

Avista Corp.
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Toll Free 800-727-9170



January 13, 2012

Mr. David Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

2012 JAN 17 AM 8:14
RECEIVED
RECORDS MANAGEMENT
STATE OF WASHINGTON
UTILITY AND TRANSPORTATION COMMISSION

Re: Docket No. UE-011595, Monthly Power Cost Deferral Report, December 2011

Dear Mr. Danner:

Enclosed are an original and five copies of Avista Corporation's Power Cost Deferral Report for the month of December 2011. The report includes the monthly energy recovery mechanism (ERM) accounting journal together with backup workpapers. In December actual net power costs were lower than authorized costs by \$2,604,847. The year-to-date difference is \$19,208,401 in the rebate direction. A deferral of \$2,344,362 was recorded in the rebate direction. The year-to-date deferral balance, excluding interest, is \$12,787,561 in the rebate direction.

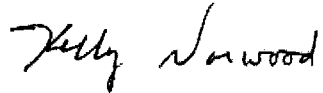
Actual power supply expense was lower than the authorized level due primarily to low power and natural gas prices. Wholesale power and natural gas prices were both lower than expected with the actual wholesale power purchase price at \$37.27/MWh compared to an authorized rate of \$54.80/MWh, and the actual natural gas price at \$3.27/dth compared to an authorized price of \$5.71/dth. Hydro generation was 37 aMW below the authorized level.

Colstrip and Kettle Falls generation was 9 aMW above and 1 aMW above the authorized levels, respectively. Gas-fired generation was 29 aMW above the authorized level. The net transmission expense (transmission expense less transmission revenue) was below the authorized level. Washington retail sales were 8 aMW above the authorized level.

Interest is calculated pursuant to the Settlement Stipulation approved by the Commission's Fifth Supplemental Order in Docket No. UE-011595, dated June 18, 2002. Interest is applied to the average of the beginning and ending month deferral balances net of associated deferred federal income tax. The Company's weighted cost of debt is used as the interest rate. The interest rate is updated semi-annually and interest is compounded semi-annually. The January and July reports contain the supporting workpapers for the semi-annual updates of the weighted cost of debt used in the interest calculations. Page 12 of the July 2011 report shows the calculation of the weighted cost of debt at June 30, 2011, which was used for the July-December 2011 period.

Attachments A, B, C, and D each consist of a non-confidential, forward long-term contract of one year or longer entered into in the month of December 2011. If you have any questions, please contact Bill Johnson at (509) 495-4046 or Ron McKenzie at (509) 495-4320.

Sincerely,

A handwritten signature in black ink that reads "Kelly Norwood". The signature is written in a cursive style with a large initial "K".

Kelly Norwood
Vice President State and Federal Regulation
RM
Enclosure
C: Mary Kimball, S. Bradley Van Cleve

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

MONTH OF DECEMBER 2011

Avista Corporation Journal Entry

Effective Date: 201112

Journal: 481-WA ERM

Team: Resource Accounting

Type: C

Category: DJ

Currency: USD

Last Saved by: Cameron Dunlop

Last Saved: 01/09/2012 12:42 PM

Submitted by: Cameron Dunlop

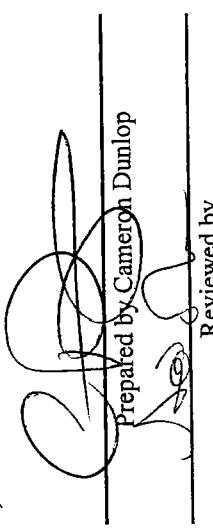
Approval Requested: 01/09/2012 12:42 PM

Approved by:

Seq	Co.	FERC	ED	Jur.	S.I.	Debit	Credit	Comment
10	001	186280 - REGULATORY ASSET ERM DEFERRED / CURRENT YEAR	ED	WA	DL	2,344,362.00	2,344,362.00	WA ERM Entry
20	001	557280 - DEFERRED POWER SUPPLY EXPENSE	ED	WA	DL	2,344,362.00		WA ERM Entry
30	001	431600 - INTEREST EXPENSE DEFERRALS	ED	WA	DL	35,450.00		Interest on ERM
40	001	186280 - REGULATORY ASSET ERM DEFERRED / CURRENT YEAR	ED	WA	DL		35,450.00	Interest on ERM
Totals:						2,379,812.00	2,379,812.00	

Explanation:

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


 Prepared by: Cameron Dunlop

1/9/12
 Date

1/5/2012
 Date

Reviewed by
 Approved for Entry
 Corporate Accounting use Only

Detail Balances (AVISTA CORP) - 001.186280.ED.WA.DL					
Balance Type		Actual		Currency Type Total	
Period	Currency	PTD	PTD Converted	YTD	YTD Converted
201101	USD	0.00		0.00	
201102	USD	-1,227,123.00		-1,227,123.00	
201103	USD	-1,479,769.00		2,706,892.00	
201104	USD	-1,330,616.00		-4,037,508.00	
201105	USD	1,067,676.00		-2,969,832.00	
201106	USD	788,206.00		2,181,626.00	
201107	USD	350,312.00		-2,531,938.00	
201108	USD	3,101,474.00		5,633,412.00	
201109	USD	542,004.00		-6,175,416.00	
201110	USD	2,282,679.00		-8,458,095.00	
201111	USD	2,109,721.00		-10,567,816.00	
201112	USD	2,379,812.00		-12,947,628.00	

ERM Deferral Balance (Current Year - 2011)

Account 186280.ED.WA

	Amount	Journal ID
Balance 11/30/11	-\$10,567,816.00	
Deferral	-2,344,362.00	481 - WA ERM
Interest	-35,450.00	481 - WA ERM
Balance 12/31/11	-\$12,947,628.00	
Year to date deferrals	-\$12,787,561.00	
Year to date interest	-160,067.00	
Balance in account	-\$12,947,628.00	

	Total	Absorbed	Deferred
First \$4,000,000 at 100%	-\$4,000,000.00	-\$4,000,000.00	\$0.00
\$4,000,000 to \$10,000,000 at 75%	-6,000,000.00	-1,500,000.00	-4,500,000.00
Over \$10,000,000 at 10%	-9,208,401.00	-920,840.00	-8,287,561.00
Total	-\$19,208,401.00	-\$6,420,840.00	-\$12,787,561.00

Detail Balances (AVISTA CORP) - 001.186290.ED.WA.DL

Balance Type: **Actual** Currency Type: **Total**

Period	Currency	PTD	PTD Converted	YTD	YTD Converted
201101	USD	0.00		0.00	
201102	USD	0.00		0.00	
201103	USD	0.00		0.00	
201104	USD	0.00		0.00	
201105	USD	0.00		0.00	
201106	USD	0.00		0.00	
201107	USD	0.00		0.00	
201108	USD	0.00		0.00	
201109	USD	0.00		0.00	
201110	USD	0.00		0.00	
201111	USD	0.00		0.00	
201112	USD	0.00		0.00	

Journal Details Summary Balances

ERM Deferral Balance (Prior year - 2010)

Account 186290.ED.WA

Balance 11/30/11

Interest

Balance 12/31/11

Amount

Journal ID

\$0.00

0.00

\$0.00

481 - WA ERM

Detail Balances (AVISTA CORP) - 001.182350.ED.WA.DL

Balance Type: **Actual** Currency Type: **Total**

Period	Currency	PTD	PTD Converted	YTD	YTD Converted
201101	USD	0.00		0.00	
201102	USD	0.00		0.00	
201103	USD	0.00		0.00	
201104	USD	0.00		0.00	
201105	USD	0.00		0.00	
201106	USD	0.00		0.00	
201107	USD	0.00		0.00	
201108	USD	0.00		0.00	
201109	USD	0.00		0.00	
201110	USD	0.00		0.00	
201111	USD	0.00		0.00	
201112	USD	0.00		0.00	

Journal Details Summary Balances

Recoverable Deferral Balance
Account 182350.ED.WA
 Balance 11/30/11
 Interest
 Balance 12/31/11

<u>Amount</u>	<u>Journal ID</u>
\$0.00	
0.00	481 - WA ERM
<u>\$0.00</u>	

Detail Balances (AVISTA CORP) - 001.283280.ED.WA.DL						
Balance Type		Actual		Currency Type		Total
Period	Currency	PTD	PTD Converted	YTD	YTD Converted	
201101	USD	0.00		0.88		
201102	USD	429,493.05		429,493.93		
201103	USD	517,919.15		947,413.08		
201104	USD	465,715.60		1,413,128.68		
201105	USD	373,686.60		1,039,442.08		
201106	USD	275,872.10		763,569.98		
201107	USD	122,609.20		886,179.18		
201108	USD	1,085,515.90		1,971,695.08		
201109	USD	189,701.40		2,161,396.48		
201110	USD	798,937.65		2,960,334.13		
201111	USD	738,402.35		3,698,736.48		
201112	USD	832,934.20		4,531,670.68		

DFIT Associated with ERM Deferrals
Account 283280.ED.WA

Account 186280.ED.WA balance	-\$12,947,628.00
Account 186290.ED.WA balance	0.00
Account 182350.ED.WA balance	0.00
Total	<u>-\$12,947,628.00</u>
Federal income tax rate	-35%
Deferred FIT related to deferrals	<u>\$4,531,670</u>
Rounding	1
Balance in account	<u><u>\$4,531,671</u></u>

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							
Actual cost of debt at 12/31/10 is		5.614%		Actual cost of debt at 06/30/11 is		5.617%	
The monthly rate is:		0.00468 Before Tax		The monthly rate is:		0.00468 Before Tax	
		0.0030409 After Tax				0.0030425 After Tax	
		0.35 Tax rate				0.35 Tax rate	
Account 186280							0
				<u>January</u>	<u>DFIT Expense</u>		
January	ERM Deferral	0		Deferral	0	Operating	0
January	Interest		0	Interest	0	Nonoperating	0
1/31/2011	Balance before interest	0			0	Total	0
				<u>February</u>	<u>DFIT Expense</u>		
February	ERM Deferral	(1,226,791)		Deferral	(429,377)	Operating	429,377
February	Interest		(1,865)	Interest	(653)	Nonoperating	653
2/28/2011	Balance before interest	(1,226,791)			(430,030)	Total	430,030
				<u>March</u>	<u>DFIT Expense</u>		
March	ERM Deferral	(1,472,267)		Deferral	(515,293)	Operating	515,293
March	Interest		(5,969)	Interest	(2,089)	Nonoperating	2,089
3/31/2011	Balance before interest	(2,699,058)			(517,382)	Total	517,382
				<u>April</u>	<u>DFIT Expense</u>		
April	ERM Deferral	(1,320,401)		Deferral	(462,140)	Operating	462,140
April	Interest		(10,215)	Interest	(3,575)	Nonoperating	3,575
4/30/2011	Balance before interest	(4,019,459)			(465,715)	Total	465,715
				<u>May</u>	<u>DFIT Expense</u>		
May	ERM Deferral	1,078,259		Deferral	377,391	Operating	(377,391)
May	Interest		(10,583)	Interest	(3,704)	Nonoperating	3,704
5/31/2011	Balance before interest	(2,941,200)			373,687	Total	(373,687)
				<u>June</u>	<u>DFIT Expense</u>		
June	ERM Deferral	795,940		Deferral	278,579	Operating	(278,579)
June	Interest		(7,734)	Interest	(2,707)	Nonoperating	2,707
6/30/2011	Balance before interest	(2,145,260)			275,872	Total	(275,872)
	GL Balance including interest	(2,181,626)					
				<u>July</u>	<u>DFIT Expense</u>		
July	ERM Deferral	(343,152)		Deferral	(120,103)	Operating	120,103
July	Interest		(7,160)	Interest	(2,506)	Nonoperating	2,506
7/31/2011	Balance before interest	(2,524,778)			(122,609)	Total	122,609
				<u>August</u>	<u>DFIT Expense</u>		
August	ERM Deferral	(3,089,093)		Deferral	(1,081,183)	Operating	1,081,183
August	Interest		(12,381)	Interest	(4,333)	Nonoperating	4,333
8/31/2011	Balance before interest	(5,613,871)			(1,085,516)	Total	1,085,516
				<u>September</u>	<u>DFIT Expense</u>		
September	ERM Deferral	(524,126)		Deferral	(183,444)	Operating	183,444
September	Interest		(17,878)	Interest	(6,257)	Nonoperating	6,257
9/30/2011	Balance before interest	(6,137,997)			(189,701)	Total	189,701
				<u>October</u>	<u>DFIT Expense</u>		
October	ERM Deferral	(2,260,565)		Deferral	(791,198)	Operating	791,198
October	Interest		(22,114)	Interest	(7,740)	Nonoperating	7,740
10/31/2011	Balance before interest	(8,398,562)			(798,938)	Total	798,938
				<u>November</u>	<u>DFIT Expense</u>		
November	ERM Deferral	(2,081,003)		Deferral	(728,351)	Operating	728,351
November	Interest		(28,718)	Interest	(10,051)	Nonoperating	10,051
11/30/2011	Balance before interest	(10,479,565)			(738,402)	Total	738,402
				<u>December</u>	<u>DFIT Expense</u>		
December	ERM Deferral	(2,344,362)		Deferral	(820,527)	Operating	820,527
December	Interest		(35,450)	Interest	(12,408)	Nonoperating	12,408
12/31/2011	Balance before interest	(12,823,927)			(832,935)	Total	832,935

