attributes, up to and until delivery to and receipt by Avista at the Point of Delivery and Avista shall be deemed to be in control of the Net Output and, if Section 8.1 is checked, Environmental Attributes delivered to Avista.

## **8. ENVIRONMENTAL ATTRIBUTES**

### **8.1 Ownership of Environmental Attributes.**

\_\_\_\_\_ The Avoided Cost Rates set forth in Section 7.2 or Section 7.3, as applicable, is a standard rate based on the avoided capacity costs of an eligible renewable resource as defined in RCW 19.285.030 and, therefore, such Avoided Cost Rates include compensation for all Environmental Attributes associated with output of the Facility.

If this Section 8.1 is checked above, then to the full extent allowed by applicable laws or regulations, Avista shall own or be entitled to claim all Environmental Attributes associated with such output. To the extent necessary, Seller shall assign to Avista all rights, title and authority necessary for Avista to register, own, hold and manage such Environmental Attributes in Avista's own name and to Avista's account, including any rights associated with WREGIS (or any other renewable energy information or tracking system that may be established) with regard to

monitoring, tracking, certifying, or trading such Environmental Attributes. The Environmental Attributes to be transferred to Avista hereunder will be sourced from the Facility. Seller shall take all reasonable steps, at Seller's expense, required to obtain and maintain tradable renewable certification, including Green-e, California Energy Commission, or other similar certification for the Facility and/or the Gross Facility Output.

**8.2 Transfers.** To the extent that Avista is to own any Environmental Attributes in accordance with Section 8.1 of this Agreement, Seller shall transfer all such Environmental Attributes to Avista on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Seller shall comply with all laws, including, without limitation, the WREGIS Operating Rules, regarding the certification and transfer of such Environmental Attributes to Avista and Avista shall be given sole title to all such Environmental Attributes. Seller warrants that upon delivery to Avista, the Environmental Attributes will be free and clear of all liens, security interests, claims and encumbrances. Upon request of Avista, Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that such Environmental Attributes are issued and tracked for purposes of satisfying state renewable portfolio standard requirements, including Washington State's Energy Independence Act requirements, and are transferred in a timely manner to Avista.

**8.3 Changes to WREGIS.** If the WREGIS Operating Rules are changed or replaced after the Effective Date, WREGIS applies the WREGIS Operating Rules in a manner inconsistent with Section 8.2 after the Effective Date, or WREGIS is eliminated or replaced, the Parties promptly shall modify Section 8.2 as reasonably required to cause and enable Seller to transfer Environmental Attributes to Avista (to the extent required by Sections 8.1 and 8.2), including but not limited to those modifications reasonably required to cause and enable Seller to transfer to Avista's WREGIS Account the Environmental Attributes that are required to be transferred to Avista for each given calendar month under this Agreement.

## **9. INSURANCE; SECURITY; CONTINUING OBLIGATIONS**

**9.1 Insurance.** Prior to the commencement of the first delivery of Net Output to Avista, Seller, at its own cost, shall obtain and maintain the following insurance in force over the term of this Agreement and shall provide certificates of all insurance policies. All insurance policies required to fulfill the requirements of this Section 9 shall include language requiring that any notice of cancellation or notice of change in policy terms be sent to Avista by the insurance carrier(s) at least thirty days prior to any change or termination of the policies.

**9.1.1 General Liability.** Required: Yes X No \_\_\_ If required by Avista (as indicated by Avista checking "Yes" to this Section), Seller shall carry commercial general liability insurance for bodily injury and property damage with a minimum limit equal to \$2,000,000. The deductible shall not exceed the Seller's financial ability to cover claims and shall not be greater than prevailing practices for similar operations in the State of Washington.

**9.1.2 Property.** Required: Yes \_\_\_ No X If required by Avista (as indicated by Avista checking "Yes" to this Section), Seller shall carry all-risk property insurance for

*Final*  
*03/10/20*

repair or replacement of the Facility. The limit of property insurance shall be sufficient to restore operations in the event of reasonably foreseeable losses from natural, operational, mechanical and human-caused perils. The deductible shall not exceed the Seller's financial ability to fund the cost of losses and shall not be greater than prevailing practices for similar operations in the State of Washington.

**9.1.3 Qualifying Insurance.** The insurance coverage required by this Section 9 shall be obtained from an insurance company reasonably acceptable to Avista and shall include an endorsement naming Avista as an additional insured and loss payee as applicable.

**9.1.4 Notice of Loss or Lapse of Insurance by Seller.** If the insurance coverage required by this Section 9 is lost or lapses for any reason, Seller will immediately notify Avista in writing of such loss or lapse. Such notice shall advise Avista of (i) the reason for such loss or lapse and (ii) the steps Seller is taking to replace or reinstate coverage. Seller's failure to provide the notice required by this Section and/or to promptly replace or reinstate coverage will constitute a material breach of this Agreement

**9.2 Security.** To the extent that the applicable Avoided Cost Rate in Exhibit B is a levelized rate, Seller shall provide security to Avista for the Term of this Agreement in accordance with this Section.

**9.1.1** Prior to delivering any output from the Facility pursuant to this Agreement, Seller shall provide Avista a cash deposit, or other form of security that is acceptable to Avista, that represents the difference between the levelized payment Avista will pay and the non-levelized payment that Avista would have paid as shown in Exhibit I, Estimated Security Deposit by Year. Once a year by the first day of each Contract Year the amount will be re-calculated to reflect actual volumes from the prior year and estimated volumes for the current year. Within 30 days of the date such calculation is provided to Seller, Seller will increase the security deposit to reflect such calculation or, if the required security is reduced, Avista will provide a refund of any cash security that exceeds the amount Seller is required to deposit with Avista for that Contract Year.

**9.1.2** Avista will hold this security deposit in its account in a domestic bank (or a domestic branch of a foreign bank) that has a senior debt rating of at least "A-" (or its equivalent) from Standard and Poor's, Moody's, Fitch, DBRS or CBRS. Avista will pay daily interest on the amount deposited on a monthly basis based on the Fed Funds rate as reported by the Federal Reserve Bank of New York at <https://apps.newyorkfed.org/markets/autorates/fed%20funds>.

In the event of default as defined in Section 17 or early termination due to failure to perform, Avista is entitled to retain the security provided pursuant to this Section.

**9.3 Continuing Obligations.** For the Term of this Agreement, Seller will provide Avista with the following:

**9.3.1 Insurance.** Upon Avista's request, Seller shall provide Avista evidence of compliance with the provisions of Section 9.1. If Seller fails to comply, such failure will be a material breach and may only be cured by Seller promptly supplying evidence that the required insurance coverage has been replaced or reinstated.

**9.3.2 Engineer's Certification.** If requested by Avista, Seller will supply Avista with a Certification of Ongoing Operations and Maintenance from a Registered Professional Engineer licensed in the state in which the Facility is located, which certification shall be in the form specified in Exhibit D. Seller's failure to supply the certificate required by this Section 9.3.2 will be a material breach that may only be cured by Seller promptly providing the required certificate. Avista may request the Certification of Ongoing Operations and Maintenance required by this Section once in any three-year period during the Term.

**9.3.3 Licenses and Permits.** During the Term of this Agreement, Seller shall comply with all applicable federal, state, and local laws and regulations. Seller shall maintain compliance with all permits and licenses described in Section 3.2 of this Agreement. In addition, Seller will obtain, and supply Avista with copies of, any new or additional permits or licenses that may be required for Seller's operations. At least every fifth year after the Effective Date, Seller will update the documentation described in Section 3.2. If at any time Seller fails to maintain compliance with the permits and licenses described in Section 3.2 or this Section, or to provide documentation required by this Section, such failure will be a material breach of this Agreement that may only be cured by Seller submitting to Avista evidence of compliance.

## **10. CURTAILMENT, INTERRUPTION OR REDUCTION OF DELIVERY**

Avista may require Seller to curtail, interrupt or reduce delivery of Net Output if, in accordance with Section 11.2, Avista determines that curtailment, interruption or reduction is necessary because of a Force Majeure event or to protect persons or property from injury or damage, or because of emergencies, necessary system maintenance, system modification or special operating circumstances. Avista will use commercially reasonable efforts to keep any period of curtailment, interruption, or reduction to a minimum. In order not to interfere unreasonably with Seller operations, Avista will, to the extent practical, give Seller reasonable prior notice of any curtailment, interruption, or reduction, the reason for its occurrence and its probable duration. Seller understands and agrees that Avista may not be able to provide notice to Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Avista in emergency circumstances, real-time operations of the electric system, and/or unplanned events.

## **11. OPERATION**

**11.1 Communications and Reporting.** Avista and the Seller shall maintain appropriate operating communications through the Communicating and Reporting Guidelines specified in Exhibit C.

**11.2 Excuse From Acceptance of Delivery of Energy.**

**11.2.1** Avista may curtail, interrupt, reduce or suspend delivery, receipt or acceptance of Net Output if Avista, in its sole discretion, reasonably determines that such curtailment, interruption, reduction or suspension is necessary, consistent with Prudent Utility Practice, and that the failure to do so may:

(a) endanger any person or property, or Avista's electric system, or any electric system with which Avista's system is interconnected;

(b) cause, or contribute to, an imminent significant disruption of electric service to Avista's or another utility's customers;

(c) interfere with any construction, installation, inspection, testing, repair, replacement, improvement, alteration, modification, operation, use or maintenance of, or addition to, Avista's electric system or other property of Avista; or

(d) prevent or interfere with Avista's compliance with any applicable law or regulatory requirement.

**11.2.2** Avista shall promptly notify Seller of the reasons for any such curtailment, interruption, reduction or suspension provided for in Section 11.2. Avista shall use reasonable efforts to limit the duration of any such curtailment, interruption, reduction or suspension.

**11.3 Scheduled Outage.** On or before December 15 prior to each calendar year, Seller shall submit a written proposal of Scheduled Outages for the upcoming calendar year. Such written proposal of Scheduled Outages shall contain the percentage of hours in each calendar month where the Facility is expected to be on Scheduled Outage. Seller may update the annual Scheduled Outages proposal periodically. The Seller in no instance may change Scheduled Outages for the current or following 2 calendar months. Avista and Seller shall mutually agree as to the acceptability of the proposal and any updates or changes to the proposal. The Parties' determination as to the acceptability of Seller's timetable for Scheduled Outages shall take into consideration Prudent Utility Practices, Avista's system requirements and Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed Scheduled Outages. The Parties shall cooperate in determining mutually acceptable times for Scheduled Outages.

**11.4 Seller's Risk.** Seller shall design, construct, own, operate and maintain the Facility at its own risk and expense in compliance with all applicable laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of any governmental authority.

**11.5 Avista's Right to Inspect.** Seller shall permit Avista to inspect and audit the Facility, any related production, delivery and scheduling documentation or the operation, use or maintenance of the Facility at any reasonable time and upon reasonable notice. Seller shall provide Avista reasonable advance notice of any Facility test or inspection performed by or at the direction of Seller.



**11.6 Seller Obligations in Accordance with Prudent Utility Practices.** Seller shall own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow reliable generation and delivery of Net Output to Avista for the full Term of the Agreement, in accordance with Prudent Utility Practices.

## **12. INTERCONNECTION, METERING AND TRANSMISSION**

Seller shall make all necessary arrangements to interconnect its Facility with the electrical system of Avista or another Transmitting Entity. Any required metering for the Facility shall be pursuant to the Interconnection Agreement. To the extent that the Facility is interconnected to the electrical System of a Transmitting Entity other than Avista, Seller shall comply with the requirements of Sections 12.1 through 12.4 of this Agreement.

**12.1** Prior to the commencement of the first delivery of Net Output, Seller shall provide Avista with copies of all executed Transmission Agreements in a form reasonably satisfactory to Avista, providing for the firm transmission of Net Output from the Facility to the Point of Delivery for the Term of this Agreement. Seller shall not consent to any modification of any firm Transmission Agreement without Avista's advance written approval, which approval shall not be unreasonably withheld.

**12.2** In the event that Seller is required to curtail, interrupt or reduce delivery of Net Output to the Point of Delivery, Seller may arrange at its own expense to deliver Net Output to a secondary point of delivery ("Alternate Point of Delivery"), and Avista shall use reasonable commercial efforts to accept Net Output at such Alternate Point of Delivery.

**12.3** The termination, cancellation or expiration of any Transmission Agreement required to deliver electric energy to Avista under this Agreement shall constitute a material breach of this Agreement, and Avista may terminate the Agreement by giving Seller written notice of such termination which shall be effective upon written notice of such termination, cancellation or expiration of the applicable Transmission Agreement.

**12.4** Seller shall be responsible for any and all costs and expenses related to transmission of Net Output to the Point of Delivery under this Agreement, including but not limited to Ancillary Services and any costs or expenses incurred by Avista resulting from the Transmission Agreements including, but not limited to, any charges, reimbursable expenses or other amounts payable by Avista to any Transmitting Entity. Seller shall defend, indemnify and hold harmless, Avista from all claims, losses, harm, liabilities, damages, costs, and expenses including, but not limited to, reasonable attorneys' fees, arising out of any act or omission of Seller in connection with the Transmission Agreements, including, but not limited to, any breach of or default under any of the Transmission Agreements by Seller.

## **13. FORCE MAJEURE**

**13.1** Except as expressly provided in Section 13.6, neither Party shall be liable to the other Party, or be considered to be in breach of or default under this Agreement, for delay in

*Final*  
**03/10/20**

performance due to a cause or condition beyond such Party's reasonable control which despite the exercise of reasonable due diligence, such Party is unable to prevent or overcome ("Force Majeure"), including but not limited to:

(a) fire, flood, earthquake, volcanic activity; court order and act of civil, military or governmental authority; strike, lockout and other labor dispute; riot, insurrection, sabotage or war; unanticipated electrical disturbance originating in or transmitted through such Party's electric system or any electric system with which such Party's system is interconnected; or

(b) an action taken by such Party which is, in the sole judgment of such Party, necessary or prudent to protect the operation, performance, integrity, reliability or stability of such Party's electric system or any electric system with which such Party's electric system is interconnected, whether such actions occur automatically or manually.

**13.2** In the event of a Force Majeure event, the time for performance shall be extended by a period of time reasonably necessary to overcome such delay. Avista shall not be required to pay for Net Output which, as a result of any Force Majeure event, is not delivered.

**13.3** Nothing contained in this Section shall require any Party to settle any strike, lockout or other labor dispute.

**13.4** In the event of a Force Majeure event, the delayed Party shall provide the other Party notice by telephone or email as soon as reasonably practicable and written notice within fourteen days after the occurrence of the Force Majeure event. Such notice shall include the particulars of the occurrence. The suspension of performance shall be of no greater scope and no longer duration than is required by the Force Majeure and the delayed Party shall use its best efforts to remedy its inability to perform.

**13.5** Force Majeure shall include any unforeseen electrical disturbance that prevents any electric energy deliveries from occurring at the Point of Delivery.

**13.6** Notwithstanding anything to the contrary herein, Force Majeure shall not apply to, or excuse any default under, Sections 17.1(a), 17.1(b), 17.1(c), 17.1(d), 17.1(e), 17.1(h) or 17.1(i). For the avoidance of doubt, Avista may declare Seller in Default if an event described in any of Sections 17.1(a), 17.1(b), 17.1(c), 17.1(d), 17.1(e), 17.1(h), or 17.1(i) occurs and Avista may pursue any remedy available to it under this agreement, including draw upon the security posted by Seller pursuant to Section 9.2.

## **14. INDEMNITY**

**14.1** Each Party shall defend, indemnify and hold harmless, the other Party, its directors, officers, employees, and agents (as the "Indemnitee") from and against all claims, demands, causes of action, judgments, liabilities and associated costs and expenses (including reasonable attorney's fees) to the extent arising from or attributable to the performance or non-performance of that Party's (as the "Indemnitor") obligations under this Agreement, including but not limited to,

damage to tangible property and bodily injury or death suffered by any person (including employees of Seller or Avista or the public), provided that:

(a) No Indemnitee shall be indemnified for any loss, liability, injury, or damage resulting from its sole negligence, gross negligence, fraud or willful misconduct; and

(b) The Indemnitor shall be entitled, at its option, to assume and control the defense and any settlement of such suit.

Each indemnity set forth in this Section is a continuing obligation, separate and independent of the other obligations of each Party and shall survive the expiration or termination of this Agreement.

**14.2 SELLER AND AVISTA SPECIFICALLY WARRANT THAT THE TERMS AND CONDITIONS OF THE FOREGOING INDEMNITY PROVISIONS ARE THE SUBJECT OF MUTUAL NEGOTIATION BY THE PARTIES, AND ARE SPECIFICALLY AND EXPRESSLY AGREED TO IN CONSIDERATION OF THE MUTUAL BENEFITS DERIVED UNDER THE TERMS OF THE AGREEMENT.**

**14.3 EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY SHALL BE LIABLE UNDER ANY PROVISION OF THIS AGREEMENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, SAVINGS OR REVENUE, LOSS OF THE USE OF EQUIPMENT, COST OF CAPITAL, OR COST OF TEMPORARY EQUIPMENT OR SERVICES, WHETHER BASED IN WHOLE OR IN PART IN CONTRACT, IN TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY.**

## **15. ASSIGNMENT**

**15.1** Seller shall not assign its rights or delegate its duties under this Agreement without the prior written consent of Avista, which consent shall not be unreasonably withheld. Subject to the foregoing restrictions on assignments, this Agreement shall be fully binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors, heirs and assigns.

**15.2** Seller shall have the right, subject to the obligation to provide security specified in Section 9.2, without Avista's consent, but with a thirty days prior written notice to Avista, to make collateral assignments of its rights under this Agreement to satisfy the requirements of any development, construction, or other reasonable long term financing. A collateral assignment shall not constitute a delegation of Seller's obligations under this Agreement, and this Agreement shall not bind the collateral assignee. Any collateral assignee succeeding to any portion of the ownership interest of Seller shall be considered Seller's successor in interest and shall thereafter be bound by this Agreement.

## **16. NO UNSPECIFIED THIRD PARTY BENEFICIARIES**

There are no third party beneficiaries of this Agreement. Nothing contained in this Agreement is intended to confer any right or interest on anyone other than the Parties, and their respective successors, heirs and assigns permitted under Section 15.

## **17. DEFAULT AND TERMINATION**

**17.1** In addition to any other breach or failure to perform under this Agreement, including without limitation failure to deliver Net Output in the amounts required by this Agreement that is not otherwise excused under this Agreement, each of the following events shall constitute a Default:

- (a) Seller abandons the Facility;
- (b) The Facility ceases to be a Qualifying Facility;
- (c) A Party becomes insolvent (e.g., is unable to meet its obligations as they become due or its liabilities exceed its assets);
- (d) Seller makes a general assignment of substantially all of its assets for the benefit of its creditors, files a petition for bankruptcy or reorganization or seeks other relief under any applicable insolvency laws;
- (e) Seller has filed against it a petition for bankruptcy, reorganization or other relief under any applicable insolvency laws and such petition is not dismissed or stayed within sixty days after it is filed;
- (f) Seller is in default under any Agreement related to this Agreement;
- (g) Termination, cancellation or expiration of any agreement required for Seller to deliver electric energy to Avista under this Agreement, including but not limited to the Transmission Agreement or the Interconnection Agreement;
- (h) Seller has failed to deliver output from the Facility for a period of six consecutive calendar months or a total of 180 calendar days in any calendar year; or
- (i) Seller fails to post the security, or any part thereof, as required by Section 9.2 (if applicable).

**17.2 Notice and Opportunity to Cure.** In the event of a Default, the non-Defaulting Party shall give written notice to the Defaulting Party of a Default in accordance with Section 30. Except as provided in Section 17.1(e), if the Defaulting Party has not cured the breach within thirty days after receipt of such written notice, the non-Defaulting Party may, at its option, terminate this Agreement and/or pursue any remedy available to it in law or equity; *provided* that, if a Default occurs under Sections 5.4, 17.1(a), 17.1(b), 17.1(g), 17.1(h) and/or 17.1(i), Avista may

immediately terminate this Agreement without opportunity to cure, and such termination shall become effective upon written notice of Default.

**17.3 Additional Rights and Remedies.** Any right or remedy afforded to either Party under this Agreement on account of a Default by the other Party is in addition to, and not in lieu of, all other rights or remedies available to such Party under any other provisions of this Agreement, by law or otherwise on account of the Default.

**17.4 Damages.** If this Agreement is terminated as a result of Seller's Default after the Effective Date, Seller shall pay Avista, in addition to other damages, the positive difference, if any, between the applicable Avoided Cost Rate and the cost to replace the Net Output for twelve months beginning on the date of the original Default, plus all associated transmission costs to Avista to acquire such replacement Net Output.

## **18. DISPUTE RESOLUTION**

Each Party shall strive to resolve any and all differences during the term of the Agreement through meetings and discussions. If a dispute cannot be resolved within a reasonable time, not to exceed thirty days, each Party shall escalate the unresolved dispute to a senior officer designated by each Party. If the senior officers are not able to resolve the dispute within ten Business Days of escalation then either Party may either agree to mediate or arbitrate the dispute or request a hearing before the Commission.