Avista Corp. - t. ce Accounting
 WASHINGTON POWER COST DEFERRALS

Line No.	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11
WASHINGTON ACTUALS												
1	555 Purchased Power	\$23,001,732	\$21,199,193	\$19,083,388	\$14,030,492	\$11,251,310	\$9,853,399	\$16,733,775	\$17,785,701	\$20,740,203	\$19,696,948	\$21,775,911
2	447 Sale for Resale	(\$11,503,112)	(\$6,726,578)	(\$6,558,192)	(\$9,106,868)	(\$6,407,122)	(\$4,879,494)	(\$10,857,205)	(\$11,774,472)	(\$11,260,466)	(\$13,298,558)	(\$13,792,757)
3	501 Thermal Fuel	\$2,993,545	\$1,297,553	\$2,199,437	\$1,737,261	\$1,825,461	\$2,571,063	\$2,990,040	\$3,059,824	\$4,022,050	\$2,324,207	\$2,612,406
4	547 CT Fuel	\$5,189,184	\$3,527,911	\$1,360,752	\$3,733,340	\$1,732,516	\$1,274,849	\$3,282,448	\$7,338,197	\$3,157,243	\$8,902,645	\$9,349,687
5	456 Transmission Revenue	(\$740,040)	(\$728,798)	(\$838,596)	(\$786,223)	(\$809,629)	(\$1,402,418)	(\$1,876,464)	(\$1,556,228)	(\$1,318,465)	(\$999,301)	(\$1,117,079)
6	565 Transmission Expense	\$1,492,452	\$1,437,473	\$1,480,830	\$1,415,624	\$1,389,551	\$1,359,908	\$1,451,913	\$1,455,330	\$1,492,761	\$1,566,999	\$1,540,233
7	557 Broker Fees	\$42,666	\$64,015	\$129,860	\$97,390	\$52,577	\$70,281	\$65,808	\$76,848	\$43,966	\$52,696	\$100,670
8	Less Clearwater directly assigned to ID	(\$1,697,271)	(\$1,416,274)	(\$1,198,155)	(\$1,576,194)	(\$1,655,253)	(\$1,557,266)	(\$1,865,897)	(\$1,680,007)	(\$1,533,746)	(\$1,669,545)	(\$1,770,021)
9	Adjusted Actual Net Expense	\$18,179,146	\$16,654,495	\$15,559,324	\$9,544,822	\$7,380,411	\$7,290,322	\$9,439,685	\$13,855,948	\$15,022,953	\$16,578,091	\$18,698,400
AUTHORIZED NET EXPENSE-SYSTEM												
10	555 Purchased Power	\$11,944,984	\$9,846,565	\$10,853,067	\$6,732,714	\$4,712,866	\$4,927,815	\$7,041,743	\$7,484,808	\$6,005,442	\$8,349,912	\$9,537,086
11	447 Sale for Resale	(\$3,563,619)	(\$4,040,473)	(\$3,415,529)	(\$4,350,662)	(\$5,618,561)	(\$5,671,884)	(\$10,007,193)	(\$6,784,137)	(\$2,871,260)	(\$4,145,606)	(\$4,289,456)
12	501 Thermal Fuel	\$3,348,316	\$3,062,689	\$3,327,639	\$1,902,982	\$1,556,472	\$1,454,724	\$3,034,374	\$3,367,673	\$3,234,240	\$3,355,439	\$3,355,029
13	547 CT Fuel	\$10,313,555	\$9,965,514	\$6,687,285	\$3,518,933	\$2,675,756	\$3,294,621	\$11,094,720	\$13,127,806	\$12,566,735	\$13,114,461	\$14,645,319
14	456 Transmission Revenue	(\$901,304)	(\$825,004)	(\$1,002,240)	(\$898,432)	(\$1,029,104)	(\$1,371,347)	(\$1,379,878)	(\$1,150,203)	(\$1,025,629)	(\$1,027,312)	(\$810,690)
15	565 Transmission Expense	\$1,583,916	\$1,428,384	\$1,489,847	\$1,545,721	\$1,353,126	\$1,434,184	\$1,446,414	\$1,441,885	\$1,464,318	\$1,464,565	\$1,517,909
16	557 Broker Fees	\$10,359	\$10,359	\$10,359	\$10,359	\$10,359	\$10,359	\$10,359	\$10,359	\$10,359	\$10,359	\$10,359
17	Authorized Net Expense	\$22,736,207	\$19,448,034	\$19,950,428	\$8,481,615	\$3,661,014	\$4,078,472	\$11,240,539	\$17,168,148	\$16,063,688	\$21,139,950	\$23,965,556
18	Actual - Authorized Net Expense	(\$4,557,061)	(\$2,793,539)	(\$4,291,104)	\$1,083,207	\$3,719,397	\$3,211,850	(\$1,800,854)	(\$3,312,200)	(\$964,375)	(\$3,483,637)	(\$5,267,156)
19	Resource Optimization	\$931,933	\$592,287	\$1,299,211	(\$1,252,358)	(\$845,827)	(\$418,554)	\$1,071,692	\$822,688	\$1,516,215	\$1,972,011	\$1,153,895
20	Adjusted Net Expense	(\$3,625,128)	(\$2,201,252)	(\$2,991,893)	(\$169,151)	\$2,873,870	\$2,793,296	(\$729,162)	(\$2,489,512)	\$651,840	(\$1,511,626)	(\$3,406,964)
21	Washington Allocation	64.87%	64.87%	64.87%	64.87%	64.87%	64.87%	64.87%	64.87%	64.87%	64.87%	64.87%
22	Washington Share	(\$2,351,621)	(\$1,427,952)	(\$1,940,841)	(\$109,728)	\$1,864,279	\$1,812,011	(\$473,007)	(\$1,614,946)	\$357,979	(\$980,592)	(\$2,320,194)
23	WA Retail Revenue Adjustment (+) Surchage (-) Rebate	\$154,343	(\$2,010,491)	(\$22,182)	(\$1,650,807)	(\$426,600)	(\$750,757)	\$15,470	(\$2,264,399)	(\$940,341)	(\$1,531,147)	(\$102,127)
24	Net Power Cost (+) Surchage (-) Rebate	(\$2,197,278)	(\$3,438,443)	(\$1,963,023)	(\$1,760,535)	\$1,437,679	\$1,061,254	(\$457,537)	(\$3,879,345)	(\$682,362)	(\$2,511,739)	(\$2,604,847)
25	Cumulative Balance	(\$2,197,278)	(\$5,635,721)	(\$7,598,744)	(\$9,359,279)	(\$7,921,600)	(\$6,860,346)	(\$7,317,863)	(\$11,197,228)	(\$11,779,590)	(\$14,291,329)	(\$19,208,401)
	Deferral Amount, Cumulative (Customer)	\$0	(\$1,226,791)	(\$2,699,058)	(\$4,019,459)	(\$2,941,200)	(\$2,145,260)	(\$2,488,412)	(\$5,577,505)	(\$6,101,631)	(\$8,362,196)	(\$10,443,199)
	Deferral Amount, Monthly	\$0	(\$1,226,791)	(\$1,472,267)	(\$1,320,401)	\$1,078,259	\$795,940	(\$343,152)	(\$3,089,093)	(\$524,126)	(\$2,260,565)	(\$2,081,003)
	Acct 557280 Entry; (+) Rebate, (-) Surchage	\$0	\$1,226,791	\$1,472,267	\$1,320,401	(\$1,078,259)	(\$795,940)	\$343,152	\$3,089,093	\$524,126	\$2,260,565	\$2,344,362
	Company Band Gross Margin Impact, Cumulative	(\$2,197,278)	(\$4,408,930)	(\$4,899,686)	(\$5,339,820)	(\$4,980,400)	(\$4,715,086)	(\$4,829,471)	(\$5,619,723)	(\$5,677,959)	(\$5,929,133)	(\$6,160,355)

Avista Corp. - 1 - rce Accounting
WASHINGTON DEFERRED POWER COST CALCULATION - ACTUAL SYSTEM POWER SUPPLY EXPENSES

Line No.	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11
555 PURCHASED POWER												
1	\$13,701,024	\$12,638,899	\$12,254,383	\$6,470,073	\$5,313,403	\$3,923,331	\$10,567,284	\$10,444,249	\$12,363,129	\$15,163,660	\$10,924,811	\$12,795,871
2	\$133,680	\$157,761	\$137,408	\$122,726	\$154,936	\$439,222	\$133,514	\$139,134	\$126,766	\$368,474	\$68,458	\$45,179
3	\$146,954	\$146,954	\$146,954	\$146,954	\$146,954	\$146,954	\$146,954	\$146,954	\$150,203	\$150,203	\$150,203	\$150,203
4	\$505,464	\$505,464	\$505,464	\$505,470	\$505,466	\$505,461	\$505,465	\$505,464	\$505,457	\$505,463	\$505,463	\$505,463
5	\$412,808	\$391,159	\$403,468	\$528,128	\$542,862	\$531,306	\$456,005	\$456,005	\$450,035	\$0	\$0	\$0
6	\$45,606	\$76,060	\$91,284	\$119,976	\$128,565	\$110,010	\$148,647	\$107,463	\$38,834	\$56,071	\$43,683	\$43,683
7	\$3,357,872	\$3,034,183	\$1,657,782	\$1,605,560	\$0	\$0	\$0	\$0	\$0	\$0	\$3,476,468	\$3,591,877
8	\$141	\$693	\$637	\$611	\$671	\$487	\$380	\$500	\$573	\$427	\$355	\$735
9	\$138,766	\$135,254	\$128,323	\$134,658	\$135,339	\$129,924	\$133,040	\$90,157	\$66,179	\$68,330	\$64,731	\$80,064
10	\$179,922	\$165,094	\$145,830	\$88,868	\$135,509	\$141,932	\$202,512	\$223,037	\$204,314	\$183,892	\$201,174	\$201,529
11	\$321,567	\$362,494	\$295,778	\$245,758	\$195,772	\$191,874	\$294,752	\$24,178	\$21,892	\$89,283	\$165,246	\$179,884
12	\$45,000	\$0	\$0	\$135,000	\$135,000	\$165,000	\$165,000	\$165,000	\$135,000	\$90,000	\$0	\$45,000
13	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$118,371	\$0	\$0
14	\$355,193	\$308,730	\$341,013	\$414,376	\$336,762	\$397,582	\$285,261	\$331,417	\$167,181	\$261,800	\$305,489	\$146,221
15	\$1,860,812	\$1,826,509	\$1,748,975	\$1,843,020	\$1,778,756	\$1,764,403	\$1,846,745	\$1,937,334	\$2,031,823	\$1,886,290	\$2,094,500	\$2,122,558
16	\$1,697,271	\$1,416,274	\$1,198,155	\$1,576,194	\$1,655,253	\$1,557,286	\$1,665,897	\$1,680,007	\$1,533,746	\$1,650,145	\$1,669,545	\$1,770,021
17	\$66,508	\$68,104	\$55,981	\$49,536	\$47,783	\$45,634	\$49,724	\$49,929	\$46,652	\$50,239	\$55,826	\$58,975
18	\$35,346	\$34,378	\$28,044	\$43,583	\$38,278	(\$120,713)	\$77,304	(\$13,738)	(\$56,083)	\$107,555	(\$28,370)	\$38,238
19	\$23,001,732	\$21,199,193	\$19,083,388	\$14,030,492	\$11,251,310	\$9,853,399	\$16,733,775	\$16,287,090	\$17,785,701	\$20,740,203	\$19,696,948	\$21,775,311
(1) Effective November 2008, WNP-3 purchase expense has been adjusted to reflect the mid-point price, per Settlement Agreement, Cause No. U-86-99												
447 SALES FOR RESALE												
20	(\$6,752,558)	(\$5,256,186)	(\$3,552,583)	(\$5,988,758)	(\$3,356,251)	(\$2,256,774)	(\$7,432,623)	(\$6,243,461)	(\$7,854,304)	(\$7,309,235)	(\$9,382,581)	(\$9,922,626)
21	(\$146,020)	(\$146,345)	(\$144,955)	(\$146,150)	(\$146,085)	(\$146,085)	(\$146,150)	(\$146,150)	(\$146,215)	(\$146,020)	(\$146,085)	(\$145,955)
22	(\$97,088)	(\$73,975)	(\$68,628)	(\$76,190)	(\$75,582)	(\$68,521)	(\$101,653)	(\$134,691)	(\$145,276)	(\$120,554)	(\$141,429)	(\$112,093)
23	(\$6,386)	(\$5,871)	(\$6,667)	(\$6,264)	(\$6,771)	(\$6,512)	(\$6,669)	(\$6,665)	(\$6,541)	(\$6,715)	(\$6,653)	(\$6,757)
24	(\$41,841)	(\$38,713)	(\$41,440)	(\$40,290)	(\$32,075)	(\$21,475)	(\$29,485)	(\$36,195)	(\$34,190)	(\$39,891)	(\$37,861)	(\$36,178)
25	(\$250,968)	(\$32,256)	(\$35,742)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
26	(\$117,683)	(\$99,520)	(\$97,452)	(\$131,600)	(\$19,218)	(\$18,760)	(\$11,000)	\$0	\$0	\$0	\$0	\$0
27	(\$2,127,448)	(\$1,747,094)	(\$1,439,282)	(\$1,584,172)	(\$1,536,965)	(\$1,465,030)	(\$1,944,173)	(\$2,221,962)	(\$2,111,216)	(\$1,990,461)	(\$2,056,854)	(\$2,214,496)
28	(\$1,963,120)	(\$1,326,618)	(\$1,171,443)	(\$1,153,444)	(\$1,234,195)	(\$896,337)	(\$1,165,452)	(\$1,057,829)	(\$1,476,730)	(\$1,647,590)	(\$1,527,095)	(\$1,354,652)
29	(\$11,503,112)	(\$8,726,576)	(\$6,558,192)	(\$9,106,866)	(\$6,407,122)	(\$4,879,494)	(\$10,857,205)	(\$9,846,953)	(\$11,774,472)	(\$11,260,466)	(\$13,298,558)	(\$13,792,757)
501 FUEL-DOLLARS												
30	\$720,927	(\$7,551)	\$381,831	\$610,231	\$987,105	\$2,066,726	\$850,189	\$1,089,712	\$1,175,290	\$1,910,256	\$966,921	\$696,711
31	(\$696)	\$1,293	\$6,213	\$1,903	\$326	\$9,418	\$6,488	\$169	(\$6,707)	\$395	\$1,406	(\$356)
32	\$1,650,366	\$1,277,058	\$1,798,049	\$1,124,528	\$836,089	\$491,565	\$1,431,535	\$1,859,569	\$1,856,086	\$2,063,071	\$1,354,940	\$1,880,270
33	\$22,948	\$26,753	\$13,344	\$599	\$1,941	\$3,354	\$64,364	\$40,590	\$35,155	\$48,328	\$940	\$35,781
34	\$2,393,545	\$1,297,553	\$2,199,437	\$1,737,261	\$1,825,461	\$2,571,063	\$2,352,576	\$2,990,040	\$3,059,824	\$4,022,050	\$2,324,207	\$2,612,406
501 FUEL-TONS												
35	30,205	84,543	75,306	26,412	42,815	34,163	36,345	47,116	51,147	51,937	45,032	53,609
36				38,332	39,752	37,393	66,441	89,647	86,976	101,685	94,379	96,945

Avista Corp. - - - - - rce Accounting
WASHINGTON DEFERRED POWER COST CALCULATION - ACTUAL SYSTEM POWER SUPPLY EXPENSES

Line No.	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11
501 FUEL-COST PER TON												
37												
	wood	\$23.87	\$23.70	\$23.10	\$23.06	\$60.50	\$23.39	\$23.13	\$22.98	\$36.78	\$21.47	\$13.00
38	coal	\$19.52	\$20.61	\$29.34	\$21.03	\$13.15	\$21.55	\$20.74	\$21.34	\$20.29	\$14.36	\$19.40
547 FUEL												
39	NE CT Gas/Oil-547213	(\$14,185)	\$18,860	\$2,804	\$489	\$510	\$11	(\$2,964)	\$10,916	\$6,264	(\$98)	\$1,795
40	Boulder Park-547216	\$19,111	\$35,131	\$13,543	\$30,933	\$59,000	\$49,815	\$67,530	\$153	\$620	\$25,197	\$38,915
41	Kettle Falls CT-547211	\$13,997	(\$9,423)	(\$88)	\$1,236	\$8,929	\$19,217	\$15,011	\$7,313	(\$86)	\$3,754	\$17,226
42	Coyote Springs2-547610	\$2,460,195	\$1,645,369	\$701,752	\$1,576,025	\$498,965	\$1,454,826	\$2,951,795	\$3,648,845	\$1,126,400	\$4,413,542	\$4,418,704
43	Lancaster-547312	\$2,612,390	\$1,877,030	\$628,078	\$2,067,700	\$641,539	\$1,688,103	\$3,042,531	\$3,671,092	\$2,023,986	\$4,460,172	\$4,812,544
44		\$97,676	(\$39,056)	\$14,663	\$56,957	\$65,906	\$70,476	\$59,342	(\$122)	\$59	\$78	\$60,453
45	Rathdrum CT-547310	\$5,189,184	\$3,527,911	\$1,360,752	\$3,733,340	\$1,274,849	\$3,282,448	\$6,133,245	\$7,338,197	\$3,157,243	\$8,902,645	\$9,349,637
46	Total 547 Fuel Expense											
47	TOTAL NET EXPENSE	\$19,081,349	\$17,298,079	\$16,085,385	\$10,394,225	\$8,402,265	\$11,511,594	\$15,563,422	\$16,409,250	\$16,659,030	\$17,625,242	\$19,944,597
456 TRANSMISSION REVENUE												
56	456100 ED AN	(\$661,335)	(\$650,093)	(\$759,891)	(\$707,518)	(\$1,323,713)	(\$1,797,759)	(\$1,477,523)	(\$1,241,053)	(\$1,445,247)	(\$921,889)	(\$1,039,667)
57	456705 ED AN	(\$78,705)	(\$78,705)	(\$78,705)	(\$78,705)	(\$78,705)	(\$78,705)	(\$78,705)	(\$77,412)	(\$77,412)	(\$77,412)	(\$77,412)
58	Total 456 Transmission Revenue	(\$740,040)	(\$728,798)	(\$838,596)	(\$786,223)	(\$1,402,418)	(\$1,876,464)	(\$1,556,228)	(\$1,318,465)	(\$1,522,659)	(\$999,301)	(\$1,117,079)
565 TRANSMISSION EXPENSE												
59	565000 ED AN	\$1,490,422	\$1,435,443	\$1,478,800	\$1,413,594	\$1,357,878	\$1,402,614	\$1,449,883	\$1,453,300	\$1,490,731	\$1,566,969	\$1,538,203
60	565312 ED AN	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
61	565710 ED AN	\$2,030	\$2,030	\$2,030	\$2,030	\$2,030	\$2,030	\$2,030	\$2,030	\$2,030	\$2,030	\$2,030
62	Total 565 Transmission Expense	\$1,492,452	\$1,437,473	\$1,480,830	\$1,415,624	\$1,359,908	\$1,404,644	\$1,451,913	\$1,455,330	\$1,492,761	\$1,568,999	\$1,540,233
63	Total 557170 ED AN Broker Fees	\$42,656	\$64,015	\$129,860	\$97,390	\$70,281	\$65,808	\$76,848	\$86,944	\$43,966	\$52,696	\$100,670
RESOURCE OPTIMIZATION												
64	Econ Dispatch-557010	(\$360,411)	(\$324,471)	(\$1,380,406)	(\$1,275,206)	(\$762,569)	(\$2,285,010)	(\$263,849)	(\$3,413,742)	(\$1,682,417)	(\$1,045,601)	(\$2,303,509)
65	Econ Dispatch-557150	\$17,663,373	\$10,561,938	\$14,303,388	\$14,119,616	\$10,063,432	\$16,982,010	\$19,402,776	\$10,901,531	\$14,421,398	\$5,588,765	\$7,844,302
66	Gas Bookouts-557700	\$2,518,750	\$672,420	\$672,008	\$2,612,105	\$3,402,209	\$3,688,515	\$1,314,642	\$2,686,608	\$4,790,992	\$27,885	\$157,198
67	Gas Bookouts-557711	(\$2,518,750)	(\$672,420)	(\$672,008)	(\$2,612,105)	(\$3,402,209)	(\$3,688,515)	(\$1,314,642)	(\$2,686,608)	(\$4,790,992)	(\$527,885)	(\$157,198)
68	Intraco Thermal Gas-557730	\$1,754,217	\$3,870,301	\$4,967,612	\$6,352,977	\$8,597,025	\$2,362,111	\$6,069,327	\$7,712,868	\$4,359,141	\$2,893,399	\$3,471,153
69	Fuel DispatchFin -456010	(\$210,538)	(\$76,563)	\$794,021	\$1,155,230	\$472,308	\$2,074,275	(\$42,958)	\$2,671,365	\$1,811,015	\$1,213,160	\$2,374,523
70	Fuel Dispatch-456015	(\$13,412,414)	(\$12,135,362)	(\$16,750,335)	(\$19,712,485)	(\$18,577,869)	(\$13,254,524)	(\$14,897,490)	(\$15,883,085)	(\$11,265,992)	(\$5,526,705)	(\$5,287,187)
71	Intraco Thermal Gas-456730	(\$4,491,266)	(\$1,319,624)	(\$633,340)	(\$1,072,189)	(\$5,099,373)	(\$4,822,715)	(\$9,452,939)	(\$448,278)	(\$5,660,511)	(\$1,367,951)	(\$3,877,569)
72	Fuel Bookouts-456711	\$2,317,935	\$947,575	\$845,268	\$1,916,400	\$2,074,656	\$1,965,013	\$1,431,252	\$9,175,715	\$1,879,369	\$17,363	\$605,879
73	Fuel Bookouts-456720	(\$2,317,935)	(\$947,575)	(\$845,268)	(\$1,916,400)	(\$2,074,656)	(\$1,965,013)	(\$1,431,252)	(\$9,175,715)	(\$1,879,369)	(\$17,363)	(\$605,879)
74	Resource Optimization Subtotal	\$942,961	\$596,229	\$1,300,940	(\$432,057)	(\$515,885)	\$1,056,147	\$814,867	\$1,540,659	\$1,982,634	\$1,555,067	\$2,221,713
75	Misc Rev's 456016 ED AN	(\$9,448)	\$0	\$0	(\$815,613)	(\$327,689)	(\$55,151)	\$0	(\$26,756)	(\$9,000)	(\$400,000)	(\$534,500)