## **19. RELEASE BY SELLER**

Seller releases Avista from any and all claims, losses, harm, liabilities, damages, costs and expenses to the extent resulting from any:

**19.1** Electric disturbance or fluctuation that migrates, directly or indirectly, from Avista's electric system to the Facility;

**19.2** Interruption, suspension or curtailment of electric service to the Facility or any other premises owned, possessed, controlled or served by Seller, which interruption, suspension or curtailment is caused or contributed to by the Facility or the interconnection of the Facility;

**19.3** Disconnection, interruption, suspension or curtailment by Avista pursuant to terms of this Agreement or the Interconnection Agreement; or

## **20. GOVERNMENTAL AUTHORITY**

This Agreement is subject to the rules, regulations, orders and other requirements, now or hereafter in effect, of all governmental authorities having jurisdiction over the Facility, this Agreement, the Parties or either of them. All laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of governmental authorities that are required to be incorporated in agreements of this character are by this reference incorporated in this Agreement.

**21. SEVERAL OBLIGATIONS**

The duties, obligations and liabilities of the Parties under this Agreement are intended to be several not joint or collective. This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties. Each Party shall be individually and severally liable for its own obligations under this Agreement. Further, neither Party shall have any rights, power or authority to enter into any agreement or undertaking for or on behalf of, to act as to be an agent or representative of, or to otherwise bind the other Party.

**22. IMPLEMENTATION**

Each Party shall promptly take such action (including, but not limited to, the execution, acknowledgement and delivery of documents) as may be reasonably requested by the other Party for the implementation or continuing performance of this Agreement.

**23. NON-WAIVER**

The failure of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment of such Party's right to assert or rely upon any such provision or right in that or any subsequent instance; rather, the same shall be and remain in full force and effect.

**24. AMENDMENT**

No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written amendment to this Agreement signed by both Parties.

**25. CHOICE OF LAWS AND VENUE**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington without reference to its choice of law provisions.

**26. HEADINGS**

The Section headings in this Agreement are for convenience only and shall not be considered part of or used in the interpretation of this Agreement.

**27. SEVERABILITY**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if the invalid or unenforceable provision were omitted.




- Exhibit B      Avoided Cost Rates
- Exhibit C      Communications and Reporting
- Exhibit D      Independent Engineering Certifications for Construction Adequacy for a Qualifying Facility
- Exhibit E      Initial Capacity Determination Documentation
- Exhibit F      Transmission Agreement
- Exhibit G      Interconnection Agreement
- Exhibit H      Metering
- Exhibit I      Estimated Security Deposit by Year
- Exhibit J      Milestones

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

**SELLER**

By: \_\_\_\_\_  
Printed Name: Benjamin J. Hendrickson\_\_\_\_\_  
Title: President \_\_\_\_\_  
Date: \_\_\_\_\_

**AVISTA CORPORATION**


By:  \_\_\_\_\_  
Printed Name: JASON THACKSTON  
Title: SR VP, ENERGY RESOURCES  
Date: 3/10/2020



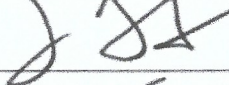
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- Exhibit I      Estimated Security Deposit by Year
- Exhibit J      Milestones

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

**SELLER**

By:   
Printed Name: Benjamin J. Hendrickson  
Title: President  
Date: 3/11/2020

**AVISTA CORPORATION**

By:   
Printed Name: JASON THACKSTON  
Title: SR VP, ENERGY RESOURCES  
Date: 3/10/2020

## Exhibit A

### Project Description and Point of Delivery

#### Description of the Facility:

Seller's Facility is described as Meyers Falls Hydroelectric Project (FERC Project No. 2544) and Meyers Falls 1910 Hydroelectric Project (FERC Project No. 12094) and consists of: Structures and equipment common to the hydroelectric industry with the ability to generate a total nameplate capacity of 1.7 Mw.

#### Location:

Seller's Facility is located: On the Colville River 5 miles upstream of the Columbia River near the City of Kettle Falls, WA having a physical address of 897 Greenwood Loop Rd. Kettle Falls, WA 99141.

#### Point of Delivery:

The point of delivery is Avista's Greenwood Substation.

**Exhibit B**  
**Avoided Cost Rates**

		<b><u>Jan-Feb</u></b>	<b><u>Mar-Jun</u></b>	<b><u>Jul-Dec</u></b>	
	<b><u>2021</u></b>	<u>\$</u> <b>48.94</b>	<u>\$</u> <b>32.62</b>	<u>\$</u> <b>48.94</b>	
	<b><u>2022</u></b>	<u>\$</u> <b>49.92</b>	<u>\$</u> <b>33.28</b>	<u>\$</u> <b>49.92</b>	
	<b><u>2023</u></b>	<u>\$</u> <b>50.92</b>	<u>\$</u> <b>33.95</b>	<u>\$</u> <b>50.92</b>	
	<b><u>2024</u></b>	<u>\$</u> <b>51.94</b>	<u>\$</u> <b>34.63</b>	<u>\$</u> <b>51.94</b>	
	<b><u>2025</u></b>	<u>\$</u> <b>52.98</b>	<u>\$</u> <b>35.32</b>	<u>\$</u> <b>52.98</b>	

**Exhibit C**  
**Communication and Reporting**

(1) Email communications between Seller and Avista shall be submitted to:

Avista: kevin.holland@avistacorp.com; or  
creditmanagement@avistacorp.com

Seller: \_hydrotechnologysystems@gmail.com \_\_\_\_\_  
Alternate: \_bkhendrickson@gmail.com \_\_\_\_\_

(2) All oral communications relating to electric energy scheduling, generation level changes, interruptions or outages between Seller and Avista will be communicated on a recorded line as follows:

(a) Pre-Schedule (5:30 am to 12:00 noon on Business Days):

Avista Pre-Scheduler: (509) 495-4911  
Alternate Phone: (509) 495-4073

Seller: \_(509) 993-7629 \_\_\_\_\_  
Alternate Phone: \_(509) 738-6544 \_\_\_\_\_

(b) Real-Time Schedule (available 24 hours a day)

Avista Real-Time Scheduler: (509) 495-8534

Seller: \_(509) 993-7629 \_\_\_\_\_  
Alternate Phone: \_(509) 738-6544 \_\_\_\_\_

(3) Either Party may change its contact information upon written notice to the other Party.

**Exhibit D**  
N/A  
**Independent Engineering Certification for**  
**Construction Adequacy for a Qualifying Facility**

1. I, \_\_\_\_\_ am a licensed professional engineer registered to practice and in good standing in the State of \_\_\_\_\_. I have substantial experience in the design, construction and operation of electric power plants of the same type as \_\_\_\_\_ (Title of QF) sited at \_\_\_\_\_ in \_\_\_\_\_ County, State of \_\_\_\_\_ (the "Facility").

2. I have reviewed and/or supervised the review of the construction in progress and of the completed Facility and it is my professional opinion that said Facility has been designed and built according to appropriate plans and specifications bearing the words "CERTIFIED FOR ACCEPTANCE" and with the stamp of the certifying licensed professional engineer of the design, and that the Facility was built to commercially acceptable standards for this type of facility.

3. I have no economic relationship to the designer or owner of said Facility and have made my analysis of the plans and specifications independently.

4. I hereby CERTIFY that the above statements are complete, true, and accurate to the best of my knowledge and I therefore set my hand and seal below.

Signed and Sealed

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

**Exhibit E**

**Initial Capacity Determination Documentation**

N/A

**Exhibit F**

**Transmission Agreement**

N/A

Exhibit G

Interconnection Agreement  
On File



**Exhibit H**

**Metering**

See Interconnection Agreement.

1

**Exhibit I**

**Estimated Security Deposit by Year**

N/A

Exhibit J

N/A

**POWER PURCHASE AGREEMENT**

**BETWEEN**

**SHEEP CREEK HYDRO, INC**

**AND**

**AVISTA CORPORATION**

## POWER PURCHASE AGREEMENT

This Agreement is made by and between Avista Corporation, a Washington corporation (“Avista”), and Sheep Creek Hydro, Inc (“Seller”). Avista and Seller are sometimes referred to individually as a “Party” and collectively as the “Parties.”

### RECITALS

WHEREAS, Seller will own, operate and maintain an electric power generating facility with a Nameplate Capacity Rating of five (5) MW Alternating Current (AC) or less, as more fully described in Exhibit A (“Facility”);

WHEREAS, Seller will operate the Facility as a Qualifying Facility, as defined by the Public Utility Regulatory Policies Act of 1978 (“PURPA”); and

WHEREAS, Seller will deliver and sell, and Avista will purchase, output generated from the Facility subject to the terms of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual agreements set forth herein, the Parties agree as follows.

### 1. **DEFINITIONS**

Except as otherwise defined in this Agreement, whenever used in this Agreement and exhibits hereto, the following terms shall have the following meanings:

**1.1 “Agreement”** means this Power Purchase Agreement, including all exhibits, and any written amendments.

**1.2 “Alternate Point of Delivery”** shall have the meaning provided in Section 11.3 of this Agreement.

**1.3 “Ancillary Services”** means those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the electrical systems in accordance with Prudent Utility Practices and any existing or future WECC requirements.

**1.4 “Avoided Cost Rates”** shall have the meaning provided in Section 7.2 or Section 7.3, as applicable, of this Agreement.

**1.5 “aMW”** means average megawatt(s). An average megawatt is calculated by dividing the total generation in MWh over a given period of time (e.g., a calendar month) by the number of hours in that period of time.

**1.6 “Balancing Authority Area”** 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.

**1.7 “Base Energy Amount”** means monthly Net Output less than or equal to 110 percent of the Monthly Net Output Estimate.

**1.8 “Business Day”** means every day other than a Saturday or Sunday or a national holiday. National holidays shall be those holidays observed NERC.

**1.9 Reserved.**

**1.10 “Commercial Operation Date”** means the date upon which all milestones set forth in Exhibit J required to be satisfied prior to achieving commercial operation, including Start-Up Testing, are satisfied. Upon achieving the Commercial Operation Date, Seller shall, within five Business Days, provide Avista written notice of the Commercial Operation Date. Such written notice shall certify that all such milestones were satisfied as of the Commercial Operation Date set forth in such notice.