Avista Corp. - Juice Accounting
WASHINGTON DEFERRED POWER COST CALCULATION - ACTUAL SYSTEM POWER SUPPLY EXPENSES

Line No.	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11
76	\$29,760	\$26,880	\$29,720	\$28,800	\$29,760	\$28,800	\$29,760	\$29,760	\$28,800	\$29,760	\$28,840	\$29,760
77	\$29,760	\$26,880	\$27,916	\$28,800	\$29,760	\$28,800	\$45,462	\$39,760	\$28,800	\$29,760	\$28,840	\$29,760
78	\$0	\$0	(\$1,804)	\$0	\$0	\$0	\$15,702	\$10,000	\$0	\$0	\$0	\$0
79	\$13,456	\$8,894	\$14,254	\$12,537	\$12,049	\$13,656	\$10,872	\$11,601	\$9,090	\$9,262	\$11,530	\$9,340
80	(\$15,036)	(\$12,836)	(\$14,179)	(\$17,225)	(\$14,002)	(\$16,531)	(\$11,029)	(\$13,780)	(\$6,778)	(\$10,885)	(\$12,702)	(\$6,080)
81	(\$1,580)	(\$3,942)	\$75	(\$4,688)	(\$1,953)	(\$2,875)	(\$157)	(\$2,179)	\$2,312	(\$1,623)	(\$1,172)	\$3,260
82	\$931,933	\$592,287	\$1,299,211	(\$1,252,358)	(\$845,527)	(\$418,554)	\$1,071,692	\$822,688	\$1,516,215	\$1,972,011	\$1,153,895	\$1,690,473
83	\$20,808,350	\$18,663,056	\$18,156,690	\$9,868,658	\$8,190,137	\$8,429,034	\$12,177,274	\$16,358,643	\$18,149,274	\$18,645,109	\$19,401,531	\$22,158,894

Avista Corp. - Resource Accounting
 Washington Electric Jurisdiction
Energy Recovery Mechanism (ERM) Retail Revenue Credit Calculation - 2011

Retail Sales - MWh	Jan-11	Feb-11	Mar-11	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	YTD
Total Billed Sales	550,386	515,941	497,287	462,109	446,055	427,740	410,586	440,057	461,192	440,483	442,065	524,357	5,618,259
Deduct Prior Month Unbilled	(420,723)	(394,368)	(407,182)	(391,621)	(357,344)	(330,664)	(323,643)	(331,350)	(381,647)	(345,695)	(351,118)	(384,537)	(4,419,891)
Add Current Month Unbilled	394,368	407,182	391,621	357,344	330,664	323,643	331,350	381,647	345,695	351,118	384,537	405,057	4,404,225
Total Retail Sales	524,030	528,755	481,727	427,832	419,375	420,720	418,293	490,355	425,240	445,906	475,484	544,877	5,602,593
Test Year Retail Sales	527,098	488,793	481,286	395,019	410,896	405,797	418,600	445,346	406,549	415,472	473,454	539,219	5,407,529
Difference from Test Year	(3,068)	39,962	441	32,813	8,479	14,923	(308)	45,009	18,691	30,434	2,030	5,658	195,064
Production Rate - \$/MWh	\$50.31	\$50.31	\$50.31	\$50.31	\$50.31	\$50.31	\$50.31	\$50.31	\$50.31	\$50.31	\$50.31	\$50.31	\$50.31
Total Revenue Credit - \$	(\$154,343)	\$2,010,491	\$22,182	\$1,650,807	\$426,600	\$750,757	(\$15,470)	\$2,264,399	\$940,341	\$1,531,147	\$102,127	\$284,653	\$9,813,693

“Non-Confidential Attachment A”

Avista Corporation
Monthly Power Cost Deferral Report
Month of December 2011

Long-term Power Transaction
(See attached)

DPR 2011-0939

**POWER PURCHASE AGREEMENT
BETWEEN
AVISTA CORPORATION
AND
CITY OF SPOKANE
(SPOKANE REGIONAL SOLID WASTE DISPOSAL PROJECT)**

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This Power Purchase Agreement (this "**Agreement**") is entered into as of the ___ day of December, 2011 (the "**Effective Date**"), by and between the CITY OF SPOKANE (the "**City**"), State of Washington, a Washington municipal corporation, and AVISTA CORPORATION ("**Avista**") of Spokane, Washington, a corporation organized and existing under the laws of the State of Washington, hereinafter sometimes referred to collectively as the "**Parties**" and individually as a "**Party**."

WITNESSETH:

WHEREAS, the City owns and operates a waste to energy electric generating project located on approximately thirty-seven (37) acres of real property leased from the Spokane International Airport Board, located at 2900 S. Geiger Boulevard, Spokane, Washington, 99224 in Spokane County, Washington, which project is known as the Spokane Regional Solid Waste Disposal Project and has a nameplate capacity of 26 megawatts (the "**Project**"); and

WHEREAS, the City and Avista have entered into a Large Generator Interconnection Agreement (the "**Interconnection Agreement**") that provides for and governs the interconnection of the Project with Avista's electric system; and

WHEREAS, the City desires to sell and Avista desires to purchase electric power from the Project for a delivery term beginning on January 1, 2012;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

1. DEFINITIONS; INTERPRETATION

(a) **Definitions.** In addition to words defined elsewhere in this Agreement as signified by initial capitalization, whenever used in this Agreement, exhibits, and attachments hereto, the terms below shall have the following meanings:

(i) "**Affiliate**" means, with respect to any Person, any other Person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. For this purpose, "control" means the direct or indirect ownership of 50 percent or more of the outstanding capital stock or other equity interests having ordinary voting power.

(ii) "**Agreement**": This power purchase agreement including all exhibits, attachments and modifications thereof.

(iii) "**Applicable Program**" means a domestic, international or foreign renewable portfolio standard or renewable energy standard, or renewable energy or emissions reduction program, scheme or organization, adopted by a Governmental Authority or otherwise, or other similar program with respect to which exists a market, registry or reporting for particular Environmental Attributes.

(iv) "**Bankrupt**" means, with respect to a Party or other entity, that such Party or other entity: (A) is dissolved (other than pursuant to a consolidation, amalgamation or

merger); (B) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due; (C) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (D) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor's rights, or a petition is presented for its winding-up or liquidation, which proceeding or proceeding is not dismissed, stayed or vacated within thirty (30) days thereafter; (E) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights; (F) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (G) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (H) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (A) to (G) inclusive; or (I) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

(v) **"Business Day"** means any day except a Saturday, Sunday or a Federal Reserve Bank holiday.

(vi) **"Defaulting Party"** shall have the meaning provided in Section 17(a) of this Agreement.

(vii) **"Delivered Net Output"**: shall have the meaning provided in Section 4(a) of this Agreement.

(viii) **"Delivery Term"** shall have the meaning provided in Section 3(b) of this Agreement.

(ix) **"Dispute Notice"** shall have the meaning provided in Section 12 of this Agreement.

(x) **"Effective Date"** shall have the meaning set forth in the first paragraph of this Agreement.

(xi) **"Environmental Attributes"**: means 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 Project or the generation of energy by the Project, and the delivery of such energy to the electricity grid, and include 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 to the UNFCCC, 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 Project and other financial incentives in the form of credits, reductions, or allowances associated with ownership of the Project 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. 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 (i) any energy, capacity, reliability or other power attributes from the Project, (ii) fuel-related subsidies or "tipping fees" that may be paid to the City to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iii) emission reduction credits that the City procures from a source other than the Project and that are encumbered or used by the Project for compliance with local, state, provincial or federal operating or air quality permits.

(xii) "**Event of Default**" shall have the meaning provided in Section 17(a) of this Agreement.

(xiii) "**Facility Service Power**": means the electric energy generated and used by the Project during its operation to operate equipment that is auxiliary to primary generation equipment including generator excitation, cooling or other operations related to the production of electric energy by the Project.

(xiv) "**FERC**": The United States Department of Energy, Federal Energy Regulatory Commission, or any other successor agency with substantially similar jurisdiction over Avista Corporation.

(xv) "**Force Majeure**" shall have the meaning provided in Section 8(a) of this Agreement.

(xvi) "**Forced Outage**": Any outage that either fully or partially curtails the electrical output of the Project caused by mechanical or electrical equipment failure, plant related structural failure, or unscheduled maintenance required to be performed to prevent equipment failure.

(xvii) "**Good Industry Practice**": Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Industry Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

(xviii) **“Governmental Authority”**: Any federal, state or local government, political subdivision thereof or other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or other entity with authority to bind a Party at law.

(xix) **“Governmental Rules”**: Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, directive, guideline, policy or similar form of decision of any Governmental Authority having the effect of law or regulation, *provided* that Governmental Rules shall not include any enactment or other action of the City undertaken for the purpose of abrogating, repudiating or unilaterally amending the Agreement, but this exception does not include any power of eminent domain that the City may lawfully exercise notwithstanding this Agreement.

(xx) **“Industrial Insurance Acts”** shall have the meaning provided in Section 10(b)(ii) of this Agreement.

(xxi) **“Interconnection Agreement”** shall have the meaning provided in the recitals of this Agreement.

(xxii) **“Loss”** shall have the meaning provided in Section 9(a) of this Agreement.

(xxiii) **“Major Maintenance”**: Maintenance work upon the Project that results in more than one generating unit not operating.

(xxiv) **“NERC”**: The North American Electric Reliability Corporation or its successor organization.

(xxv) **“Operating Year”**: The 12-month period from January 1 through December 31.

(xxvi) **“Pacific Prevailing Time”** or **“PPT”** means the prevailing time (*i.e.*, Standard Time or Daylight Savings Time) on any given day in the Pacific Time Zone.

(xxvii) **“Person”** means an individual, partnership, corporation, limited liability company, joint venture, association, trust, unincorporated organization, Governmental Authority, or other form of entity.

(xxviii) **“Point of Delivery”**: The point at which the Project and Avista’s electric system are connected, as shown in Exhibit C.

(xxix) **“Power Meter”** shall have the meaning provided in Section 4(a) of this Agreement.

(xxx) **“Premises”**: The site upon which the Project is located.

(xxxi) **“Project”**: The electric generating facility, including all equipment and structures necessary to generate and supply electric power.

(xxxii) "Qualifying Facility" means a generating facility which meets the requirements for Qualifying Facility status under the Public Utility Regulatory Policies Act of 1978 and part 292 of FERC's Regulations, 18 C.F.R. Part 292, and which has self-certified or been granted certification of its QF status.

(xxxiii) "Representatives" means, with respect to a Party, such Party's directors, officers, partners, members, employees, consultants, agents, advisors, successors and assigns, in each case with respect to the transactions contemplated by this Agreement.

(xxxiv) "Term" shall have the meaning provided in Section 3(a) of this Agreement.

(xxxv) "Termination Date" means the date on which this Agreement terminates or expires.

(xxxvi) "WECC": The Western Electricity Coordinating Council or its successor organization.

(xxxvii) "WUTC": The Washington Utilities and Transportation Commission or any other successor agency with substantially similar jurisdiction over Avista.

(b) Interpretation. Unless the context otherwise requires:

(i) Words singular and plural in number will be deemed to include the other and pronouns having masculine or feminine gender will be deemed to include the other.

(ii) Subject to Section 1(b)(vii), any reference in this Agreement to any Person includes its successors and assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

(iii) Any reference in this Agreement to any Section, Exhibit, Appendix or Annex means and refers to the Section contained in, or Exhibit, Appendix or Annex attached to, this Agreement.

(iv) Other grammatical forms of defined words or phrases have corresponding meanings.

(v) A reference to writing includes typewriting, printing, lithography, photography and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form.

(vi) Unless otherwise expressly provided in this Agreement, a reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed.

(vii) A reference to a Party to this Agreement includes such Party's successors and permitted assigns.

(viii) Reference to any gender includes each other gender.

(ix) Unless otherwise expressly provided in this Agreement, a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as modified, amended, supplemented or restated from time to time.

(x) References in this Agreement to "or" will be deemed to be disjunctive but not necessarily exclusive (*i.e.*, unless the context dictates otherwise, "or" will be interpreted to mean "and/or" rather than "either/or").

(xi) If any payment, act, matter or thing hereunder would occur on a day that is not a Business Day, then such payment, act, matter or thing will, unless otherwise expressly provided for herein, occur on the next Business Day.

(xii) "Hereunder," "hereof," "hereto" and words of similar import will be deemed references to this Agreement as a whole and not to any particular article, section or other provision hereof.

(xiii) "Including" (and with correlative meaning "include") means including without limitation on the generality of any description preceding such term.

(xiv) Relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding," and "through" means "through and including."

(c) **Technical Meanings.** Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

2. **REPRESENTATIONS AND WARRANTIES; COVENANTS**

(a) **Representations and Warranties.**

(i) The City represents that it is the sole owner of the Project. The City warrants and represents that: (a) the City has investigated and determined that it has authority to and is capable of performing the obligations hereunder and has not relied upon the advice, experience or expertise of Avista in connection with the transactions contemplated by this Agreement; and (b) the Project is a Qualifying Facility. The City further represents that this Agreement constitutes a legal, valid and binding obligation of the City enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, to the discretion of the court before which proceedings to obtain same may be pending, has been approved by the City Council, and that the City's signatory is authorized to execute the Agreement.

(ii) Avista represents that this Agreement constitutes a legal, valid and binding obligation of Avista enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, to the discretion of the court before which proceedings to obtain same may be pending, and that Avista's signatory is authorized to execute the Agreement. Avista makes no warranties, expressed or implied, regarding any aspect of the City's design, specifications, equipment or facilities, including safety, durability, reliability, strength, capacity, adequacy or economic feasibility, and any review, acceptance or failure to review the City's design, specifications, equipment or Project shall not be an endorsement or a confirmation by Avista. Avista assumes no responsibility or obligation with regard to any NERC or WECC reliability standard applicable to the Project.

(b) Covenants.