**1.11 “Commission”** means the Washington Utilities and Transportation Commission, or its successor.

**1.12 Reserved.**

**1.13 “Effective Date”** shall have the meaning provided in Section 4 of this Agreement.

**1.14 “Environmental Attributes”** means any and all certificates, credits, benefits, emissions reductions, environmental air quality credits and emissions reduction credits, offsets and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance attributable to the Facility or the generation of energy by the Facility, and the delivery of such energy to the electricity grid, and include without limitation, any of the same arising out of any current or future 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 (“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 (collectively with any state or federal entity given jurisdiction over a program involving transferability of Environmental Attributes, the “CAMD”), but specifically excluding investment tax credits, production tax credits, and cash grants associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with ownership of the Facility that are applicable to a state or federal income tax obligation, if any. Environmental Attributes also include the reporting rights or Renewable Energy Certificates (“RECs”) associated with these Environmental Attributes. Environmental Attributes include without limitation all “Environmental Attributes” and all “Green Attributes” as those terms are defined in Appendix A-1 and Appendix A-2 of California Public Utilities Commission D. 08-08-028 in R. 06-02-012. RECS are accumulated on a MWh basis and one REC represents the Environmental Attributes associated with one MWh of energy. Environmental

Attributes do not include any energy, capacity, reliability or other power attributes from the Facility.

1.15 “**Excess Energy**” shall have the meaning provided in Section 7.3.4 of this Agreement.

1.16 “**Facility**” means the electric energy generating facilities, including all equipment and structures necessary to generate and supply electric energy, more particularly described at Exhibit A.

1.17 “**Facility Service Power**” means the electric energy generated and used by the Facility during its operation to operate equipment that is auxiliary to primary generation equipment including, but not limited to, pumping, generator excitation, cooling or other operations related to the production of electric energy by the Facility.

1.18 “**Force Majeure**” shall have the meaning provided in Section 13 of this Agreement.

1.19 “**FERC**” means the Federal Energy Regulatory Commission, or its successor.

1.20 “**Independent Engineering Certification**” means certifications detailed in Section 3.3 provided by a professional engineer registered in the state in which the Facility is located, who has no direct or indirect, legal, or equitable ownership interest in the Facility.

1.21 “**Initial Capacity Determination**” shall have the meaning provided in Section 3.4 of this Agreement.

1.22 “**Initial Delivery Date**” shall mean the date upon which Seller first schedules Net Output to Avista pursuant to this Agreement, which shall be June 1, 2021 at 0000 hours.

1.23 “**Initial Year Monthly Net Output Estimates**” shall have the meaning provided in Section 5.1 of this Agreement.

1.24 “**Interconnection Agreement**” means, as applicable, the agreement between Seller and Avista or Seller and a Transmitting Entity that is providing interconnection service which governs how the Net Output is delivered to Avista’s or the Transmitting Entity’s electrical system at the Point of Interconnection during the Term of this Agreement.

1.25 “**Interconnection Facilities**” means all facilities required to connect the Facility to the Point of Interconnection, including connection, transformation, switching, relaying and safety equipment. Interconnection Facilities shall also include all telemetry, metering, cellular telephone, and/or communication equipment required under this Agreement regardless of location.

1.26 “**Losses**” means the loss of electrical energy occurring as a result of the transformation and transmission of energy between the Point of Interconnection and the Point of



Delivery. For purposes of this Agreement, Losses shall equal \_\_\_ percent of the total generation of the Facility as metered at the Facility.

**1.27** “**MW**” means megawatt. One thousand kilowatts equals one megawatt.

**1.28** “**MWh**” means megawatt-hour. One thousand kilowatt-hours equals one megawatt-hour.

**1.29** “**Market Energy Price**” means the PowerDex hourly Mid-Columbia (“Mid-C”) index price, or other mutually agreed to index; *provided, however*, that during any hours in which the Mid-C index price is less than zero, the Market Energy Price shall mean 115 percent (115%) of such index price.

**1.30** “**Monthly Net Output Estimate**” means, as applicable, the Initial Year Monthly Net Output Estimates provided pursuant to Section 5.1 or the Subsequent Monthly Net Output Estimates provided pursuant to Section 5.2.

**1.31** “**Nameplate Capacity Rating**” means the maximum generating capacity of the Facility, as determined by the manufacturer, and expressed in megawatts (MW) or kilowatts (kW).

**1.32** “**NERC**” means the North American Electric Reliability Corporation or its successor.

**1.33** “**Net Output**” means the capability and electric energy generated by the Facility, less Facility Service Power and Losses expressed in megawatt-hours (MWh) or kilowatt-hours (kWh). To the extent that any electric energy is delivered to the Point of Delivery in excess of the Initial Capacity Determination, such electric energy shall be Surplus Energy.

**1.36** “**Operating Year**” means each 12-month period from January 1 through December 31.

**1.37** “**Point of Delivery**” means the location, as specified in Exhibit A of this Agreement, where Seller’s Facility interconnects with Avista’s electrical system or, if the Facility is not interconnected with Avista’s electrical system, the point where the electric energy produced by the Facility is delivered to Avista’s electrical system.

**1.38** “**Point of Interconnection**” means the high voltage side of Seller’s step-up transformer at the point of interconnection between Seller’s Facility and the Transmitting Entity’s electric system, which is commonly referred to as the “busbar.”

**1.39** “**Prudent Utility Practices**” means the practices, methods, and acts commonly and ordinarily used in electrical engineering and operations by a significant portion of the electric power generation and transmission industry, in the exercise of reasonable judgment in the light of the facts known or that should have been known at the time a decision was made, that would have been expected to accomplish the desired result in a manner consistent with law, regulation, reliability, safety, environmental protection, economy, and expedition.

1.40 “**Qualifying Facility**” or “**QF**” means a generating facility which meets the requirements for “QF” status under PURPA and part 292 of FERC’s Regulations, 18 C.F.R. Part 292, and which has obtained certification of its QF status.

1.41 “**Scheduled Commercial Operation Date**” means a date not later than three (3) years after the Effective Date upon which the Facility is scheduled to achieve the Commercial Operation Date.

1.42 “**Scheduled Outage**” means any outage which is scheduled by the Seller to remove electrical or mechanical equipment from service for repair, replacement, maintenance, safety or any other reason, and which thereby limits the generating capability of the Facility to less than the Initial Capacity Determination.

1.43 “**Shortfall Energy**” shall have the meaning provided in section 7.3.3 of this Agreement.

1.44 “**Shortfall Energy Price**” shall mean the price Avista will pay Seller for Shortfall Energy as provided in section 7.3.3 of this Agreement.

1.45 “**Start-Up Testing**” means the start-up tests required by the manufacturer and/or Avista that prove that the Facility is reliably producing electric energy.

1.46 “**Surplus Energy**” means (i) Net Output during any month which exceeds 110 percent of the Monthly Net Output Estimate for the corresponding month; and (ii) any electric energy that is scheduled by Seller and delivered to the Point of Delivery in excess of the Net Output.

1.47 “**Surplus Energy Price**” shall have the meaning provided in section 7.3.2 of this Agreement.

1.48 “**Term**” shall have the meaning provided in Section 4.1 of this Agreement.

1.49 “**Test Energy**” shall mean Net Output during Start-Up Testing and before the Commercial Operation Date.

1.50 “**Transmitting Entity**” means any entity or entities that provide transmission and/or interconnection service to deliver electric energy from the Facility to Avista’s electrical system at the Point of Delivery.

1.51 “**Transmission Agreement**” means any agreement(s) entered into between Seller and a Transmitting Entity under which the Transmitting Entity shall provide firm transmission from the Facility to Point of Delivery for the Term of this Agreement. The Transmission Agreement is attached hereto as Exhibit F.

1.52 “**WECC**” means the Western Electricity Coordinating Council or its successor.

1.53 “**WREGIS**” means the Western Renewable Energy Generation Information System, or a successor.

1.54 “**WREGIS Operating Rules**” means the then current operating rules and requirements adopted by WREGIS, as such rules and requirements may be amended, supplemented or replaced (in whole or in part) from time to time.

## 2. **WARRANTIES**

2.1 **No Warranty by Avista.** Avista makes no warranties, expressed or implied, regarding any aspect of Seller’s design, specifications, equipment or facilities, including, but not limited to, safety, durability, reliability, strength, capacity, adequacy or economic feasibility, and any review, acceptance or failure to review Seller’s design, specifications, equipment or Facility shall not be an endorsement or a confirmation by Avista. Avista assumes no responsibility or obligation with regard to any NERC and/or WECC reliability standard associated with the Facility or the delivery of electric energy from the Facility to the Point of Delivery.

2.2 **Seller’s Warranty.** Seller warrants and represents that: (a) Seller has investigated and determined that it is capable of performing and will perform the obligations hereunder and has not relied upon the advice, experience or expertise of Avista in connection with the transactions contemplated by this Agreement; (b) all professionals and experts including, but not limited to, engineers, attorneys or accountants, that Seller may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Seller; (c) Seller will comply with all applicable laws and regulations and shall obtain and comply with applicable licenses, permits and approvals in the design, construction, operation and maintenance of the Facility; and (d) the Facility is, and during the Term of this Agreement will remain, a Qualifying Facility as that term is used in 18 C.F.R Part 292. Seller’s failure to maintain Qualifying Facility status will be a material breach of this Agreement. Avista reserves the right to review the Seller’s Qualifying Facility status and associated support and compliance documents at any time during the Term of this Agreement.

## 3. **CONDITIONS PRIOR TO DELIVERY OF NET OUTPUT**

3.1. **Time is of the Essence.** Time is of the essence in the performance of this Agreement and Seller understands and agrees that Avista is relying on Seller to meet the requirements of Section 4.2 on or before the Scheduled Commercial Operation Date. Seller understands and agrees that Avista’s acceptance of deliveries of energy from Seller is contingent upon Seller fully satisfying each of the requirements in Section 3 of this Agreement prior to the commencement of the first delivery of Net Output to Avista.

3.2 **Opinion of Counsel.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking “Yes” to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall submit to Avista an opinion letter signed by an attorney admitted to practice and in good standing in the state where the Facility is located providing an opinion that Seller’s licenses, permits and approvals (including, but not limited to, evidence of compliance with Subpart B, 18 C.F.R. § 292.207, tribal, state and local business licenses,

environmental permits, easements, leases and all other required approvals) are legally and validly issued, are held in the name of the Seller, and based on a reasonable independent review, counsel is of the opinion that Seller is in substantial compliance with said permits as of the date of such opinion letter. The opinion letter will be in a form acceptable to Avista and will acknowledge that the attorney rendering the opinion understands that Avista is relying on said opinion. Avista's acceptance of the form shall not be unreasonably withheld.

**3.3 Independent Engineering Certifications.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking "Yes" to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall submit to Avista applicable Independent Engineering Certifications for Construction Adequacy for a Qualifying Facility. The Independent Engineering Certification shall be signed by a licensed professional engineer in good standing submitted in a form acceptable to Avista and will acknowledge that the licensed professional engineer rendering the opinion understands that Avista is relying on said opinion. Avista's acceptance of such forms shall not be unreasonably withheld.

**3.4 Initial Capacity Determination.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking "Yes" to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall submit to Avista the maximum hourly generation capability of the Facility ("Initial Capacity Determination"). Such Initial Capacity Determination shall be determined either by use of the Nameplate Capacity Rating or such other means acceptable to Avista and shall be documented and submitted to Avista by Seller. Such documentation shall include the information listed in Exhibit E. Upon receipt of Seller's Initial Capacity Determination, Avista will review such determination within a reasonable time and, if acceptable to Avista, Avista shall issue to Seller its written approval of the Initial Capacity Determination. If the Initial Capacity Determination submitted by Seller is not acceptable to Avista, Avista will promptly notify Seller that Avista will not accept its Initial Capacity Determination. In such event, Avista shall engage, at Seller's sole expense, an independent qualified consultant to determine the Initial Capacity Determination. During the Term of this Agreement, Seller shall not cause the capacity of the Facility to be greater than the Initial Capacity Determination by any means, including by addition, upgrade, or replacement.

In any event, Seller shall operate the Facility in a manner such that under normal design conditions the Net Output does not exceed 5 MW.

**3.5 Interconnection Agreement.** Prior to the Effective Date, Seller shall provide Avista a copy of its Interconnection Agreement, which shall be attached hereto as Exhibit G.

**3.6 Ancillary Services.** In the event that the Facility is located outside of Avista's Balancing Authority Area, Seller shall be responsible at its sole expense for obtaining any and all necessary Ancillary Services.

**3.7 Insurance; Security.** Prior to the commencement of the first delivery of Net Output to Avista, Seller shall submit to Avista evidence of compliance with Sections 9.1 and 9.2.

**3.8 Network Resource Designation.** Required: Yes\_\_\_ No X If required by

Avista (as indicated by Avista checking “Yes” to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall provide to Avista all data required by Avista to enable the Facility to be designated by Avista as a network resource.

**3.9 Written Acceptance.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking “Yes” to this Section), prior to the commencement of the first delivery of Net Output to Avista, Seller shall request and obtain from Avista written confirmation that all conditions to acceptance of electric energy have been fulfilled. Avista shall use reasonable commercial efforts to promptly provide Seller written confirmation that all conditions to acceptance of electric energy have been fulfilled or provide notice that such conditions have not been fulfilled.

#### **4. TERM OF AGREEMENT**

**4.1** This Agreement shall be effective on the date last signed below or such other date set by Commission order (the “Effective Date”) and shall continue through Dec 31, 2025 (the “Term”), unless otherwise terminated as provided herein.

**4.2** In the event that the Seller fails to achieve the milestones set forth in Exhibit J, including achieving the Commercial Operation Date of the Facility within three (3) years of the Effective date, Avista may terminate this Agreement by providing Seller written notice of termination.

#### **5. NET OUTPUT AMOUNTS**

**5.1 Initial Monthly Net Output Estimates.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking “Yes” to this Section), Seller shall provide to Avista Net Output estimates for each of the twelve consecutive months that begin with the month containing the Initial Delivery Date, counting the month during which the Initial Delivery Date occurs as month one (“Initial Year Monthly Net Output Estimates”). Seller shall provide to Avista such Initial Year Monthly Net Output Estimates by written notice in accordance with Section 30 no later than thirty (30) calendar days prior to the commencement of the first delivery of Net Output to Avista.

**5.2 Subsequent Monthly Net Output Estimates.** Required: Yes\_\_\_ No X If required by Avista (as indicated by Avista checking “Yes” to this Section), at the end of month three following the Initial Delivery Date, and at the end of every month thereafter, Seller shall provide to Avista Net Output estimates pertaining to each additional consecutive month for which Seller has not yet delivered to Avista Net Output estimates. Seller shall provide such Net Output estimates to Avista by written notice in accordance with Section 30, no later than 5:00 p.m. of the last Business Day of the month during which they are required to be provided.

**5.3 Content of Net Output Estimates.** All Net Output estimates shall be expressed in kilowatt-hours by month.

**5.4 Failure to Provide Net Output Estimates.** In the event that Seller fails to provide Monthly Output Estimates when required herein, Avista may determine the Monthly Net Output

Estimates pertaining to such month or months, and the Monthly Net Output Estimates determined by Avista shall be binding for purposes of the Agreement as though they were prepared by Seller and provided to Avista as required by the Agreement. Failure of Seller to provide any required Monthly Output Estimates for three (3) consecutive months shall be a material breach of this Agreement and Avista may, in its sole discretion, terminate this Agreement.

**5.5 Avista Adjustment of Monthly Net Output Estimate.** If, pursuant to Section 10 or 11.2, Avista is excused from accepting the Seller's Net Output, the Monthly Net Output Estimate for the specific month in which the reduction or suspension occurs will be reduced by an amount commensurate to such curtailment (the Monthly Net Output Estimated as adjusted is referred to as the "Adjusted Net Output"). This Adjusted Net Output estimate will be used in applicable Surplus Energy calculations for only the specific month in which Avista was excused from accepting the Net Output or the Seller's Declared Suspension of Net Output.

**5.6** Unless excused by an event of Force Majeure or due to Avista curtailments pursuant to Section 10 or 11.2, Seller's failure to deliver Net Output in any Operating Year in an amount equal to at least ten percent of the sum of the Initial Year Monthly Net Output Estimates as specified pursuant to Section 5.1 shall constitute a material breach of this Agreement.

## **6. SCHEDULING**

**6.1** This Section 6 shall only apply to a Facility that is not directly interconnected to Avista's electrical system. To the extent that the Facility is directly interconnected to Avista's electrical system, the provisions of this Section 6 are not applicable. **6.2** Seller is responsible for supplying day(s)-ahead energy pre-schedules for each hour. Such schedules will, to the extent practical, be based on the anticipated actual generation of the Facility for each such hour. Seller shall submit energy pre-schedules for the next Business Day by email, or by other mutually agreed upon means, to Avista no later than 5:30 am on the Business Day immediately preceding the day on which energy deliveries are to be made; *provided, however*, that for estimates of deliveries on weekends and holidays (as defined by NERC), Seller and Avista shall follow scheduling procedures in accordance with then-current standard scheduling practices.

**6.3** Seller shall create an electronic tag (e-Tag) that reflects the day-ahead hourly estimate no later than 2:00 pm on the Business Day immediately preceding the day on which energy deliveries are to be made; *provided, however*, that for estimates of deliveries on weekends and holidays (as defined by NERC), Seller and Avista shall follow scheduling procedures in accordance with then current standard scheduling practices.

**6.4** The day-ahead estimate shall be provided for preschedule purposes and shall not restrict Seller's right to submit revised hour-ahead schedules as provided herein. At least ninety (90) minutes prior to the start of each delivery hour during the delivery Business Day, Seller shall provide Avista with an updated electric tag (e-Tag) that reflects the firm schedule for that delivery hour. Seller shall pay any energy imbalance charges or penalties imposed by the Transmission Entity on the delivery of the Net Output to the Point of Delivery.

**6.6** Email contact information with regard to pre-scheduling and telephone contact information with regard to generation level changes, interruptions or outages are specified in Exhibit C, Communication and Reporting.

**6.7** Should circumstances change in the WECC or WECC sub-region, within which Avista operates its electric system, dictate that scheduling protocols or timing of schedule notifications need to conform, then the Parties agree to negotiate in good faith to a mutually agreed modification of this Section 6 as necessary.

## **7. PURCHASE PRICES AND PAYMENT**

**7.1 Seller Election.** By checking the applicable space below, Seller elects to provide energy or capacity generated by the Facility to Buyer:

7.1.1  Pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the Seller exercised prior to the beginning of the specified term, be based on either:

(i)  The avoided costs calculated at the time of delivery; or

(ii)  The avoided costs calculated at the time the obligation is incurred.

7.1.2  As Seller determines energy generated by the Facility is available for sale to Buyer.

**7.2 Avoided Costs Calculated at the Time of Delivery.** To the extent that Seller elects to provide energy or capacity, as applicable, generated by the Facility to Buyer pursuant to Section 7.1.1(i) or Section 7.1.2, the rate to be paid to Seller shall be the avoided costs calculated at the time of delivery ("Avoided Cost Rates"), which shall, for each hour in which Seller delivers energy to Buyer at the Point of Delivery, the Market Energy Price for such hour expressed in \$ per kWh multiplied by the total kWh delivered to Buyer at the Point of Delivery for such hour.

**7.3 Avoided Costs Calculated at the Time the Obligation is Incurred.** To the extent that Seller elects to provide energy or capacity, as applicable, generated by the Facility to Buyer pursuant to Section 7.1.1, Seller shall, except when either Party's performance is excused as provided herein, for the Term of this Agreement, deliver all Net Output from the Facility to Avista at the Point of Delivery. For all Net Output delivered to Avista at the Point of Delivery, Avista shall pay the applicable rate specified in Sections 7.2, 7.3.1, 7.3.2, 7.3.3, 7.3.4 and 7.3.5 of this Agreement.

7.3.1 **Base Energy.** For all Base Energy delivered to Avista at the Point of Delivery, Avista shall pay Seller the applicable rate based upon its published Avoided Cost Rates as specified in Exhibit B ("the Avoided Cost Rates"). This Section 7.3.1 shall only apply to the to a Seller that elects to provide energy or capacity generated by its Facility pursuant to Section

7.1.1(ii) and will not apply to a Seller that elects to sell energy generated by the Facility pursuant to Sections 7.1.1(i) or 7.1.2.