(i) The City will comply with all applicable Governmental Rules and will obtain and comply with applicable licenses, permits and approvals in the design, construction, operation and maintenance of the Project; and the Project will, during the Term of this Agreement, remain a Qualifying Facility as that term is used in 18 C.F.R Part 292. The Project's failure to maintain Qualifying Facility status during the Term will be a material breach by the City of this Agreement. Avista reserves the right to review the Project's Qualifying Facility status and associated support and compliance documents at any time during the Term.

(ii) Avista will use commercially reasonable efforts to obtain approval of the WUTC (without adverse amendment or adverse condition) of this Agreement, including preparation and filing all documentation to effect all necessary notices, reports and other filings and furnishing all information as may be required by any Governmental Authority in connection with the foregoing, in each case as promptly as practicable. The City will use its commercially reasonable efforts to assist Avista, as requested by Avista from time to time, in connection with obtaining such WUTC approval. Each of Avista and the City shall have the right to review in advance and, to the extent practicable, consult with the other on, and shall consider in good faith the views of the other in connection with, any filing to be made with, or written materials to be submitted to, any Governmental Authority in connection with the process of obtaining WUTC approval of this Agreement. In exercising the foregoing rights, each of Avista and the City shall act reasonably and as promptly as practicable.

3. TERM OF AGREEMENT; DELIVERY TERM

(a) The term of this Agreement (the "Term") shall commence on the date of this Agreement and shall terminate at 2400 PPT on November 16, 2014, unless terminated earlier in accordance with the terms and conditions of this Agreement.

(b) The period during which the City will deliver Delivered Net Output to Avista under this Agreement (the "Delivery Term") will commence at 00:00:01 PPT on January 1,

2012 and continue through hour ending 2400 PPT on November 16, 2014. The Delivery Term will terminate effective immediately upon termination of the Term for any reason.

(c) Avista shall have the right to terminate this Agreement within one hundred and twenty (120) days following any order of the WUTC that disapproves this Agreement or disallows recovery in Avista's retail rates of costs arising from purchases of electric power pursuant to this Agreement. If the WUTC issues an order that approves this Agreement subject to conditions that adversely affect the financial benefit of the Agreement to either Avista or the City, and that is not in form and substance substantially the same as that requested by Avista in the applicable filing, then the adversely affected Party may terminate this Agreement by giving notice to the other Party within one hundred and twenty (120) days after the issuance of such order. Within thirty (30) days after receipt of an order from the WUTC setting forth a disapproval, disallowance or conditional approval of this Agreement, Avista shall notify the City of such order and the possible effects thereof.

(d) Effective as of the Termination Date, the Parties will no longer be bound by the terms and conditions of this Agreement, except (a) to the extent necessary to enforce any rights and obligations of the Parties, including payment obligations, arising under this Agreement prior to expiration or termination of this Agreement, and (b) that the obligations of the Parties under Sections 6(h), 9, 10, 13 and 23 will survive the expiration or termination for any reason of this Agreement; *provided* that such obligations with respect to indemnification will continue only with respect to claims for indemnification based upon events or circumstances occurring or arising on or before the Termination Date.

4. PURCHASE AND SALE OF DELIVERED NET OUTPUT

(a) The City shall sell and deliver, and Avista shall purchase and receive, at the Point of Delivery the total amount of electric power that is generated by the Project (less Facility Service Power), up to a maximum of 22 megawatts, and delivered by the City to Avista at the Point of Delivery during the Delivery Term (the "**Delivered Net Output**"). A power meter located at the Point of Delivery (installed at the City's expense) (the "**Power Meter**") shall register the Delivered Net Output on an hourly basis. The City shall deliver to Avista, and Avista shall receive, at all times all the Delivered Net Output. Notwithstanding any other provision of this Agreement, the City has no obligation to generate or sell or deliver, and Avista has no right to purchase or receive, any specified minimum amount of Delivered Net Output at any time during the Term, and the City's sole obligation with respect to the sale and delivery of any output of the Plant and any power supply whatsoever under this Agreement is sell to Avista all Delivered Net Output on the terms and subject to the conditions of this Agreement.

(b) The Power Meter shall record electric power that flows from and to the Project, and from and to Avista's electric system. Avista and the City both shall have the right to read and receive readings from the Power Meter. Avista shall read the meter and record the readings at least once per month. The Delivered Net Output in any month shall be calculated based on information from such meter readings. Monthly meter readings may be adjusted by prorating metered amounts to the number of days in such month.

(c) The Parties may, but are not obligated to, agree in writing that additional amounts of electric power made available from the Project as a result of modifications or enhancements of the Project shall be purchased and sold pursuant to this Agreement. The City may indicate its agreement to the purchase and sale of such additional amounts of electric power by a written administrative approval, executed by a lawfully authorized city official. For the avoidance of doubt, the City may not sell any electric power from the Project to any third party during the Delivery Term.

5. OPERATION OF PROJECT

(a) The City shall operate and maintain the Project in accordance with applicable Governmental Rules and Good Industry Practice.

(b) Interconnection of the Project with Avista's electrical system shall be governed by the separate Interconnection Agreement between the Parties which, following execution of the Interconnection Agreement, will be attached hereto as Exhibit C for informational purposes only.

(c) Either Party may interrupt, suspend or curtail delivery, receipt or acceptance of delivery of electric power at the Point of Delivery, if either Party reasonably determines that the failure to do so:

(i) Is reasonably likely to endanger any Person or property, or either Party's facilities or customers, or any electric system with which Avista's system is interconnected;

(ii) Is reasonably likely to cause, or contribute to, an imminent significant disruption of utility service to either Party's customers;

(iii) Is reasonably likely to interfere with any construction, installation, inspection, testing, repair, replacement, improvement, alteration, modification, operation, use or maintenance of, or addition to either Party's facilities;

(iv) Is reasonably likely to cause, contribute to, or necessitate operation of any of Avista's hydro electric projects in violation of any license or other regulatory requirements; or

(v) Is contrary to Good Industry Practice.

(d) A Party shall promptly notify the other Party in accordance with Exhibit A of the reasons for any such disconnection, interruption, suspension or curtailment. Such Party shall use its best reasonable efforts to mitigate and limit the duration of any such disconnection, interruption, suspension or curtailment.

6. PAYMENTS

(a) Avista shall prepare and submit to the City monthly statements during the Term based upon Delivered Net Output delivered to Avista during the previous month. Payments

owed by Avista shall be paid no later than the twentieth (20th) day of the month following the end of the monthly billing period or five (5) Business Days after the receipt of the applicable 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.

(b) If the City is obligated to make any payment to Avista under the terms of this Agreement, Avista shall invoice the City for such payment. The price of electric power delivered to the Project at the Point of Delivery at any time during this Agreement shall be determined in accordance with Avista's then-applicable retail tariff in effect at the time such electric power is delivered as such tariff may be changed or replaced from time to time. The applicable retail tariff in effect at the time of the execution of this Agreement is Avista's Rate Schedule 21 for the State of Washington.

(c) Either Party may, if such Party is obligated to make any payment or refund to the other Party, net and set off such payment or refund amount against any current or future payments due to the other Party under this Agreement. Avista shall prepare and present a single net bill reflecting the offset of sums owed between the Parties as a result of the sale and delivery of electric power during a month. The Party owing funds in accordance with the net bill shall pay the other Party no later than the twentieth (20th) day of the month following the end of the monthly billing period or five (5) Business 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.

(d) Avista shall pay the City monthly for Delivered Net Output at the rates set forth in Exhibit B.

(e) If either Party is obligated to make any payment to the other Party under the terms of this Agreement for any reason other than the sale and delivery of electric power, the Party to which such payment is due shall bill the Party from which such payment is due. The Party from which such payment is due shall pay the other Party no later than the twentieth (20th) day of the month following the end of the applicable monthly billing period or five (5) Business Days after the receipt of the applicable 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. Overdue payments will accrue interest in accordance with Section 6(i) from the due date to the date of payment.

(f) All payments shall be made by ACH or wire transfer in accordance with further agreement of the Parties.

(g) A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) rendered under this Agreement, or adjust any invoice for any arithmetic or computational error, at any time within twelve (12) months following the date the invoice (or invoice adjustment) was rendered. In the event that either Party disputes any invoice or invoice adjustment, such Party will nonetheless be required to pay the full amount of the applicable invoice or invoice adjustment (except any portions thereof which are manifestly inaccurate or are not reasonably supported by documentation, payment of which amounts may be withheld subject to adjustment as hereinafter set forth) on the applicable payment due date, and to give notice of the objection to the other Party. Any dispute with respect to any invoice or

invoice adjustment will be in writing and will state the basis for the dispute or adjustment. Upon resolution of the dispute, any required payment will be made within two (2) Business Days of such resolution, together with interest accrued at the Interest Rate from the due date to the date paid. Any Party receiving an inadvertent overpayment will return such overpayment upon request or will deduct such overpayment from subsequent payments, in each case together with interest accrued at the Interest Rate from the date of such overpayment to the date repaid or deducted by the Party receiving such overpayment. Each Party hereby waives any and all rights that it may have to dispute any invoice or invoice adjustment unless such Party notifies the other Party in accordance with this Section 6(g) within twelve (12) months after the invoice is rendered or the applicable adjustment to the invoice is made.

(h) Each Party (and its Representatives) will have the right, at such Party's sole expense, during normal working hours and upon reasonable prior written notice to the other Party, to examine or make copies of the records and data of the other Party relating to this Agreement (including all records and data relating to or substantiating any charges paid by or to either Party and including metering records of the amount of the Delivered Net Output) to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and will bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; *provided, however*, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection will be deemed waived. This Section 6(h) will survive any termination of this Agreement for a period of one (1) year from the date of such termination for the purpose of such statement and payment objections.

(i) In addition to the remedies set forth in this Agreement, any amounts owing after the due date specified in this Agreement will be subject to interest in the amount of one percent (1%) per month, not to exceed the maximum rate allowed by the law, multiplied by the unpaid balance.

7. METERING

(a) Avista shall be responsible for any meter readings required by this Agreement.

(b) As of the Effective Date the City owns the Power Meter. The Power Meter shall be used to determine the billing hereunder, and the meter shall be located at the Point of Delivery as specified in Exhibit C. The City shall reimburse Avista's reasonable costs, if any, for any replacement of the Power Meter and any communications facilities necessary to deliver information from the Power Meter to Avista's system operations center. For any planned replacement of the Power Meter and related communications facilities by Avista for which the City bears cost responsibility pursuant to this Agreement, Avista shall, prior to commencing work on any such replacement, consult with the City regarding Avista's planning, design, operation, maintenance, repair and replacement of such Power Meter and communications facilities, including providing estimated costs, with the City. Avista shall use its best efforts to minimize such costs. If requested by the City, Avista shall provide copies of applicable test and

calibration records and calculations pertaining to the Power Meter. Avista shall permit a representative of the City to be present at all times the Power Meter is being tested.

(c) Notwithstanding the ownership of the Power Meter, Avista agrees to test the Power Meter in accordance with, and at such intervals as are consistent with, Avista's normal procedures, and in any event not less than once every two years. Avista shall conduct additional tests of the Power Meter if requested by the City, and the City shall reimburse Avista reasonable costs not to exceed \$1,000 per test, *provided* that the City may request an additional meter test at Avista's expense if the last meter test occurred more than twelve (12) months prior to the City's request. In addition, Avista shall not charge for any meter test requested by the City if such test shows that Avista's meter operates outside of accepted tolerances as determined by Avista in accordance with Good Industry Practice.

(d) Adjustments shall be made in meter readings and billings for errors in a meter reading billing discovered within twelve (12) months of the error. For purposes of adjusting meter readings and billings, in the event that it cannot be determined when the Power Meter commenced to malfunction, it shall be assumed that the Power Meter commenced to malfunction on a date which is the most recent of: (i) twelve (12) months prior to the date of discovery of the malfunction; or (ii) one half of the interval of time that elapsed between the date of the last meter test and the date of the discovery of the malfunction.

8. FORCE MAJEURE

(a) Neither Party shall be liable to the other Party for, or be considered to be in breach of or default under this Agreement, on account of any failure to perform or delay in performance that is attributable to any of the following events, which event or circumstance was not anticipated or reasonably foreseeable as of the Effective Date ("**Force Majeure**"):

(i) Any cause or condition that is beyond such Party's reasonable control and that is not the result of such Party's negligence and that, by the exercise of due diligence, the Party claiming Force Majeure is unable to overcome or avoid or cause to be avoided, including the following (*provided, however*, that the existence of the following factors will not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances that in the aggregate with such factors establish that a Force Majeure as defined in the foregoing clauses of this Section 8(a)(i) has occurred): fire, flood, earthquake, volcanic activity, wind, drought and other acts of the elements; court order and act of civil, military or Governmental Authority; strike, lockout and other labor dispute; riot, insurrection, sabotage or war; federal, state, or other governmental laws, orders, decrees, restraints, or regulations; Forced Outage; breakdown of or damage to facilities or equipment; or 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

(ii) Any action taken by such Party which is, in the reasonable good faith judgment of such Party, necessary or prudent to protect the operation, performance, integrity, reliability or stability of such Party's facilities or any electric system with which

such Party's electric system is interconnected, whether such actions occur automatically or manually.

(b) Nothing contained in this section shall require any Party to settle any strike, lockout or other labor dispute. In the event that any Force Majeure occurrence prevents performance by a Party under this Agreement, the non-performing Party shall provide the other Party written notice thereof within seven (7) days after the occurrence of the Force Majeure event. Such notice shall include the particulars of the occurrence, assurances that suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure and that the nonperforming Party is using its commercially reasonable best efforts to remedy its inability to perform. The non-performing Party shall resume performance of the obligations prevented by the Force Majeure occurrence with all reasonable dispatch. The performing Party shall not be required to perform or resume performance of its obligations to the non-performing Party corresponding to the obligations of the performing Party excused by the Force Majeure occurrence.

(c) Force Majeure does not include changes in the ownership, occupancy, or operation of the Project or Avista that occur because of normal business occurrences which include but are not limited to: changes in business economic cycles; recessions; bankruptcies; tax law changes; sales of businesses; closure of businesses; changes in production levels; and changes in system operations.

(d) Force Majeure does not excuse any Party from making payments of money due and payable under this Agreement.

(e) Notwithstanding anything herein, the City shall not claim Force Majeure as a result of any Governmental Rules adopted by the City.

(f) Force Majeure will not be based on (i) the loss of Avista's markets, or (ii) Avista's inability economically to use or resell any Delivered Net Output purchased hereunder; *provided, however*, that notwithstanding anything herein, Avista may claim Force Majeure in the event that Avista ceases (for any reason that is beyond Avista's reasonable control and that is not the result of Avista's negligence and that, by the exercise of due diligence, Avista is unable to overcome or avoid or cause to be avoided) providing electric power to a substantial portion of its retail electric load within the City of Spokane.

(g) The Party claiming Force Majeure shall use its commercially reasonable best efforts to mitigate and limit the duration of any Force Majeure event.

9. INDEMNITY

(a) The City shall indemnify, defend and hold harmless Avista and its Representatives from and against any and all losses, expenses, liabilities, claims or actions (hereafter "Loss") based upon or arising out of bodily injuries or damages to Persons, including death resulting therefrom, or physical damages to or losses of property caused by, arising out of or sustained in connection with (i) the construction, operation or maintenance of the Project, (ii) the City's negligence or intentional misconduct, or (iii) any breach of this Agreement by the City. Avista shall indemnify, defend and hold harmless the City and its Representatives from

and against and from any Loss caused by, arising out of or sustained in connection with (i) the construction, operation or maintenance of Avista's electrical system, (ii) Avista's negligence or intentional misconduct, or (iii) any breach of this Agreement by Avista. In the event that any such Loss is caused by the negligence of both the City and Avista, including their employees, agents, suppliers and subcontractors, the Loss shall be borne by each of the City and Avista in the proportion that its respective negligence bears to the total negligence causing the Loss. To the extent that a Loss is caused by, results from or arises out of or in connection with any matter that is addressed in the Interconnection Agreement, each Party's rights and obligations with respect to such Loss shall be subject to and governed exclusively by the terms and conditions of the Interconnection Agreement, including any and all limitations of liability, releases and waivers appearing in such agreement.

(b) THE CITY AND AVISTA REPRESENT AND 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.

10. LIMITATION OF LIABILITY

(a) Limitation of Liability. NOTWITHSTANDING ANYTHING CONTAINED TO THE CONTRARY IN THIS AGREEMENT, THE CITY AND AVISTA AGREE THAT THE RECOVERY BY EITHER PARTY OF ANY DAMAGES SUFFERED OR INCURRED BY IT AS A RESULT OF ANY BREACH BY THE OTHER PARTY OF ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE ACTUAL DAMAGES SUFFERED OR INCURRED BY THE NON-BREACHING PARTY OF ITS OBLIGATIONS HEREUNDER. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES (INCLUDING ANY DAMAGES ON ACCOUNT OF LOST PROFITS OR OPPORTUNITIES OR BUSINESS INTERRUPTION AND THE LIKE), WHETHER BY STATUTE, IN TORT OR UNDER CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE; *PROVIDED, HOWEVER*, THAT THE FOREGOING WILL NOT IN ANY EVENT LIMIT THE LIABILITY OF EITHER PARTY TO THE OTHER UNDER SECTION 9 FOR OR WITH RESPECT TO THIRD-PARTY CLAIMS.