- 7.3.2 Surplus Energy. For all Surplus Energy delivered to Avista at the Point of Delivery, Avista shall pay Seller the lower of the Market Energy Price or the Avoided Cost Rate specified in Exhibit B (“Surplus Energy Price”). This Section 7.3.2 shall only apply to the to a Seller that elects to provide energy or capacity generated by its Facility pursuant to Section 7.1.1(ii) and will not apply to a Seller that elects to sell energy generated by the Facility pursuant to Sections 7.1.1(i) or 7.1.2.
- 7.3.3 Shortfall Energy. Except to the extent due to Force Majeure event or Avista curtailment pursuant to Section 10 or 11.2, if the month’s Net Output is less than 90 percent of the Monthly Net Output Estimate for the corresponding month, Shortfall Energy will be the difference between 90 percent of the Monthly Net Output Estimate and the same month’s actual Net Output delivered to Avista at the Point of Delivery. For all Shortfall Energy delivered to Avista at the Point of Delivery, Avista shall pay the lower of the Market Energy Price or the Avoided Cost Rate specified in Exhibit B (“Shortfall Energy Price”). This Section 7.3.3 shall only apply to the to a Seller that elects to provide energy or capacity generated by its Facility pursuant to Section 7.1.1(ii) and will not apply to a Seller that elects to sell energy generated by the Facility pursuant to Sections 7.1.1(i) or 7.1.2.
- 7.3.4 Excess Energy. Excess Energy is Net Output, expressed in MWh, which Seller delivers to Avista at the Point of Delivery that exceeds a delivery rate in excess of 5 MW. Avista, at its sole discretion, may accept Excess Energy, but Avista will not pay for any Excess Energy. Where Avista does not elect to accept Excess Energy, and Seller delivers such energy after notification by Avista in accordance with Exhibit C, Seller shall pay Avista liquidated damages equal to \$100 per MWh of Excess Energy delivered to Avista. The Parties agree that the damages that Avista would incur due to Seller’s delivery of Excess Energy when Avista does not elect to accept Excess Energy would be difficult or impossible to predict with certainty and the liquidated damages contemplated by this provision are a fair and reasonable calculation of such damages and are not a penalty.
- 7.3.5 Test Energy. For all Test Energy delivered to Avista at the Point of Delivery, Avista shall pay the lower of 85 percent of the Market Energy Price or the Avoided Cost Rate specified in Exhibit B.

**7.4 Payments to Seller.** Avista shall prepare and submit to Seller monthly statements during the Term of the Agreement based upon Net Output delivered to Avista during the previous month. Payments owed by Avista shall be paid no later than the 20<sup>th</sup> day of the month following the end of the monthly billing period or five days after the receipt of a monthly statement,



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whichever is later. If the due date falls on a non-Business Day, then the payment shall be due on the next Business Day.

**7.5 Payments to Avista and Right of Set Off.** If Seller is obligated to make any payment or refund to Avista, Seller agrees that Avista may set off such payment or refund amount against any current or future payments due Seller under this Agreement. If Avista does not elect to set off, or if no current or future payment is owed by Avista, Avista shall submit an invoice to Seller for such payments. Seller shall pay Avista no later than the 20<sup>th</sup> day of the month following the end of the monthly billing period or five days after the receipt of a monthly statement, whichever is later. If the due date falls on a non-Business Day, then the payment shall be due on the next Business Day.

**7.6 Interest.** In addition to the remedies set forth in Section 17 of this Agreement, any amounts owing after the due date specified in Sections 7.4 and 7.5 will be subject to interest in the amount of one and one half percent (1.5%) per month, not to exceed the maximum rate allowed by the law, multiplied by the unpaid balance.

**7.7 Wire Transfer.** All payments shall be made by ACH or wire transfer in accordance with further agreement of the Parties.

**7.8 Title and Risk of Loss.** As between the Parties, Seller shall be deemed to be in control of the output from the Facility, including any Environmental Attributes, up to and until delivery to and receipt by Avista at the Point of Delivery and Avista shall be deemed to be in control of the Net Output and, if Section 8.1 is checked, Environmental Attributes delivered to Avista.

## **8. ENVIRONMENTAL ATTRIBUTES**

### **8.1 Ownership of Environmental Attributes.**

\_\_\_\_\_ The Avoided Cost Rates set forth in Section 7.2 or Section 7.3, as applicable, is a standard rate based on the avoided capacity costs of an eligible renewable resource as defined in RCW 19.285.030 and, therefore, such Avoided Cost Rates include compensation for all Environmental Attributes associated with output of the Facility.

If this Section 8.1 is checked above, then to the full extent allowed by applicable laws or regulations, Avista shall own or be entitled to claim all Environmental Attributes associated with such output. To the extent necessary, Seller shall assign to Avista all rights, title and authority necessary for Avista to register, own, hold and manage such Environmental Attributes in Avista's own name and to Avista's account, including any rights associated with WREGIS (or any other renewable energy information or tracking system that may be established) with regard to monitoring, tracking, certifying, or trading such Environmental Attributes. The Environmental Attributes to be transferred to Avista hereunder will be sourced from the Facility. Seller shall take all reasonable steps, at Seller's expense, required to obtain and maintain tradable renewable

certification, including Green-e, California Energy Commission, or other similar certification for the Facility and/or the Gross Facility Output.

**8.2 Transfers.** To the extent that Avista is to own any Environmental Attributes in accordance with Section 8.1 of this Agreement, Seller shall transfer all such Environmental Attributes to Avista on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Seller shall comply with all laws, including, without limitation, the WREGIS Operating Rules, regarding the certification and transfer of such Environmental Attributes to Avista and Avista shall be given sole title to all such Environmental Attributes. Seller warrants that upon delivery to Avista, the Environmental Attributes will be free and clear of all liens, security interests, claims and encumbrances. Upon request of Avista, Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that such Environmental Attributes are issued and tracked for purposes of satisfying state renewable portfolio standard requirements, including Washington State's Energy Independence Act requirements, and are transferred in a timely manner to Avista.

**8.3 Changes to WREGIS.** If the WREGIS Operating Rules are changed or replaced after the Effective Date, WREGIS applies the WREGIS Operating Rules in a manner inconsistent with Section 8.2 after the Effective Date, or WREGIS is eliminated or replaced, the Parties promptly shall modify Section 8.2 as reasonably required to cause and enable Seller to transfer Environmental Attributes to Avista (to the extent required by Sections 8.1 and 8.2), including but not limited to those modifications reasonably required to cause and enable Seller to transfer to Avista's WREGIS Account the Environmental Attributes that are required to be transferred to Avista for each given calendar month under this Agreement.

## **9. INSURANCE; SECURITY; CONTINUING OBLIGATIONS**

**9.1 Insurance.** Prior to the commencement of the first delivery of Net Output to Avista, Seller, at its own cost, shall obtain and maintain the following insurance in force over the term of this Agreement and shall provide certificates of all insurance policies. All insurance policies required to fulfill the requirements of this Section 9 shall include language requiring that any notice of cancellation or notice of change in policy terms be sent to Avista by the insurance carrier(s) at least sixty days prior to any change or termination of the policies.

**9.1.1 General Liability.** Required: Yes X No \_\_\_ If required by Avista (as indicated by Avista checking "Yes" to this Section), Seller shall carry commercial general liability insurance for bodily injury and property damage with a minimum limit equal to \$2,000,000. The deductible shall not exceed the Seller's financial ability to cover claims and shall not be greater than prevailing practices for similar operations in the State of Washington.

**9.1.2 Property.** Required: Yes \_\_\_ No X If required by Avista (as indicated by Avista checking "Yes" to this Section), Seller shall carry all-risk property insurance for repair or replacement of the Facility. The limit of property insurance shall be sufficient to restore operations in the event of reasonably foreseeable losses from natural, operational, mechanical and human-caused perils. The deductible shall not exceed the Seller's financial

ability to fund the cost of losses and shall not be greater than prevailing practices for similar operations in the State of Washington.

**9.1.3 Qualifying Insurance.** The insurance coverage required by this Section 9 shall be obtained from an insurance company reasonably acceptable to Avista and shall include an endorsement naming Avista as an additional insured and loss payee as applicable.

**9.1.4 Notice of Loss or Lapse of Insurance by Seller.** If the insurance coverage required by this Section 9 is lost or lapses for any reason, Seller will immediately notify Avista in writing of such loss or lapse. Such notice shall advise Avista of (i) the reason for such loss or lapse and (ii) the steps Seller is taking to replace or reinstate coverage. Seller's failure to provide the notice required by this Section and/or to promptly replace or reinstate coverage will constitute a material breach of this Agreement

**9.2 Security.** To the extent that the applicable Avoided Cost Rate in Exhibit B is a levelized rate, Seller shall provide security to Avista for the Term of this Agreement in accordance with this Section.

**9.1.1** Prior to delivering any output from the Facility pursuant to this Agreement, Seller shall provide Avista a cash deposit, or other form of security that is acceptable to Avista, that represents the difference between the levelized payment Avista will pay and the non-levelized payment that Avista would have paid as shown in Exhibit I, Estimated Security Deposit by Year. Once a year by the first day of each Contract Year the amount will be re-calculated to reflect actual volumes from the prior year and estimated volumes for the current year. Within 30 days of the date such calculation is provided to Seller, Seller will increase the security deposit to reflect such calculation or, if the required security is reduced, Avista will provide a refund of any cash security that exceeds the amount Seller is required to deposit with Avista for that Contract Year.

**9.1.2** Avista will hold this security deposit in its account in a domestic bank (or a domestic branch of a foreign bank) that has a senior debt rating of at least "A-" (or its equivalent) from Standard and Poor's, Moody's, Fitch, DBRS or CBRS. Avista will pay daily interest on the amount deposited on a monthly basis based on the Fed Funds rate as reported by the Federal Reserve Bank of New York at <https://apps.newyorkfed.org/markets/autorates/fed%20funds>.

In the event of default as defined in Section 17 or early termination due to failure to perform, Avista is entitled to retain the security provided pursuant to this Section.

**9.3 Continuing Obligations.** For the Term of this Agreement, Seller will provide Avista with the following:

**9.3.1 Insurance.** Upon Avista's request, Seller shall provide Avista evidence of compliance with the provisions of Section 9.1. If Seller fails to comply, such failure will be a material breach and may only be cured by Seller promptly supplying evidence that the required insurance coverage has been replaced or reinstated.

**9.3.2 Engineer's Certification.** If requested by Avista, Seller will supply Avista with a Certification of Ongoing Operations and Maintenance from a Registered Professional Engineer licensed in the state in which the Facility is located, which certification shall be in the form specified in Exhibit D. Seller's failure to supply the certificate required by this Section 9.3.2 will be a material breach that may only be cured by Seller promptly providing the required certificate. Avista may request the Certification of Ongoing Operations and Maintenance required by this Section once in any three-year period during the Term.

**9.3.3 Licenses and Permits.** During the Term of this Agreement, Seller shall comply with all applicable federal, state, and local laws and regulations. Seller shall maintain compliance with all permits and licenses described in Section 3.2 of this Agreement. In addition, Seller will obtain, and supply Avista with copies of, any new or additional permits or licenses that may be required for Seller's operations. At least every fifth year after the Effective Date, Seller will update the documentation described in Section 3.2. If at any time Seller fails to maintain compliance with the permits and licenses described in Section 3.2 or this Section, or to provide documentation required by this Section, such failure will be a material breach of this Agreement that may only be cured by Seller submitting to Avista evidence of compliance.

## **10. CURTAILMENT, INTERRUPTION OR REDUCTION OF DELIVERY**

Avista may require Seller to curtail, interrupt or reduce delivery of Net Output if, in accordance with Section 11.2, Avista determines that curtailment, interruption or reduction is necessary because of a Force Majeure event or to protect persons or property from injury or damage, or because of emergencies, necessary system maintenance, system modification or special operating circumstances. Avista will use commercially reasonable efforts to keep any period of curtailment, interruption, or reduction to a minimum. In order not to interfere unreasonably with Seller operations, Avista will, to the extent practical, give Seller reasonable prior notice of any curtailment, interruption, or reduction, the reason for its occurrence and its probable duration. Seller understands and agrees that Avista may not be able to provide notice to Seller prior to interruption, curtailment, or reduction of electrical energy deliveries to Avista in emergency circumstances, real-time operations of the electric system, and/or unplanned events.

## **11. OPERATION**

**11.1 Communications and Reporting.** Avista and the Seller shall maintain appropriate operating communications through the Communicating and Reporting Guidelines specified in Exhibit C.

### **11.2 Excuse From Acceptance of Delivery of Energy.**

**11.2.1** Avista may curtail, interrupt, reduce or suspend delivery, receipt or acceptance of Net Output if Avista, in its sole discretion, reasonably determines that such curtailment, interruption, reduction or suspension is necessary, consistent with Prudent Utility Practice, and that the failure to do so may:

(a) endanger any person or property, or Avista's electric system, or any electric system with which Avista's system is interconnected;

(b) cause, or contribute to, an imminent significant disruption of electric service to Avista's or another utility's customers;

(c) interfere with any construction, installation, inspection, testing, repair, replacement, improvement, alteration, modification, operation, use or maintenance of, or addition to, Avista's electric system or other property of Avista; or

(d) prevent or interfere with Avista's compliance with any applicable law or regulatory requirement.

**11.2.2** Avista shall promptly notify Seller of the reasons for any such curtailment, interruption, reduction or suspension provided for in Section 11.2. Avista shall use reasonable efforts to limit the duration of any such curtailment, interruption, reduction or suspension.

**11.3 Scheduled Outage.** On or before December 15 prior to each calendar year, Seller shall submit a written proposal of Scheduled Outages for the upcoming calendar year. Such written proposal of Scheduled Outages shall contain the percentage of hours in each calendar month where the Facility is expected to be on Scheduled Outage. Seller may update the annual Scheduled Outages proposal periodically. The Seller in no instance may change Scheduled Outages for the current or following 2 calendar months. Avista and Seller shall mutually agree as to the acceptability of the proposal and any updates or changes to the proposal. The Parties' determination as to the acceptability of Seller's timetable for Scheduled Outages shall take into consideration Prudent Utility Practices, Avista's system requirements and Seller's preferred schedule. Neither Party shall unreasonably withhold acceptance of the proposed Scheduled Outages. The Parties shall cooperate in determining mutually acceptable times for Scheduled Outages.

**11.4 Seller's Risk.** Seller shall design, construct, own, operate and maintain the Facility at its own risk and expense in compliance with all applicable laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of any governmental authority.

**11.5 Avista's Right to Inspect.** Seller shall permit Avista to inspect and audit the Facility, any related production, delivery and scheduling documentation or the operation, use or maintenance of the Facility at any reasonable time and upon reasonable notice. Seller shall provide Avista reasonable advance notice of any Facility test or inspection performed by or at the direction of Seller.

**11.6 Seller Obligations in Accordance with Prudent Utility Practices.** Seller shall own, operate and maintain the Facility and any Seller-owned Interconnection Facilities so as to allow reliable generation and delivery of Net Output to Avista for the full Term of the Agreement, in accordance with Prudent Utility Practices.

## **12. INTERCONNECTION, METERING AND TRANSMISSION**

Seller shall make all necessary arrangements to interconnect its Facility with the electrical system of Avista or another Transmitting Entity. Any required metering for the Facility shall be pursuant to the Interconnection Agreement. To the extent that the Facility is interconnected to the electrical System of a Transmitting Entity other than Avista, Seller shall comply with the requirements of Sections 12.1 through 12.4 of this Agreement.

**12.1** Prior to the commencement of the first delivery of Net Output, Seller shall provide Avista with copies of all executed Transmission Agreements in a form reasonably satisfactory to Avista, providing for the firm transmission of Net Output from the Facility to the Point of Delivery for the Term of this Agreement. Seller shall not consent to any modification of any firm Transmission Agreement without Avista's advance written approval, which approval shall not be unreasonably withheld.

**12.2** In the event that Seller is required to curtail, interrupt or reduce delivery of Net Output to the Point of Delivery, Seller may arrange at its own expense to deliver Net Output to a secondary point of delivery ("Alternate Point of Delivery"), and Avista shall use reasonable commercial efforts to accept Net Output at such Alternate Point of Delivery.

**12.3** The termination, cancellation or expiration of any Transmission Agreement required to deliver electric energy to Avista under this Agreement shall constitute a material breach of this Agreement, and Avista may terminate the Agreement by giving Seller written notice of such termination which shall be effective upon written notice of such termination, cancellation or expiration of the applicable Transmission Agreement.

**12.4** Seller shall be responsible for any and all costs and expenses related to transmission of Net Output to the Point of Delivery under this Agreement, including but not limited to Ancillary Services any costs or expenses incurred by Avista resulting from the Transmission Agreements including, but not limited to, any charges, reimbursable expenses or other amounts payable by Avista to any Transmitting Entity. Seller shall defend, indemnify and hold harmless, Avista from all claims, losses, harm, liabilities, damages, costs, and expenses including, but not limited to, reasonable attorneys' fees, arising out of any act or omission of Seller in connection with the Transmission Agreements, including, but not limited to, any breach of or default under any of the Transmission Agreements by Seller.

## **13. FORCE MAJEURE**

**13.1** Except as expressly provided in Section 13.6, neither Party shall be liable to the other Party, or be considered to be in breach of or default under this Agreement, for delay in performance due to a cause or condition beyond such Party's reasonable control which despite the exercise of reasonable due diligence, such Party is unable to prevent or overcome ("Force Majeure"), including but not limited to:

(a) fire, flood, earthquake, volcanic activity; court order and act of civil, military or governmental authority; strike, lockout and other labor dispute; riot, insurrection, sabotage or war; unanticipated electrical disturbance originating in or transmitted through such Party's electric system or any electric system with which such Party's system is interconnected; or

(b) an action taken by such Party which is, in the sole judgment of such Party, necessary or prudent to protect the operation, performance, integrity, reliability or stability of such Party's electric system or any electric system with which such Party's electric system is interconnected, whether such actions occur automatically or manually.

**13.2** In the event of a Force Majeure event, the time for performance shall be extended by a period of time reasonably necessary to overcome such delay. Avista shall not be required to pay for Net Output which, as a result of any Force Majeure event, is not delivered.

**13.3** Nothing contained in this Section shall require any Party to settle any strike, lockout or other labor dispute.

**13.4** In the event of a Force Majeure event, the delayed Party shall provide the other Party notice by telephone or email as soon as reasonably practicable and written notice within fourteen days after the occurrence of the Force Majeure event. Such notice shall include the particulars of the occurrence. The suspension of performance shall be of no greater scope and no longer duration than is required by the Force Majeure and the delayed Party shall use its best efforts to remedy its inability to perform.

**13.5** Force Majeure shall include any unforeseen electrical disturbance that prevents any electric energy deliveries from occurring at the Point of Delivery.

**13.6** Notwithstanding anything to the contrary herein, Force Majeure shall not apply to, or excuse any default under, Sections 17.1(a), 17.1(b), 17.1(c), 17.1(d), 17.1(e), 17.1(h) or 17.1(i). For the avoidance of doubt, Avista may declare Seller in Default if an event described in any of Sections 17.1(a), 17.1(b), 17.1(c), 17.1(d), 17.1(e), 17.1(h), or 17.1(i) occurs and Avista may pursue any remedy available to it under this agreement, including draw upon the security posted by Seller pursuant to Section 9.2.

## **14. INDEMNITY**

**14.1** Each Party shall defend, indemnify and hold harmless, the other Party, its directors, officers, employees, and agents (as the "Indemnitee") from and against all claims, demands, causes of action, judgments, liabilities and associated costs and expenses (including reasonable attorney's fees) to the extent arising from or attributable to the performance or non-performance of that Party's (as the "Indemnitor") obligations under this Agreement, including but not limited to, damage to tangible property and bodily injury or death suffered by any person (including employees of Seller or Avista or the public), provided that:

(a) No Indemnitee shall be indemnified for any loss, liability, injury, or damage resulting from its sole negligence, gross negligence, fraud or willful misconduct; and

(b) The Indemnitor shall be entitled, at its option, to assume and control the defense and any settlement of such suit.

Each indemnity set forth in this Section is a continuing obligation, separate and independent of the other obligations of each Party and shall survive the expiration or termination of this Agreement.

**14.2 SELLER AND AVISTA SPECIFICALLY WARRANT THAT THE TERMS AND CONDITIONS OF THE FOREGOING INDEMNITY PROVISIONS ARE THE SUBJECT OF MUTUAL NEGOTIATION BY THE PARTIES, AND ARE SPECIFICALLY AND EXPRESSLY AGREED TO IN CONSIDERATION OF THE MUTUAL BENEFITS DERIVED UNDER THE TERMS OF THE AGREEMENT.**

**14.3 EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY SHALL BE LIABLE UNDER ANY PROVISION OF THIS AGREEMENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, SAVINGS OR REVENUE, LOSS OF THE USE OF EQUIPMENT, COST OF CAPITAL, OR COST OF TEMPORARY EQUIPMENT OR SERVICES, WHETHER BASED IN WHOLE OR IN PART IN CONTRACT, IN TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY.**

## **15. ASSIGNMENT**

**15.1** Seller shall not assign its rights or delegate its duties under this Agreement without the prior written consent of Avista, which consent shall not be unreasonably withheld. Subject to the foregoing restrictions on assignments, this Agreement shall be fully binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors, heirs and assigns.

**15.2** Seller shall have the right, subject to the obligation to provide security specified in Section 9.2, without Avista's consent, but with a thirty days prior written notice to Avista, to make collateral assignments of its rights under this Agreement to satisfy the requirements of any development, construction, or other reasonable long term financing. A collateral assignment shall not constitute a delegation of Seller's obligations under this Agreement, and this Agreement shall not bind the collateral assignee. Any collateral assignee succeeding to any portion of the ownership interest of Seller shall be considered Seller's successor in interest and shall thereafter be bound by this Agreement.