(b) Compliance with Express Negligence Rule; RCW 4.24.115 Acknowledgement and Waiver.

(i) To the fullest extent permitted by applicable law, all releases, disclaimers, limitations on liability, and indemnities in this Agreement, including those in this Section 10, shall apply even in the event of the sole, joint, or concurrent negligence, strict liability, or fault of the party whose liability is released, disclaimed, limited, or indemnified.

(ii) Notwithstanding the foregoing, with respect to any and all claims against an indemnified Party by any Representative of an indemnifying Party, the indemnification obligations of the indemnifying Party herein shall not be limited in any

way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the indemnifying Party under applicable law, including any workers compensation and industrial insurance acts, disability benefit acts, or other employee benefits acts (including the Washington State Industrial Insurance Act, RCW Title 51) (collectively, the "**Industrial Insurance Acts**").

(iii) EACH OF THE PARTIES HEREBY SPECIFICALLY AND EXPRESSLY WAIVES ANY AND ALL IMMUNITY TO WHICH SUCH PARTY MAY BE ENTITLED UNDER THE INDUSTRIAL INSURANCE ACTS (INCLUDING SUCH PARTY'S IMMUNITY UNDER THE INDUSTRIAL INSURANCE ACT (RCW TITLE 51) AND ANY EQUIVALENT LAWS), TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, INCLUDING RCW 4.24.115, AND EXPRESSLY AGREES TO ASSUME POTENTIAL LIABILITY, EXPENSES AND DAMAGES (INCLUDING ATTORNEYS' FEES AND COSTS) FOR ACTIONS BROUGHT AGAINST AN INDEMNIFIED PARTY BY THE INDEMNIFYING PARTY'S REPRESENTATIVES; *PROVIDED, HOWEVER,* THAT THE INDEMNIFYING PARTY'S WAIVER OF IMMUNITY BY THE PROVISIONS OF THIS SECTION 10 EXTENDS ONLY TO CLAIMS AGAINST THE INDEMNIFYING PARTY BY OR ON BEHALF OF THE INDEMNIFIED PARTY UNDER OR PURSUANT TO THIS AGREEMENT, AND DOES NOT INCLUDE ANY CLAIMS MADE BY THE INDEMNIFYING PARTY'S REPRESENTATIVES DIRECTLY AGAINST THE INDEMNIFYING PARTY. EACH PARTY ACKNOWLEDGES AND AGREES THAT THE FOREGOING WAIVER HAS BEEN SPECIFICALLY AND MUTUALLY NEGOTIATED BY THE PARTIES TO THIS AGREEMENT AND EACH PARTY HAS HAD THE OPPORTUNITY, AND HAS BEEN ENCOURAGED, TO CONSULT WITH INDEPENDENT COUNSEL REGARDING THIS WAIVER.

(iv) Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, the Parties agree that if the provisions of RCW 4.24.115 apply to any claim by an indemnified Party against an indemnifying Party under this Agreement, then, with respect to such claim, (A) in no event shall the indemnifying Party be obligated to indemnify the indemnified Party for damages arising out of bodily injury to Persons or damage to property resulting from the sole negligence of the indemnified Party or its Representatives, and (B) if indemnification is sought for damages arising out of bodily injury to Persons or damage to property resulting from the concurrent negligence of the indemnifying Party (or its Representatives) and the indemnified Party (or its Representatives), the indemnifying Party shall indemnify the indemnified Party for such damages only to the extent of the negligence of the indemnifying Party or its Representatives.

11. INSURANCE

(a) **Business Insurance.** Prior to operating the Project, the City, at his 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. Avista's acceptance of the certificate of insurance is not intended to, and will not reduce, limit, affect, or modify the primary obligations and liabilities of the City under the provisions of this Agreement. The City must provide notice

of cancellation or notice of change in policy terms at least thirty (30) days prior to any change or termination of the policies.

(b) **General Liability.** The City shall carry and maintain comprehensive general liability insurance in a form acceptable to Avista with coverage of not less than \$10,000,000 per occurrence, including coverage of bodily injury, property damage liability, and contractual liability specifically related to the indemnity provisions of this Agreement. The deductible will not exceed the City's financial ability to cover claims.

(c) **Property Insurance.** The City shall carry and maintain property insurance for the full replacement value of the Project in a form acceptable to Avista, a deductible not to exceed the City's financial ability.

(d) **Qualifying Insurance.** The insurance coverage required by this Section 11 must be obtained from an insurance carrier licensed to conduct business in the state of Washington, must be acceptable to Avista, such acceptance not to be unreasonably withheld, but in no event have, as of the date of placement of such coverage during each year during the Term, less than an A.M. Best Rating of A-, Class VIII. The policies required under this Agreement must include (i) provisions or endorsements naming Avista and its directors, officers and employees as additional insureds, (ii) Avista as a loss payee as applicable, (iii) a cross-liability and severability of interest clause, and (iv) provisions such that the policy is primary insurance with respect to the interests of Avista and that any other insurance maintained by Avista is excess and not contributory.

12. **ENVIRONMENTAL ATTRIBUTES**

If at any time during the Term either Party provides written notice to the other Party asserting, on the basis of any applicable federal or state law or any decision by any Governmental Authority of competent jurisdiction, that the Party providing such notice is the owner of any Environmental Attributes generated by or otherwise associated with the Project, and if the other Party, in its sole discretion, determines that such ownership does or would materially adversely affect such Party, such Party may, by delivering written notice of such determination to the other Party (a "Dispute Notice") within thirty (30) days after notice of such ownership claim, require that the Parties enter into good faith negotiations concerning the disposition of the Environmental Attributes generated by or associated with the Project. If the Parties are unable, within a period of thirty (30) days following delivery of any Dispute Notice, to reach a mutually acceptable agreement regarding such disposition and consideration, either Party will be entitled, at any time within thirty (30) days after expiration of such period, to deliver notice of termination of this Agreement to the other Party. This Agreement and the Term will terminate effective one hundred and eighty (180) days after delivery of any such termination notice, and neither Party will have any liability to the other Party for or as a result of such termination. Notwithstanding the foregoing, if a Party asserts that it is the owner of any Environmental Attributes under this Section 12, any failure of the other Party to deliver a Dispute Notice within thirty (30) days after notice of such ownership claim shall not constitute a waiver of such Party's right at any time subsequently to provide a Dispute Notice if such Party concludes, in its sole discretion, that such ownership does or would materially affect such Party; *provided, however*, that any such subsequent Dispute Notice shall be given prospective effect only and shall not be permitted to claim or dispute ownership of any Environmental Attributes

for any period prior to the date of such Dispute Notice. The delivery at any time of any such subsequent Dispute Notice shall give rise to the same negotiation obligations and termination rights as set forth above with respect to any Dispute Notice delivered within thirty (30) days after initial notice of any Environmental Attributes ownership claim.

13. ARBITRATION

Each Party shall strive to resolve any and all differences during the term of the Agreement. If a dispute cannot be resolved, either Party may submit the dispute to binding arbitration. The arbitration shall be conducted pursuant to the Uniform Arbitration Act, Title 7, Chapter 9 of the Washington code, as the same may have been or may be amended.

14. ASSIGNMENT

(a) **Required Consent.** Neither Party shall assign this Agreement or any of its rights, interests or obligations hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; *provided, however*, that a Party may, without the consent of the other Party, and by providing prior reasonable notice under the circumstances to the other Party, assign, transfer, pledge or otherwise dispose of its rights and interests under this Agreement to: (i) any Person in connection with an assignment of the Agreement for financing or refinancing purposes; (ii) any entity created to operate the Project; or (iii) any Affiliate of such Party, so long as the creditworthiness of such Affiliate is at least equal to that of the assigning Party.

(b) **Continuing Obligations.** Any assignments authorized as provided for in this Section 14 shall not operate to relieve the Party assigning this Agreement or any of its rights, interests or obligations hereunder of the responsibility of full compliance with the requirements of this Agreement unless: (i) the other Party consents, such consent not to be unreasonably withheld; and (ii) the assignee agrees in writing to be bound by all of the obligations and duties of the assigning party provided for in this Agreement.

(c) **Reimbursement of Costs.** Either Party shall, upon request from the other Party, execute and deliver such documents as may be reasonably necessary to accomplish any assignment, transfer, pledge or disposition of rights permitted under this Section 14, so long as the rights of the non-assigning Party are not altered, amended, diminished or otherwise impaired, and so long as the requesting Party reimburses the other Party for all reasonable costs incurred in connection with the review, execution or delivery of such documents.

(d) **Approval by the City of Assignments.** The City may approve assignments under this Section 14 by written consent of the Mayor.

(e) **Binding Agreement.** This Agreement and all of the provisions hereof are binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

15. NO UNSPECIFIED THIRD PARTY BENEFICIARIES

Except as specifically provided in Section 9, Section 10 or otherwise in this Agreement, 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 14.

16. NO TRANSFER RIGHTS

Nothing in this Agreement shall be construed as granting the City any right of access, or any other rights, to Avista's distribution or transmission systems.

17. DEFAULT

(a) An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

(i) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after delivery of written notice;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respects when made or when deemed made or repeated;

(iii) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) if such failure is not remedied in accordance with Section 17(b), below;

(iv) such Party becomes Bankrupt; or

(v) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonable satisfactory to the other Party.

(b) In the Event of Default, the following shall apply:

(i) The non-defaulting Party shall give written notice to the Defaulting Party of the Event of Default in accordance with this Agreement.

(ii) Except for an Event of Default that arises from failure to make money payments or from a Party becoming Bankrupt, if, after twenty (20) days following receipt of such notice, the Defaulting Party has not cured the Event of Default, the non-defaulting Party may, at its option, terminate this Agreement; *provided, however*, if the defaulting Party, within such twenty (20)-day period, commences and thereafter proceeds with all due diligence to cure such default, such twenty (20)-day period shall be extended

up to six (6) months after written notice to the defaulting Party, as may be necessary to cure the event of default with all due diligence. For an Event of Default that arises from the failure to make money payments, the non-defaulting Party may, at its option, terminate this Agreement if the Defaulting Party shall have failed to cure the failure to pay within three (3) Business Days following receipt of notice of such failure. For an Event of Default that arises from a Party becoming Bankrupt, the non-defaulting Party may, at its option, immediately terminate this Agreement upon notice to the Defaulting Party.

(iii) Upon the Event of Default and an expiration of any period to cure granted herein, the non-defaulting Party may, but has no obligation, to terminate this Agreement effective upon notice to the Defaulting Party and may exercise all other rights and remedies available to the non-defaulting Party under applicable law. On behalf of the City, such actions may be accomplished by the Mayor. Whether or not the non-defaulting Party elects to terminate this Agreement, it may, in addition to other remedies provided for herein, pursue such remedies as are available at law or in equity including suspension of its performance so long as the Event of Default is continuing and has not been cured.

(c) Any right or remedy afforded to either Party under any provision of this Agreement on account of the breach or default by the other Party is in addition to, and not in lieu of, all other rights or remedies afforded to such Party under any other provisions of this Agreement, by law or otherwise on account of the breach or default.

18. GOVERNMENTAL AUTHORITY

This Agreement is subject to all applicable Governmental Rules. All Governmental Rules now or hereafter in effect that are required to be incorporated in agreements of this character are by this reference incorporated in this Agreement.

19. SEVERAL OBLIGATIONS

Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties 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 or to impose any partnership obligation or liability upon either Party. 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.

20. IMPLEMENTATION

Each Party shall take such action (including the execution, acknowledgement and delivery of documents) as may reasonably be requested by the other Party for the implementation or continuing performance of this Agreement.

21. 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 to any extent of such Party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect.

22. ENTIRE AGREEMENT AND AMENDMENT

This Agreement together with its exhibits constitutes the entire agreement of the Parties hereto and supersedes and replaces any prior agreements or understandings between said Parties, entered into for the same or similar purposes. 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.

23. GOVERNING LAW AND VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington, without reference to conflict of laws provisions that would result in the application of the laws of any other jurisdiction. Any action at law or in equity to enforce the terms and conditions of this Agreement shall, unless subject to the exclusive jurisdiction of the WUTC, be brought in Spokane County, Washington.

24. COMPLIANCE WITH LAWS

Both Parties shall comply with all applicable laws and regulations of governmental agencies having jurisdiction over the Project and the operations of the Parties. The City shall obtain all required approvals or authorization from governmental agencies having jurisdiction over the sale of electric power from the Project.

25. FORWARD CONTRACT; FORWARD AGREEMENT

The Parties acknowledge and agree that this Agreement constitutes a "forward contract" and a "forward agreement" within the meaning of the United States Bankruptcy Code.

26. NOTICES

All notices, requests, statements or payments will be made in writing except where this Agreement expressly provides that notice may be made orally. Notices required to be in writing will be delivered by hand delivery, overnight delivery, or facsimile. Notice by facsimile will (where confirmation of successful transmission is received) be deemed to have been received on the day on which it was transmitted (unless transmitted after 5:00 p.m. at the place of receipt or on a day that is not a Business Day, in which case it will be deemed received on the next Business Day). Notice by hand delivery or overnight delivery will be deemed to have been received when delivered. When notice is permitted to be provided orally, notice by telephone will be permitted and will be deemed to have been received at the time the call is received.

To Avista: Director, Energy Resources
Avista Corporation
P.O. Box 3727
MSC-7
Spokane, Washington 99220-3727
Facsimile No.: (509) 495-4272

To the City: Russ Menke, PE, Director
City of Spokane
Spokane Regional Solid Waste System
221 N. Wall Street, Suite 410
Spokane, WA 99201
Facsimile No.: (509) 625-6537

with a copy (which shall not constitute notice) to:

City Attorney
Office of the City Attorney
City of Spokane
808 W. Spokane Falls Blvd.
5th Floor, Municipal Bldg.
Spokane, Washington 99201-3326
Facsimile No.: (509) 625-6277

Changes in persons or addresses for submittal of written notices by a Party to this Agreement shall be made in writing to the other Party and delivered in accordance with this Section 26. Any oral notice required hereby, which affects the payments to be made hereunder shall be confirmed in writing as promptly as practicable after the oral notice is given. Exhibit A, herein, shall govern oral communications between the Parties.

27. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, taken together, shall constitute only one legal instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than one counterpart.

28. EXHIBITS

This Power Purchase Agreement includes the following exhibits, which are attached and incorporated by reference herein:

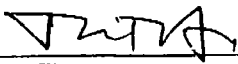
- Exhibit A - Communications
- Exhibit B - Payment Schedule
- Exhibit C - Interconnection Agreement

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the first date herein-above set forth:

CITY OF SPOKANE

AVISTA CORPORATION

By: 
Thomas E. Danek, Jr.
City Administrator
City of Spokane

By: 

(Type Name)

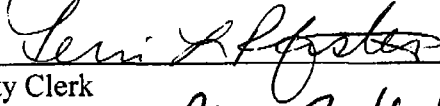
RICHARD L STORRO
(Type Name)

Title: _____

Title: VP ENERGY RESOURCES

Date: 12/15/11

Date: 12/5/11

Attest: 
City Clerk

Approved as to form: 
Assistant City Attorney



Exhibit A

Communications

A-1. Verbal Communications

All communications between the City and Avista referred to in the Agreement shall be done verbally by notifying the following parties:

- (a) Pre-Schedule (5:30 am to approximately 1:30 pm on normal business days):

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

the City Business Phone (509) 624-6575 Extension 17
 Alternate Phone Number (509) 688-4657

- (b) Real-Time Schedule (available 24 hours per day):

Avista Real-Time Scheduler (509) 495-8534

the City Business Phone (509) 624-6575 Extension 17
 Alternate Phone Number (509) 688-4657

- (c) During normal business hours, all verbal communications relating to interruptions and outages:

Avista System Operator (509) 495-4105
 Alternate Phone Number (509) 495-4934

the City Business Phone (509) 624-6575 Extension 17
 Alternate Phone Number (509) 688-4657

- (d) Outside of normal business hours (nights, weekends, and holidays), all verbal communications relating to interruptions and outages shall take place between the following personnel:

Avista System Operator (509) 495-4105
 Alternate Phone Number (509) 495-4934

the City Business Phone (509) 624-6575 Extension 17
 Alternate Phone Number (509) 688-4657

A-2. The City shall notify Avista's system operator, as soon as is practical, whenever the Project is or is expected to be brought on line, or taken off line.

A-3. Changes in persons or phone numbers for verbal communications by a Party to this Agreement may be made verbally to the other Party in accordance with this Exhibit but shall be confirmed in writing as an amended Exhibit A. A copy of said amended Exhibit A shall be mailed or delivered to the representatives of the Parties designated in Section 26.

Exhibit B

Power Purchase Payment Rates

For the period January 1, 2012 through November 16, 2014, Avista agrees to buy the Delivered Net Output from the City's Waste to Energy project at the following monthly rates:

<u>Month</u>	<u>Price in \$/MWh</u>	
	Jan – March Jul – Dec	Apr - June
2012	\$47.18	\$38.19
2013	\$49.06	\$39.71
2014	\$51.02	\$41.30

“Non-Confidential Attachment B”

Avista Corporation
Monthly Power Cost Deferral Report
Month of December 2011

Long-term Power Transaction
(See attached)

OPR 2011-0933

**POWER PURCHASE AGREEMENT
BETWEEN
AVISTA CORPORATION
AND
CITY OF SPOKANE
(UPRIVER DAM HYDROELECTRIC PROJECT)**

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This Power Purchase Agreement (this "**Agreement**") is entered into as of the 8th day of December, 2011 (the "**Effective Date**"), by and between the CITY OF SPOKANE (the "**City**"), State of Washington, a Washington municipal corporation, and AVISTA CORPORATION ("**Avista**") of Spokane, Washington, a corporation organized and existing under the laws of the State of Washington, hereinafter sometimes referred to collectively as the "**Parties**" and individually as a "**Party**."

WITNESSETH:

WHEREAS, the City owns and operates a hydroelectric generating project located on the Spokane River in Spokane County, Washington, known as the Upriver Hydro Project, which has a nameplate capacity of 17.7 megawatts and has been issued hydroelectric license no. 3074-WA by FERC (the "**Project**"); and

WHEREAS, the City and Avista entered into a Power Purchase and Parallel Operating Agreement dated as of June 26, 2004, that expires December 31, 2011; and

WHEREAS, the City and Avista have entered into a Small Generator Interconnection Agreement (the "**Interconnection Agreement**") that provides for and governs the interconnection of the Project with Avista's electric system; and

WHEREAS, the City desires to sell and Avista desires to purchase electric power from the Project for a delivery term beginning on January 1, 2012;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

1. DEFINITIONS; INTERPRETATION

(a) **Definitions.** In addition to words defined elsewhere in this Agreement as signified by initial capitalization, whenever used in this Agreement, exhibits, and attachments hereto, the terms below shall have the following meanings:

(i) "**Affiliate**" means, with respect to any Person, any other Person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. For this purpose, "control" means the direct or indirect ownership of 50 percent or more of the outstanding capital stock or other equity interests having ordinary voting power.

(ii) "**Agreement**": This power purchase agreement including all exhibits, attachments and modifications thereof.

(iii) "**Applicable Program**" means a domestic, international or foreign renewable portfolio standard or renewable energy standard, or renewable energy or emissions reduction program, scheme or organization, adopted by a Governmental Authority or otherwise, or other similar program with respect to which exists a market, registry or reporting for particular Environmental Attributes.

(iv) **"Bankrupt"** means, with respect to a Party or other entity, that such Party or other entity: (A) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (B) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due; (C) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (D) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor's rights, or a petition is presented for its winding-up or liquidation, which proceeding or proceeding is not dismissed, stayed or vacated within thirty (30) days thereafter; (E) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights; (F) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (G) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (H) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (A) to (G) inclusive; or (I) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

(v) **"Business Day"** means any day except a Saturday, Sunday or a Federal Reserve Bank holiday.

(vi) **"Defaulting Party"** shall have the meaning provided in Section 17(a) of this Agreement.

(vii) **"Delivered Net Output"**: shall have the meaning provided in Section 4(a) of this Agreement.

(viii) **"Delivery Term"** shall have the meaning provided in Section 3(b) of this Agreement.

(ix) **"Dispute Notice"** shall have the meaning provided in Section 12 of this Agreement.

(x) **"Effective Date"** shall have the meaning set forth in the first paragraph of this Agreement.

(xi) **"Environmental Attributes"**: means 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 Project or the generation of energy by the Project, and the delivery of such energy to the electricity grid, and include 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 to the UNFCCC, 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 Project and other financial incentives in the form of credits, reductions, or allowances associated with ownership of the Project 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. 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 Project.

(xii) **"Event of Default"** shall have the meaning provided in Section 17(a) of this Agreement.

(xiii) **"Facility Service Power"**: means the electric energy generated and used by the Project during its operation to operate equipment that is auxiliary to primary generation equipment including pumping, generator excitation, cooling or other operations related to the production of electric energy by the Project and the City's underground water pumps (Well Electric and Parkwater) located at the Project.

(xiv) **"FERC"**: The United States Department of Energy, Federal Energy Regulatory Commission, or any other successor agency with substantially similar jurisdiction over Avista Corporation.

(xv) **"Force Majeure"** shall have the meaning provided in Section 8(a) of this Agreement.

(xvi) **"Forced Outage"**: Any outage that either fully or partially curtails the electrical output of the Project caused by mechanical or electrical equipment failure, plant related structural failure, or unscheduled maintenance required to be performed to prevent equipment failure.

(xvii) **"Good Industry Practice"**: Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Industry Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

(xviii) **“Governmental Authority”**: Any federal, state or local government, political subdivision thereof or other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or other entity with authority to bind a Party at law.

(xix) **“Governmental Rules”**: Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, directive, guideline, policy or similar form of decision of any Governmental Authority having the effect of law or regulation, provided that Governmental Rules shall not include any enactment or other action of the City undertaken for the purpose of abrogating, repudiating or unilaterally amending the Agreement, but this exception does not include any power of eminent domain that the City may lawfully exercise notwithstanding this Agreement.

(xx) **“Industrial Insurance Acts”** shall have the meaning provided in Section 10(b)(ii) of this Agreement.

(xxi) **“Interconnection Agreement”** shall have the meaning provided in the recitals of this Agreement.

(xxii) **“Loss”** shall have the meaning provided in Section 9(a) of this Agreement.

(xxiii) **“Major Maintenance”**: Maintenance work upon the Project that results in more than one generating unit not operating.

(xxiv) **“NERC”**: The North American Electric Reliability Corporation or its successor organization.

(xxv) **“Operating Year”**: The 12-month period from January 1 through December 31.

(xxvi) **“Pacific Prevailing Time”** or **“PPT”** means the prevailing time (i.e., Standard Time or Daylight Savings Time) on any given day in the Pacific Time Zone.

(xxvii) **“Person”** means an individual, partnership, corporation, limited liability company, joint venture, association, trust, unincorporated organization, Governmental Authority, or other form of entity.

(xxviii) **“Point of Delivery”**: The point at which the Project and Avista’s electric system are connected, as shown in Exhibit C.

(xxix) **“Power Meter”** shall have the meaning provided in Section 4(a) of this Agreement.

(xxx) **“Premises”**: The site owned and operated by the City at which the Project is located.

(xxx) **“Project”**: The electric generating facility, including all equipment and structures necessary to generate and supply electric power and the underground well water pump stations (Well Electric and Parkwater) located adjacent to the generating facility.

(xxxii) **“Qualifying Facility”** means a generating facility which meets the requirements for Qualifying Facility status under the Public Utility Regulatory Policies Act of 1978 and part 292 of FERC’s Regulations, 18 C.F.R. Part 292, and which has self-certified or been granted certification of its QF status.

(xxxiii) **“Representatives”** means, with respect to a Party, such Party’s directors, officers, partners, members, employees, consultants, agents, advisors, successors and assigns, in each case with respect to the transactions contemplated by this Agreement.

(xxxiv) **“Term”** shall have the meaning provided in Section 3(a) of this Agreement.

(xxxv) **“Termination Date”** means the date on which this Agreement terminates or expires.

(xxxvi) **“WECC”**: The Western Electricity Coordinating Council or its successor organization.

(xxxvii) **“WUTC”**: The Washington Utilities and Transportation Commission or any other successor agency with substantially similar jurisdiction over Avista.

(b) **Interpretation.** Unless the context otherwise requires:

(i) Words singular and plural in number will be deemed to include the other and pronouns having masculine or feminine gender will be deemed to include the other.

(ii) Subject to Section 1(b)(vii), any reference in this Agreement to any Person includes its successors and assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

(iii) Any reference in this Agreement to any Section, Exhibit, Appendix or Annex means and refers to the Section contained in, or Exhibit, Appendix or Annex attached to, this Agreement.

(iv) Other grammatical forms of defined words or phrases have corresponding meanings.

(v) A reference to writing includes typewriting, printing, lithography, photography and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form.

(vi) Unless otherwise expressly provided in this Agreement, a reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed.

(vii) A reference to a Party to this Agreement includes such Party's successors and permitted assigns.

(viii) Reference to any gender includes each other gender.

(ix) Unless otherwise expressly provided in this Agreement, a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as modified, amended, supplemented or restated from time to time.

(x) References in this Agreement to "or" will be deemed to be disjunctive but not necessarily exclusive (i.e., unless the context dictates otherwise, "or" will be interpreted to mean "and/or" rather than "either/or").

(xi) If any payment, act, matter or thing hereunder would occur on a day that is not a Business Day, then such payment, act, matter or thing will, unless otherwise expressly provided for herein, occur on the next Business Day.

(xii) "Hereunder," "hereof," "hereto" and words of similar import will be deemed references to this Agreement as a whole and not to any particular article, section or other provision hereof.

(xiii) "Including" (and with correlative meaning "include") means including without limitation on the generality of any description preceding such term.

(xiv) Relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding," and "through" means "through and including."

(c) **Technical Meanings.** Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

2. REPRESENTATIONS AND WARRANTIES; COVENANTS

(a) **Representations and Warranties.**

(i) The City represents that it is the sole owner of the Project that is managed for the benefit of the City Water Department ratepayers. The City warrants and represents that: (a) the City has investigated and determined that it has authority to and is capable of performing the obligations hereunder and has not relied upon the advice, experience or expertise of Avista in connection with the transactions contemplated by this Agreement; and (b) the Project is a Qualifying Facility. The City further represents that this Agreement constitutes a legal, valid and binding obligation of the City enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization

and other laws affecting creditors' rights generally, and with regard to equitable remedies, to the discretion of the court before which proceedings to obtain same may be pending, has been approved by the City Council, and that the City's signatory is authorized to execute the Agreement.

(ii) Avista represents that this Agreement constitutes a legal, valid and binding obligation of Avista enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies, to the discretion of the court before which proceedings to obtain same may be pending, and that Avista's signatory is authorized to execute the Agreement. Avista makes no warranties, expressed or implied, regarding any aspect of the City's design, specifications, equipment or facilities, including safety, durability, reliability, strength, capacity, adequacy or economic feasibility, and any review, acceptance or failure to review the City's design, specifications, equipment or Project shall not be an endorsement or a confirmation by Avista. Avista assumes no responsibility or obligation with regard to any NERC or WECC reliability standard applicable to the Project.

(b) Covenants.

(i) The City will comply with all applicable Governmental Rules and will obtain and comply with applicable licenses, permits and approvals in the design, construction, operation and maintenance of the Project; and the Project will, during the Term of this Agreement, remain a Qualifying Facility as that term is used in 18 C.F.R Part 292. The Project's failure to maintain Qualifying Facility status during the Term will be a material breach by the City of this Agreement. Avista reserves the right to review the Project's Qualifying Facility status and associated support and compliance documents at any time during the Term.

(ii) Avista will use commercially reasonable efforts to obtain approval of the WUTC (without adverse amendment or adverse condition) of this Agreement, including preparation and filing all documentation to effect all necessary notices, reports and other filings and furnishing all information as may be required by any Governmental Authority in connection with the foregoing, in each case as promptly as practicable. The City will use its commercially reasonable efforts to assist Avista, as requested by Avista from time to time, in connection with obtaining such WUTC approval. Each of Avista and the City shall have the right to review in advance and, to the extent practicable, consult with the other on, and shall consider in good faith the views of the other in connection with, any filing to be made with, or written materials to be submitted to, any Governmental Authority in connection with the process of obtaining WUTC approval of this Agreement. In exercising the foregoing rights, each of Avista and the City shall act reasonably and as promptly as practicable.

3. TERM OF AGREEMENT; DELIVERY TERM

(a) The term of this Agreement (the "Term") shall commence on the date of this Agreement and shall terminate at 2400 PPT on December 31, 2019, unless terminated earlier in accordance with the terms and conditions of this Agreement.

(b) The period during which the City will deliver Delivered Net Output to Avista under this Agreement (the "Delivery Term") will commence at 00:00:01 PPT on January 1, 2012 and continue through hour ending 2400 PPT on December 31, 2019. The Delivery Term will terminate effective immediately upon termination of the Term for any reason.

(c) Avista shall have the right to terminate this Agreement within one hundred and twenty (120) days following any order of the WUTC that disapproves this Agreement or disallows recovery in Avista's retail rates of costs arising from purchases of electric power pursuant to this Agreement. If the WUTC issues an order that approves this Agreement subject to conditions that adversely affect the financial benefit of the Agreement to either Avista or the City, and that is not in form and substance substantially the same as that requested by Avista in the applicable filing, then the adversely affected Party may terminate this Agreement by giving notice to the other Party within one hundred and twenty (120) days after the issuance of such order. Within thirty (30) days after receipt of an order from the WUTC setting forth a disapproval, disallowance or conditional approval of this Agreement, Avista shall notify the City of such order and the possible effects thereof.

(d) The City shall have a right, exercisable in the City's sole discretion by notice to Avista not later than May 20, 2014, to terminate this Agreement effective at 2400 PPT on November 16, 2014. If the City exercises such right and provides such notice, this Agreement and the Term will terminate effective at 2400 PPT on November 16, 2014, and neither Party will have any liability to the other Party for or as a result of such termination. If the City does not exercise such right, this Agreement and the Term will, unless terminated earlier in accordance with the terms and conditions of this Agreement, remain in full force and effect until 2400 PPT on December 31, 2019.

(e) Effective as of the Termination Date, the Parties will no longer be bound by the terms and conditions of this Agreement, except (a) to the extent necessary to enforce any rights and obligations of the Parties, including payment obligations, arising under this Agreement prior to expiration or termination of this Agreement, and (b) that the obligations of the Parties under Sections 6(h), 9, 10, 13 and 23 will survive the expiration or termination for any reason of this Agreement; provided that such obligations with respect to indemnification will continue only with respect to claims for indemnification based upon events or circumstances occurring or arising on or before the Termination Date.

4. PURCHASE AND SALE OF DELIVERED NET OUTPUT

(a) The City shall sell and deliver, and Avista shall purchase and receive, at the Point of Delivery the total amount of electric power that is generated by the Project (less Facility Service Power), up to a maximum of 17.7 megawatts, and delivered by the City to Avista at the Point of Delivery during the Delivery Term (the "Delivered Net Output"). A power meter

located at the Point of Delivery (installed at the City's expense) (the "Power Meter") shall register the Delivered Net Output on an hourly basis. The City shall deliver to Avista, and Avista shall receive, at all times all the Delivered Net Output. Notwithstanding any other provision of this Agreement, the City has no obligation to generate or sell or deliver, and Avista has no right to purchase or receive, any specified minimum amount of Delivered Net Output at any time during the Term, and the City's sole obligation with respect to the sale and delivery of any output of the Plant and any power supply whatsoever under this Agreement is sell to Avista all Delivered Net Output on the terms and subject to the conditions of this Agreement.

(b) The Power Meter shall record electric power that flows from and to the Project, and from and to Avista's electric system. Avista and the City both shall have the right to read and receive readings from the Power Meter. Avista shall read the meter and record the readings at least once per month. The Delivered Net Output in any month shall be calculated based on information from such meter readings. Monthly meter readings may be adjusted by prorating metered amounts to the number of days in such month.

(c) The Parties may, but are not obligated to, agree in writing that additional amounts of electric power made available from the Project as a result of modifications or enhancements of the Project shall be purchased and sold pursuant to this Agreement. The City may indicate its agreement to the purchase and sale of such additional amounts of electric power by a written administrative approval, executed by a lawfully authorized city official. For the avoidance of doubt, the City may not sell any electric power from the Project to any third party during the Delivery Term.

5. OPERATION OF PROJECT

(a) The City shall operate and maintain the Project in accordance with applicable Governmental Rules and Good Industry Practice.