## **16. NO UNSPECIFIED THIRD PARTY BENEFICIARIES**

There are no third party beneficiaries of this Agreement. Nothing contained in this Agreement is intended to confer any right or interest on anyone other than the Parties, and their respective successors, heirs and assigns permitted under Section 15.



## **17. DEFAULT AND TERMINATION**

**17.1** In addition to any other breach or failure to perform under this Agreement, including without limitation failure to deliver Net Output in the amounts required by this Agreement that is not otherwise excused under this Agreement, each of the following events shall constitute a Default:

- (a) Seller abandons the Facility;
- (b) The Facility ceases to be a Qualifying Facility;
- (c) A Party becomes insolvent (e.g., is unable to meet its obligations as they become due or its liabilities exceed its assets);
- (d) Seller makes a general assignment of substantially all of its assets for the benefit of its creditors, files a petition for bankruptcy or reorganization or seeks other relief under any applicable insolvency laws;
- (e) Seller has filed against it a petition for bankruptcy, reorganization or other relief under any applicable insolvency laws and such petition is not dismissed or stayed within sixty days after it is filed;
- (f) Seller is in default under any Agreement related to this Agreement;
- (g) Termination, cancellation or expiration of any agreement required for Seller to deliver electric energy to Avista under this Agreement, including but not limited to the Transmission Agreement or the Interconnection Agreement;
- (h) Seller has failed to deliver output from the Facility for a period of six consecutive calendar months or a total of 180 calendar days in any calendar year; or
- (i) Seller fails to post the security, or any part thereof, as required by Section 9.2 (if applicable).

**17.2 Notice and Opportunity to Cure.** In the event of a Default, the non-Defaulting Party shall give written notice to the Defaulting Party of a Default in accordance with Section 30. Except as provided in Section 17.1(e), if the Defaulting Party has not cured the breach within thirty days after receipt of such written notice, the non-Defaulting Party may, at its option, terminate this Agreement and/or pursue any remedy available to it in law or equity; *provided* that, if a Default occurs under Sections 5.4, 17.1(a), 17.1(b), 17.1(g), 17.1(h) and/or 17.1(i), Avista may immediately terminate this Agreement without opportunity to cure, and such termination shall become effective upon written notice of Default.

**17.3 Additional Rights and Remedies.** Any right or remedy afforded to either Party under this Agreement on account of a Default by the other Party is in addition to, and not in lieu

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of, all other rights or remedies available to such Party under any other provisions of this Agreement, by law or otherwise on account of the Default.

**17.4 Damages.** If this Agreement is terminated as a result of Seller's Default after the Effective Date, Seller shall pay Avista, in addition to other damages, the positive difference, if any, between the applicable Avoided Cost Rate and the cost to replace the Net Output for twelve months beginning on the date of the original Default, plus all associated transmission costs to Avista to acquire such replacement Net Output.

## **18. DISPUTE RESOLUTION**

Each Party shall strive to resolve any and all differences during the term of the Agreement through meetings and discussions. If a dispute cannot be resolved within a reasonable time, not to exceed thirty days, each Party shall escalate the unresolved dispute to a senior officer designated by each Party. If the senior officers are not able to resolve the dispute within ten Business Days of escalation then either Party may either agree to mediate or arbitrate the dispute or request a hearing before the Commission.

## **19. RELEASE BY SELLER**

Seller releases Avista from any and all claims, losses, harm, liabilities, damages, costs and expenses to the extent resulting from any:

**19.1** Electric disturbance or fluctuation that migrates, directly or indirectly, from Avista's electric system to the Facility;

**19.2** Interruption, suspension or curtailment of electric service to the Facility or any other premises owned, possessed, controlled or served by Seller, which interruption, suspension or curtailment is caused or contributed to by the Facility or the interconnection of the Facility;

**19.3** Disconnection, interruption, suspension or curtailment by Avista pursuant to terms of this Agreement or the Interconnection Agreement; or

## **20. GOVERNMENTAL AUTHORITY**

This Agreement is subject to the rules, regulations, orders and other requirements, now or hereafter in effect, of all governmental authorities having jurisdiction over the Facility, this Agreement, the Parties or either of them. All laws, ordinances, rules, regulations, orders and other requirements, now or hereafter in effect, of governmental authorities that are required to be incorporated in agreements of this character are by this reference incorporated in this Agreement.

## **21. SEVERAL OBLIGATIONS**

The duties, obligations and liabilities of the Parties under this Agreement are intended to be several not joint or collective. This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties. Each Party shall be individually and severally liable for its own obligations under this Agreement. Further, neither Party shall have any rights, power or authority to enter into any agreement or undertaking for or on behalf of, to act as to be an agent or representative of, or to otherwise bind the other Party.

**22. IMPLEMENTATION**

Each Party shall promptly take such action (including, but not limited to, the execution, acknowledgement and delivery of documents) as may be reasonably requested by the other Party for the implementation or continuing performance of this Agreement.

**23. NON-WAIVER**

The failure of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment of such Party's right to assert or rely upon any such provision or right in that or any subsequent instance; rather, the same shall be and remain in full force and effect.

**24. AMENDMENT**

No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written amendment to this Agreement signed by both Parties.

**25. CHOICE OF LAWS AND VENUE**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington without reference to its choice of law provisions.

**26. HEADINGS**

The Section headings in this Agreement are for convenience only and shall not be considered part of or used in the interpretation of this Agreement.

**27. SEVERABILITY**

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, and this Agreement shall be construed in all respects as if the invalid or unenforceable provision were omitted.

**28. COUNTERPARTS**

This Agreement may be executed in two or more counterparts, each of which shall be deemed as an original, and together shall constitute one and the same document.



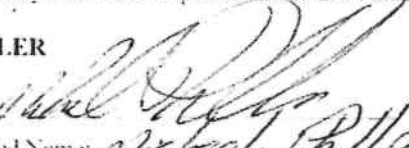
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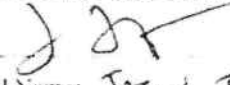
- Exhibit D Independent Engineering Certifications for Construction Adequacy for a Qualifying Facility
- Exhibit E Initial Capacity Determination Documentation
- Exhibit F Transmission Agreement
- Exhibit G Interconnection Agreement
- Exhibit H Metering
- Exhibit I Estimated Security Deposit by Year
- Exhibit J Milestones

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

**SELLER**

**AVISTA CORPORATION**

By:   
Printed Name: Michael Phillips  
Title: President  
Date: 3/10/2020

By:   
Printed Name: JASON THACKSTON  
Title: SR VP, ENERGY RESOURCES  
Date: 3/10/2020

## Exhibit A

### Project Description and Point of Delivery

#### Description of the Facility:

Seller's Facility is described as Big Sheep Creek Hydroelectric project FERC No. P-5118 with a total capacity 1.65 MW historical output.

#### Location:

Seller's Facility is located on Big sheep Creek 1.9 miles upstream of the Columbia River.  
The physical address is:  
4551 D Hwy. 25  
Northport, WA. 99157

#### Point of Delivery:

Shall be the Point of Interconnection as set forth in Exhibit G, unless otherwise mutually agreed by the Parties.

**Exhibit B**

**Avoided Cost Rates**

		<b><u>Jan-Feb</u></b>	<b><u>Mar-Jun</u></b>	<b><u>Jul-Dec</u></b>	
	<b><u>2021</u></b>	<u>\$</u> <b>48.94</b>	<u>\$</u> <b>32.62</b>	<u>\$</u> <b>48.94</b>	
	<b><u>2022</u></b>	<u>\$</u> <b>49.92</b>	<u>\$</u> <b>33.28</b>	<u>\$</u> <b>49.92</b>	
	<b><u>2023</u></b>	<u>\$</u> <b>50.92</b>	<u>\$</u> <b>33.95</b>	<u>\$</u> <b>50.92</b>	
	<b><u>2024</u></b>	<u>\$</u> <b>51.94</b>	<u>\$</u> <b>34.63</b>	<u>\$</u> <b>51.94</b>	
	<b><u>2025</u></b>	<u>\$</u> <b>52.98</b>	<u>\$</u> <b>35.32</b>	<u>\$</u> <b>52.98</b>	

**Exhibit C**  
**Communication and Reporting**

(1) Email communications between Seller and Avista shall be submitted to:

Avista: kevin.holland@avistacorp.com; or  
creditmanagement@avistacorp.com

Seller: mpp036@gmail.com  
Alternate: \_oladyo1@gmail.com

(2) All oral communications relating to electric energy scheduling, generation level changes, interruptions or outages between Seller and Avista will be communicated on a recorded line as follows:

(a) Pre-Schedule (5:30 am to 12:00 noon on Business Days):

Avista Pre-Scheduler: (509) 495-4911  
Alternate Phone: (509) 495-4073

Seller: (509) 690-7125  
Alternate Phone: (509) 675-1891

(b) Real-Time Schedule (available 24 hours a day)

Avista Real-Time Scheduler: (509) 495-8534

Seller: (509) 690-7125  
Alternate Phone: (509) 675-1891

(3) Either Party may change its contact information upon written notice to the other Party.



**Exhibit D**

N/A

**Independent Engineering Certification for  
Construction Adequacy for a Qualifying Facility**

1. I, \_\_\_\_\_ am a licensed professional engineer registered to practice and in good standing in the State of \_\_\_\_\_. I have substantial experience in the design, construction and operation of electric power plants of the same type as \_\_\_\_\_ (Title of QF) sited at \_\_\_\_\_ in \_\_\_\_\_ County, State of \_\_\_\_\_ (the "Facility").

2. I have reviewed and/or supervised the review of the construction in progress and of the completed Facility and it is my professional opinion that said Facility has been designed and built according to appropriate plans and specifications bearing the words "CERTIFIED FOR ACCEPTANCE" and with the stamp of the certifying licensed professional engineer of the design, and that the Facility was built to commercially acceptable standards for this type of facility.

3. I have no economic relationship to the designer or owner of said Facility and have made my analysis of the plans and specifications independently.

4. I hereby CERTIFY that the above statements are complete, true, and accurate to the best of my knowledge and I therefore set my hand and seal below.

Signed and Sealed

DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

Exhibit E

Initial Capacity Determination Documentation

PER INTERCONNECTION AGREEMENT

Exhibit F

Transmission Agreement

N/A

**Exhibit G**

**Interconnection Agreement**

PENDING

**Exhibit H**  
**Metering**  
**PER INTERCONNECTION AGREEMENT**

**Exhibit I**

**Estimated Security Deposit by Year**

N/A

**Exhibit J**

N/A