(b) Interconnection of the Project with Avista's electrical system shall be governed by the separate Interconnection Agreement between the Parties which, following execution of the Interconnection Agreement, will be attached hereto as Exhibit C for informational purposes only.

(c) Either Party may interrupt, suspend or curtail delivery, receipt or acceptance of delivery of electric power at the Point of Delivery, if either Party reasonably determines that the failure to do so:

(i) Is reasonably likely to endanger any Person or property, or either Party's facilities or customers, or any electric system with which Avista's system is interconnected;

(ii) Is reasonably likely to cause, or contribute to, an imminent significant disruption of utility service to either Party's customers;

(iii) Is reasonably likely to interfere with any construction, installation, inspection, testing, repair, replacement, improvement, alteration, modification, operation, use or maintenance of, or addition to either Party's facilities;

(iv) Is reasonably likely to cause, contribute to, or necessitate operation of any of Avista's hydro electric projects in violation of any license or other regulatory requirements; or

(v) Is contrary to Good Industry Practice.

(d) A Party shall promptly notify the other Party in accordance with Exhibit A of the reasons for any such disconnection, interruption, suspension or curtailment. Such Party shall use its best reasonable efforts to mitigate and limit the duration of any such disconnection, interruption, supervision or curtailment.

6. PAYMENTS

(a) Avista shall prepare and submit to the City monthly statements during the Term based upon Delivered Net Output delivered to Avista during the previous month. Payments owed by Avista shall be paid no later than the twentieth (20th) day of the month following the end of the monthly billing period or five (5) Business Days after the receipt of the applicable 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.

(b) If the City is obligated to make any payment to Avista under the terms of this Agreement, Avista shall invoice the City for such payment. The price of electric power delivered to the Project at the Point of Delivery at any time during this Agreement shall be determined in accordance with Avista's then-applicable retail tariff in effect at the time such electric power is delivered as such tariff may be changed or replaced from time to time. The applicable retail tariff in effect at the time of the execution of this Agreement is Avista's Rate Schedule 31 for the State of Washington.

(c) Either Party may, if such Party is obligated to make any payment or refund to the other Party, net and set off such payment or refund amount against any current or future payments due to the other Party under this Agreement. Avista shall prepare and present a single net bill reflecting the offset of sums owed between the Parties as a result of the sale and delivery of electric power during a month. The Party owing funds in accordance with the net bill shall pay the other Party no later than the twentieth (20th) day of the month following the end of the monthly billing period or five (5) Business 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.

(d) Avista shall pay the City monthly for Delivered Net Output at the rates set forth in Exhibit B.

(e) If either Party is obligated to make any payment to the other Party under the terms of this Agreement for any reason other than the sale and delivery of electric power, the Party to which such payment is due shall bill the Party from which such payment is due. The Party from which such payment is due shall pay the other Party no later than the twentieth (20th) day of the month following the end of the applicable monthly billing period or five (5) Business Days after the receipt of the applicable 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. Overdue payments will accrue interest in accordance with Section 6(i) from the due date to the date of payment.

(f) All payments shall be made by ACH or wire transfer in accordance with further agreement of the Parties.

(g) A Party may in good faith dispute the correctness of any invoice (or any adjustment to any invoice) rendered under this Agreement, or adjust any invoice for any arithmetic or computational error, at any time within twelve (12) months following the date the invoice (or invoice adjustment) was rendered. In the event that either Party disputes any invoice or invoice adjustment, such Party will nonetheless be required to pay the full amount of the applicable invoice or invoice adjustment (except any portions thereof which are manifestly inaccurate or are not reasonably supported by documentation, payment of which amounts may be withheld subject to adjustment as hereinafter set forth) on the applicable payment due date, and to give notice of the objection to the other Party. Any dispute with respect to any invoice or invoice adjustment will be in writing and will state the basis for the dispute or adjustment. Upon resolution of the dispute, any required payment will be made within two (2) Business Days of such resolution, together with interest accrued at the Interest Rate from the due date to the date paid. Any Party receiving an inadvertent overpayment will return such overpayment upon request or will deduct such overpayment from subsequent payments, in each case together with interest accrued at the Interest Rate from the date of such overpayment to the date repaid or deducted by the Party receiving such overpayment. Each Party hereby waives any and all rights that it may have to dispute any invoice or invoice adjustment unless such Party notifies the other Party in accordance with this Section 6(g) within twelve (12) months after the invoice is rendered or the applicable adjustment to the invoice is made.

(h) Each Party (and its Representatives) will have the right, at such Party's sole expense, during normal working hours and upon reasonable prior written notice to the other Party, to examine or make copies of the records and data of the other Party relating to this Agreement (including all records and data relating to or substantiating any charges paid by or to either Party and including metering records of the amount of the Delivered Net Output) to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and will bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; *provided, however*, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection will be deemed waived. This Section 6(h) will survive any termination of this Agreement for a period of one (1) year from the date of such termination for the purpose of such statement and payment objections.

(i) In addition to the remedies set forth in this Agreement, any amounts owing after the due date specified in this Agreement will be subject to interest in the amount of one percent (1%) per month, not to exceed the maximum rate allowed by the law, multiplied by the unpaid balance.

7. METERING

(a) Avista shall be responsible for any meter readings required by this Agreement.

(b) Avista shall own and maintain the Power Meter. The Power Meter shall be used to determine the billing hereunder, and the meter shall be located at the Point of Delivery as specified in Exhibit C. The City shall reimburse Avista's reasonable costs, if any, for installing the Power Meter and for any replacement of such meter. For any planned replacement of the Power Meter by Avista for which the City bears cost responsibility pursuant to this Agreement, Avista shall, prior to commencing work on any such replacement, consult with the City regarding Avista's planning, design, operation, maintenance, repair and replacement of such Power Meter, including providing estimated costs, with the City. Avista shall use its best efforts to minimize such costs. If requested by the City, Avista shall provide copies of applicable test and calibration records and calculations pertaining to the Power Meter. Avista shall permit a representative of the City to be present at all times the Power Meter is being tested.

(c) Avista agrees to test the Power Meter in accordance with, and at such intervals as are consistent with, Avista's normal procedures, and in any event not less than once every two years. Avista shall conduct additional tests of the Power Meter if requested by the City, and the City shall reimburse Avista reasonable costs not to exceed \$1,000 per test, *provided* that the City may request an additional meter test at Avista's expense if the last meter test occurred more than twelve (12) months prior to the City's request. In addition, Avista shall not charge for any meter test requested by the City if such test shows that Avista's meter operates outside of accepted tolerances as determined by Avista in accordance with Good Industry Practice.

(d) Adjustments shall be made in meter readings and billings for errors in a meter reading billing discovered within twelve (12) months of the error. For purposes of adjusting meter readings and billings, in the event that it cannot be determined when the Power Meter commenced to malfunction, it shall be assumed that the Power Meter commenced to malfunction on a date which is the most recent of: (i) twelve (12) months prior to the date of discovery of the malfunction; or (ii) one half of the interval of time that elapsed between the date of the last meter test and the date of the discovery of the malfunction.

8. FORCE MAJEURE

(a) Neither Party shall be liable to the other Party for, or be considered to be in breach of or default under this Agreement, on account of any failure to perform or delay in performance that is attributable to any of the following events, which event or circumstance was not anticipated or reasonably foreseeable as of the Effective Date ("**Force Majeure**"):

(i) Any cause or condition that is beyond such Party's reasonable control and that is not the result of such Party's negligence and that, by the exercise of due diligence, the Party claiming Force Majeure is unable to overcome or avoid or cause to be avoided, including the following (*provided, however*, that the existence of the following factors will not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances that in the aggregate with such factors establish that a Force Majeure as defined in the foregoing clauses of this

Section 8(a)(i) has occurred): fire, flood, earthquake, volcanic activity, wind, drought and other acts of the elements; court order and act of civil, military or Governmental Authority; strike, lockout and other labor dispute; riot, insurrection, sabotage or war; federal, state, or other governmental laws, orders, decrees, restraints, or regulations; Forced Outage; breakdown of or damage to facilities or equipment; or 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

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

(b) Nothing contained in this section shall require any Party to settle any strike, lockout or other labor dispute. In the event that any Force Majeure occurrence prevents performance by a Party under this Agreement, the non-performing Party shall provide the other Party written notice thereof within seven (7) days after the occurrence of the Force Majeure event. Such notice shall include the particulars of the occurrence, assurances that suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure and that the nonperforming Party is using its commercially reasonable best efforts to remedy its inability to perform. The non-performing Party shall resume performance of the obligations prevented by the Force Majeure occurrence with all reasonable dispatch. The performing Party shall not be required to perform or resume performance of its obligations to the non-performing Party corresponding to the obligations of the performing Party excused by the Force Majeure occurrence.

(c) Force Majeure does not include changes in the ownership, occupancy, or operation of the Project or Avista that occur because of normal business occurrences which include but are not limited to: changes in business economic cycles; recessions; bankruptcies; tax law changes; sales of businesses; closure of businesses; changes in production levels; and changes in system operations.

(d) Force Majeure does not excuse any Party from making payments of money due and payable under this Agreement.

(e) Notwithstanding anything herein, the City shall not claim Force Majeure as a result of any Governmental Rules adopted by the City.

(f) Force Majeure will not be based on (i) the loss of Avista's markets, or (ii) Avista's inability economically to use or resell any Delivered Net Output purchased hereunder; *provided, however*, that notwithstanding anything herein, Avista may claim Force Majeure in the event that Avista ceases (for any reason that is beyond Avista's reasonable control and that is not the result of Avista's negligence and that, by the exercise of due diligence, Avista is unable to overcome or avoid or cause to be avoided) providing electric power to a substantial portion of its retail electric load within the City of Spokane.

(g) The Party claiming Force Majeure shall use its commercially reasonable best efforts to mitigate and limit the duration of any Force Majeure event.

9. INDEMNITY

(a) The City shall indemnify, defend and hold harmless Avista and its Representatives from and against any and all losses, expenses, liabilities, claims or actions (hereafter "Loss") based upon or arising out of bodily injuries or damages to Persons, including death resulting therefrom, or physical damages to or losses of property caused by, arising out of or sustained in connection with (i) the construction, operation or maintenance of the Project, (ii) the City's negligence or intentional misconduct, or (iii) any breach of this Agreement by the City. Avista shall indemnify, defend and hold harmless the City and its Representatives from and against and from any Loss caused by, arising out of or sustained in connection with (i) the construction, operation or maintenance of Avista's electrical system, (ii) Avista's negligence or intentional misconduct, or (iii) any breach of this Agreement by Avista. In the event that any such Loss is caused by the negligence of both the City and Avista, including their employees, agents, suppliers and subcontractors, the Loss shall be borne by each of the City and Avista in the proportion that its respective negligence bears to the total negligence causing the Loss. To the extent that a Loss is caused by, results from or arises out of or in connection with any matter that is addressed in the Interconnection Agreement, each Party's rights and obligations with respect to such Loss shall be subject to and governed exclusively by the terms and conditions of the Interconnection Agreement, including any and all limitations of liability, releases and waivers appearing in such agreement.

(b) THE CITY AND AVISTA REPRESENT AND 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.

10. LIMITATION OF LIABILITY

(a) Limitation of Liability. NOTWITHSTANDING ANYTHING CONTAINED TO THE CONTRARY IN THIS AGREEMENT, THE CITY AND AVISTA AGREE THAT THE RECOVERY BY EITHER PARTY OF ANY DAMAGES SUFFERED OR INCURRED BY IT AS A RESULT OF ANY BREACH BY THE OTHER PARTY OF ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE ACTUAL DAMAGES SUFFERED OR INCURRED BY THE NON-BREACHING PARTY OF ITS OBLIGATIONS HEREUNDER. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES (INCLUDING ANY DAMAGES ON ACCOUNT OF LOST PROFITS OR OPPORTUNITIES OR BUSINESS INTERRUPTION AND THE LIKE), WHETHER BY STATUTE, IN TORT OR UNDER CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE; *PROVIDED, HOWEVER*, THAT THE FOREGOING WILL NOT IN ANY EVENT LIMIT THE LIABILITY OF EITHER PARTY TO THE OTHER UNDER SECTION 9 FOR OR WITH RESPECT TO THIRD-PARTY CLAIMS.

(b) Compliance with Express Negligence Rule; RCW 4.24.115 Acknowledgement and Waiver.

(i) To the fullest extent permitted by applicable law, all releases, disclaimers, limitations on liability, and indemnities in this Agreement, including those in this Section 10, shall apply even in the event of the sole, joint, or concurrent negligence, strict liability, or fault of the party whose liability is released, disclaimed, limited, or indemnified.

(ii) Notwithstanding the foregoing, with respect to any and all claims against an indemnified Party by any Representative of an indemnifying Party, the indemnification obligations of the indemnifying Party herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the indemnifying Party under applicable law, including any workers compensation and industrial insurance acts, disability benefit acts, or other employee benefits acts (including the Washington State Industrial Insurance Act, RCW Title 51) (collectively, the "**Industrial Insurance Acts**").

(iii) EACH OF THE PARTIES HEREBY SPECIFICALLY AND EXPRESSLY WAIVES ANY AND ALL IMMUNITY TO WHICH SUCH PARTY MAY BE ENTITLED UNDER THE INDUSTRIAL INSURANCE ACTS (INCLUDING SUCH PARTY'S IMMUNITY UNDER THE INDUSTRIAL INSURANCE ACT (RCW TITLE 51) AND ANY EQUIVALENT LAWS), TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, INCLUDING RCW 4.24.115, AND EXPRESSLY AGREES TO ASSUME POTENTIAL LIABILITY, EXPENSES AND DAMAGES (INCLUDING ATTORNEYS' FEES AND COSTS) FOR ACTIONS BROUGHT AGAINST AN INDEMNIFIED PARTY BY THE INDEMNIFYING PARTY'S REPRESENTATIVES; *PROVIDED, HOWEVER,* THAT THE INDEMNIFYING PARTY'S WAIVER OF IMMUNITY BY THE PROVISIONS OF THIS SECTION 10 EXTENDS ONLY TO CLAIMS AGAINST THE INDEMNIFYING PARTY BY OR ON BEHALF OF THE INDEMNIFIED PARTY UNDER OR PURSUANT TO THIS AGREEMENT, AND DOES NOT INCLUDE ANY CLAIMS MADE BY THE INDEMNIFYING PARTY'S REPRESENTATIVES DIRECTLY AGAINST THE INDEMNIFYING PARTY. EACH PARTY ACKNOWLEDGES AND AGREES THAT THE FOREGOING WAIVER HAS BEEN SPECIFICALLY AND MUTUALLY NEGOTIATED BY THE PARTIES TO THIS AGREEMENT AND EACH PARTY HAS HAD THE OPPORTUNITY, AND HAS BEEN ENCOURAGED, TO CONSULT WITH INDEPENDENT COUNSEL REGARDING THIS WAIVER.

(iv) Notwithstanding the foregoing or anything to the contrary set forth in this Agreement, the Parties agree that if the provisions of RCW 4.24.115 apply to any claim by an indemnified Party against an indemnifying Party under this Agreement, then, with respect to such claim, (A) in no event shall the indemnifying Party be obligated to indemnify the indemnified Party for damages arising out of bodily injury to Persons or damage to property resulting from the sole negligence of the indemnified Party or its Representatives, and (B) if indemnification is sought for damages arising out of bodily injury to Persons or damage to property resulting from the concurrent negligence of the

indemnifying Party (or its Representatives) and the indemnified Party (or its Representatives), the indemnifying Party shall indemnify the indemnified Party for such damages only to the extent of the negligence of the indemnifying Party or its Representatives.

11. INSURANCE

(a) **Business Insurance.** Prior to operating the Project, the City, at his 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. Avista's acceptance of the certificate of insurance is not intended to, and will not reduce, limit, affect, or modify the primary obligations and liabilities of the City under the provisions of this Agreement. The City must provide notice of cancellation or notice of change in policy terms at least thirty (30) days prior to any change or termination of the policies.

(b) **General Liability.** The City shall carry and maintain comprehensive general liability insurance in a form acceptable to Avista with coverage of not less than \$10,000,000 per occurrence, including coverage of bodily injury, property damage liability, and contractual liability specifically related to the indemnity provisions of this Agreement. The deductible will not exceed the City's financial ability to cover claims.

(c) **Property Insurance.** The City shall carry and maintain property insurance for the full replacement value of the Project in a form acceptable to Avista, a deductible not to exceed the City's financial ability.

(d) **Qualifying Insurance.** The insurance coverage required by this Section 11 must be obtained from an insurance carrier licensed to conduct business in the state of Washington, must be acceptable to Avista, such acceptance not to be unreasonably withheld, but in no event have, as of the date of placement of such coverage during each year during the Term, less than an A.M. Best Rating of A-, Class VIII. The policies required under this Agreement must include (i) provisions or endorsements naming Avista and its directors, officers and employees as additional insureds, (ii) Avista as a loss payee as applicable, (iii) a cross-liability and severability of interest clause, and (iv) provisions such that the policy is primary insurance with respect to the interests of Avista and that any other insurance maintained by Avista is excess and not contributory.

12. ENVIRONMENTAL ATTRIBUTES

If at any time during the Term either Party provides written notice to the other Party asserting, on the basis of any applicable federal or state law or any decision by any Governmental Authority of competent jurisdiction, that the Party providing such notice is the owner of any Environmental Attributes generated by or otherwise associated with the Project, and if the other Party, in its sole discretion, determines that such ownership does or would materially adversely affect such Party, such Party may, by delivering written notice of such determination to the other Party (a "**Dispute Notice**") within thirty (30) days after notice of such ownership claim, require that the Parties enter into good faith negotiations concerning the disposition of the Environmental Attributes generated by or associated with the Project. If the Parties are unable, within a period of thirty (30) days following delivery of any Dispute Notice,

to reach a mutually acceptable agreement regarding such disposition and consideration, either Party will be entitled, at any time within thirty (30) days after expiration of such period, to deliver notice of termination of this Agreement to the other Party. This Agreement and the Term will terminate effective one hundred and eighty (180) days after delivery of any such termination notice, and neither Party will have any liability to the other Party for or as a result of such termination. Notwithstanding the foregoing, if a Party asserts that it is the owner of any Environmental Attributes under this Section 12, any failure of the other Party to deliver a Dispute Notice within thirty (30) days after notice of such ownership claim shall not constitute a waiver of such Party's right at any time subsequently to provide a Dispute Notice if such Party concludes, in its sole discretion, that such ownership does or would materially affect such Party; provided, however, that any such subsequent Dispute Notice shall be given prospective effect only and shall not be permitted to claim or dispute ownership of any Environmental Attributes for any period prior to the date of such Dispute Notice. The delivery at any time of any such subsequent Dispute Notice shall give rise to the same negotiation obligations and termination rights as set forth above with respect to any Dispute Notice delivered within thirty (30) days after initial notice of any Environmental Attributes ownership claim.

13. ARBITRATION

Each Party shall strive to resolve any and all differences during the term of the Agreement. If a dispute cannot be resolved, either Party may submit the dispute to binding arbitration. The arbitration shall be conducted pursuant to the Uniform Arbitration Act, Title 7, Chapter 9 of the Washington code, as the same may have been or may be amended.

14. ASSIGNMENT

(a) Required Consent. Neither Party shall assign this Agreement or any of its rights, interests or obligations hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed; *provided, however*, that a Party may, without the consent of the other Party, and by providing prior reasonable notice under the circumstances to the other Party, assign, transfer, pledge or otherwise dispose of its rights and interests under this Agreement to: (i) any Person in connection with an assignment of the Agreement for financing or refinancing purposes; (ii) any entity created to operate the Project; or (iii) any Affiliate of such Party, so long as the creditworthiness of such Affiliate is at least equal to that of the assigning Party.

(b) Continuing Obligations. Any assignments authorized as provided for in this Section 14 shall not operate to relieve the Party assigning this Agreement or any of its rights, interests or obligations hereunder of the responsibility of full compliance with the requirements of this Agreement unless: (i) the other Party consents, such consent not to be unreasonably withheld; and (ii) the assignee agrees in writing to be bound by all of the obligations and duties of the assigning party provided for in this Agreement.

(c) Reimbursement of Costs. Either Party shall, upon request from the other Party, execute and deliver such documents as may be reasonably necessary to accomplish any assignment, transfer, pledge or disposition of rights permitted under this Section 14, so long as the rights of the non-assigning Party are not altered, amended, diminished or otherwise impaired,

and so long as the requesting Party reimburses the other Party for all reasonable costs incurred in connection with the review, execution or delivery of such documents.

(d) **Approval by the City of Assignments.** The City may approve assignments under this Section 14 by written consent of the Mayor.

(e) **Binding Agreement.** This Agreement and all of the provisions hereof are binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assigns.

15. **NO UNSPECIFIED THIRD PARTY BENEFICIARIES**

Except as specifically provided in Section 9, Section 10 or otherwise in this Agreement, 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 14.

16. **NO TRANSFER RIGHTS**

Nothing in this Agreement shall be construed as granting the City any right of access, or any other rights, to Avista's distribution or transmission systems.

17. **DEFAULT**

(a) An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

(i) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after delivery of written notice;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respects when made or when deemed made or repeated;

(iii) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) if such failure is not remedied in accordance with Section 17(b), below;

(iv) such Party becomes Bankrupt; or

(v) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonable satisfactory to the other Party.

(b) In the Event of Default, the following shall apply:

(i) The non-defaulting Party shall give written notice to the Defaulting Party of the Event of Default in accordance with this Agreement.

(ii) Except for an Event of Default that arises from failure to make money payments or from a Party becoming Bankrupt, if, after twenty (20) days following receipt of such notice, the Defaulting Party has not cured the Event of Default, the non-defaulting Party may, at its option, terminate this Agreement; *provided, however*, if the defaulting Party, within such twenty (20)-day period, commences and thereafter proceeds with all due diligence to cure such default, such twenty (20)-day period shall be extended up to six (6) months after written notice to the defaulting Party, as may be necessary to cure the event of default with all due diligence. For an Event of Default that arises from the failure to make money payments, the non-defaulting Party may, at its option, terminate this Agreement if the Defaulting Party shall have failed to cure the failure to pay within three (3) Business Days following receipt of notice of such failure. For an Event of Default that arises from a Party becoming Bankrupt, the non-defaulting Party may, at its option, immediately terminate this Agreement upon notice to the Defaulting Party.

(iii) Upon the Event of Default and an expiration of any period to cure granted herein, the non-defaulting Party may, but has no obligation, to terminate this Agreement effective upon notice to the Defaulting Party and may exercise all other rights and remedies available to the non-defaulting Party under applicable law. On behalf of the City, such actions may be accomplished by the Mayor. Whether or not the non-defaulting Party elects to terminate this Agreement, it may, in addition to other remedies provided for herein, pursue such remedies as are available at law or in equity including suspension of its performance so long as the Event of Default is continuing and has not been cured.

(c) Any right or remedy afforded to either Party under any provision of this Agreement on account of the breach or default by the other Party is in addition to, and not in lieu of, all other rights or remedies afforded to such Party under any other provisions of this Agreement, by law or otherwise on account of the breach or default.

18. GOVERNMENTAL AUTHORITY

This Agreement is subject to all applicable Governmental Rules. All Governmental Rules now or hereafter in effect that are required to be incorporated in agreements of this character are by this reference incorporated in this Agreement.

19. SEVERAL OBLIGATIONS

Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties 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 or to impose any partnership obligation or liability upon either Party. 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.

20. IMPLEMENTATION

Each Party shall take such action (including the execution, acknowledgement and delivery of documents) as may reasonably be requested by the other Party for the implementation or continuing performance of this Agreement.

21. 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 to any extent of such Party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect.

22. ENTIRE AGREEMENT AND AMENDMENT

This Agreement together with its exhibits constitutes the entire agreement of the Parties hereto and supersedes and replaces any prior agreements or understandings between said Parties, entered into for the same or similar purposes. 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.

23. GOVERNING LAW AND VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington, without reference to conflict of laws provisions that would result in the application of the laws of any other jurisdiction. Any action at law or in equity to enforce the terms and conditions of this Agreement shall, unless subject to the exclusive jurisdiction of the WUTC, be brought in Spokane County, Washington.

24. COMPLIANCE WITH LAWS

Both Parties shall comply with all applicable laws and regulations of governmental agencies having jurisdiction over the Project and the operations of the Parties. The City shall obtain all required approvals or authorization from governmental agencies having jurisdiction over the sale of electric power from the Project.

25. FORWARD CONTRACT; FORWARD AGREEMENT

The Parties acknowledge and agree that this Agreement constitutes a "forward contract" and a "forward agreement" within the meaning of the United States Bankruptcy Code.

26. NOTICES

All notices, requests, statements or payments will be made in writing except where this Agreement expressly provides that notice may be made orally. Notices required to be in writing will be delivered by hand delivery, overnight delivery, or facsimile. Notice by facsimile will (where confirmation of successful transmission is received) be deemed to have been received on the day on which it was transmitted (unless transmitted after 5:00 p.m. at the place of receipt or on a day that is not a Business Day, in which case it will be deemed received on the next Business Day). Notice by hand delivery or overnight delivery will be deemed to have been received when delivered. When notice is permitted to be provided orally, notice by telephone will be permitted and will be deemed to have been received at the time the call is received.

To Avista: Director, Energy Resources
 Avista Corporation
 P.O. Box 3727
 MSC-7
 Spokane, Washington 99220-3727
 Facsimile No.: (509) 495-4272

To the City: Director
 City of Spokane Water and Hydroelectric Services Department
 914 East North Foothills Drive
 Spokane, Washington 99207
 Facsimile No.: (509) 625-7816

with a copy (which shall not constitute notice) to:

City Attorney
Office of the City Attorney
City of Spokane
808 W. Spokane Falls Blvd.
5th Floor, Municipal Bldg.
Spokane, Washington 99201-3326
Facsimile No.: (509) 625-6277

Changes in persons or addresses for submittal of written notices by a Party to this Agreement shall be made in writing to the other Party and delivered in accordance with this Section 26. Any oral notice required hereby, which affects the payments to be made hereunder shall be confirmed in writing as promptly as practicable after the oral notice is given. Exhibit A, herein, shall govern oral communications between the Parties.

27. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, taken together, shall constitute only one legal instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than one counterpart.

28. **EXHIBITS**

This Power Purchase Agreement includes the following exhibits, which are attached and incorporated by reference herein:

- Exhibit A - Communications
- Exhibit B - Payment Schedule
- Exhibit C - Interconnection Agreement

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the first date herein-above set forth:

CITY OF SPOKANE

AVISTA CORPORATION

By: [Signature]

By: [Signature]

Thomas E. Danek, Jr.
City Administrator
City of Spokane

DENNIS VERMILLION

(Type Name)

(Type Name)

Title: _____

Title: PRESIDENT AVISTA UTILITIES
SR VP CORP

Date: 12/8/11

Date: 12/5/11

Attest: [Signature]
City Clerk

Approved as to form: [Signature]
Assistant City Attorney



Exhibit A

Communications

A-1. Verbal Communications

All communications between the City and Avista referred to in the Agreement shall be done verbally by notifying the following parties:

- (a) Pre-Schedule (5:30 am to approximately 1:30 pm on normal Business Days):

Avista	Pre-Scheduler (509) 495-4911 Alternate Phone Number (509) 495-4073
the City	Business Phone (509) 742-8141 Alternate Phone Number (509) 625-7800

- (b) Real-Time Schedule (available 24 hours per day):

Avista	Real-Time Scheduler (509) 495-8534
the City	Business Phone (509) 742-8141 Alternate Phone Number (509) 625-7800

- (c) During normal business hours, all verbal communications relating to interruptions and outages:

Avista	System Operator (509) 495-4105 Alternate Phone Number (509) 495-4934
the City	Business Phone (509) 742-8141 Alternate Phone Number (509) 625-7800

- (d) Outside of normal business hours (nights, weekends, and holidays), all verbal communications relating to interruptions and outages shall take place between the following personnel:

Avista	System Operator (509) 495-4105 Alternate Phone Number (509) 495-4934
the City	Business Phone (509) 742-8141 Alternate Phone Number (509) 625-7800

- A-2.** The City shall notify Avista's system operator, as soon as is practical, whenever the Project is or is expected to be brought on line, or taken off line.

- A-3.** Changes in persons or phone numbers for verbal communications by a Party to this Agreement may be made verbally to the other Party in accordance with this Exhibit but shall be confirmed in writing as an amended Exhibit A. A copy of said amended Exhibit A shall be mailed or delivered to the representatives of the Parties designated in Section 26.

Exhibit B

Power Purchase Payment Rates

For the period January 1, 2012 through December 31, 2019, Avista agrees to buy the Delivered Net Output from the City's Upriver Hydro project at the following monthly rates:

Year	Apr - Jun	Apr - Jun	Jul - Mar	Jul - Mar
	On-Peak \$/MWh	Off-Peak \$/MWh	On-Peak \$/MWh	Off-Peak \$/MWh
2012	\$39.86	\$34.86	\$48.84	\$43.84
2013	\$41.38	\$36.38	\$50.72	\$45.72
2014	\$42.97	\$37.97	\$52.69	\$47.69
2015	\$44.63	\$39.63	\$54.73	\$49.73
2016	\$46.34	\$41.34	\$56.85	\$51.85
2017	\$48.13	\$43.13	\$59.06	\$54.06
2018	\$49.99	\$44.99	\$61.36	\$56.36
2019	\$51.92	\$46.92	\$63.74	\$58.74

On-Peak means the hours ending 0700 through 2200 Pacific Prevailing time, Monday through Sunday.

Off-Peak means all hours other than On-Peak hours.

“Non-Confidential Attachment C”

Avista Corporation
Monthly Power Cost Deferral Report
Month of December 2011

Long-term Power Transaction
(See attached)

**POWER PURCHASE AND SALE AGREEMENT
BETWEEN
SPOKANE COUNTY, WASHINGTON
AND
AVISTA CORPORATION**

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This Power Purchase Agreement dated September 1, 2011 ("Effective Date") is made by and between Avista Corporation, a Washington corporation ("Avista"), and Spokane County, a political subdivision of the State of Washington ("Project Owner"). Project Owner and Avista may be referred to collectively as "Parties" and individually as "Party."

Background and Purpose: Project Owner owns and operates a power production facility more particularly described in Section 5 of this Agreement ("Facility") with a generating capacity of 5,000 kilowatts ("kW") or less. Project Owner wishes to sell electric power generated by the Facility to Avista and Avista is willing to purchase such electric power. Therefore, the Parties agree as follows:

1. DEFINITIONS.

Except as otherwise defined in this Agreement, the following terms will have the following meanings:

1.1 "Commercial Operation Date" means the date upon which Project Owner has certified to Avista that the Facility is fully operational such that it is capable of reliably generating and delivering Net Facility Output to Avista.

1.2 "Commission" means the Washington Utilities and Transportation Commission.

1.3 "Facility" means the Project Owner's power production facility more particularly described in Section 5 of this Agreement, including all equipment and structures necessary to generate and supply electric energy to Avista's electrical system.

1.4 "Force Majeure" will have the meaning provided in Section 11 of this Agreement.

1.5 "Interconnection Agreement" means the Small Generator and Interconnection and Construction Agreement or, other similar agreements which govern the terms and conditions under which the Project Owner's Facility will interconnect and operate in parallel with Avista's electric system.

1.6 "NERC" means the North American Electric Reliability Corporation or its successor.

1.7 "Net Electric Output" means capability and electric power generated by the Facility, less facility service power and less electric power used to compensate for losses, if any, incurred in transmitting electric power generated by the Facility and delivered to Avista's electric system.

1.8 "Point of Delivery" means the location, as specified in Exhibit 1 of this Agreement, where the Net Electric Output is delivered to Avista's electrical system.

1.9 **“Power Sales”** means the transactions in which Project Owner sells Net Electric Output to Avista.

1.10 **“Premises”** means the site owned or operated by Project Owner at which the Facility is located as more particularly described in Section 5 of this Agreement.

1.11 **“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.

1.12 **“Qualifying Facility”** or **“QF”** means a generating facility which meets the requirements for QF status under the Public Utility Regulatory Policies Act of 1978 (“PURPA”) and part 292 of the Federal Energy Regulatory Commission’s Regulations (18 C.F.R. Part 292), and which has obtained certification of its QF status.

1.13 **“Test Energy”** shall be the energy generated during start-up testing from August 1, 2011 through August 31, 2011 and shall have the meaning provided in Section 6.3 of this Agreement.

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

1.15 **“WUTC”** means the Washington Utility and Transportation Commission or its successor.

2. **COMPLETE AGREEMENT.**

This Agreement, including all Exhibits to this Agreement, constitutes the entire understanding of the Parties and supersedes and replaces any prior agreements or understandings, whether written or oral, between said Parties.

3. **REPRESENTATIONS.**

3.1 Project Owner represents that: (a) Project Owner has investigated and determined that it is capable of performing and will perform the obligations set forth in this Agreement 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 Project Owner may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Project Owner; (c) Project Owner will comply with all applicable laws and regulations, and 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. Project Owner’s failure to maintain Qualifying Facility status will be a material breach of this

Agreement. Avista reserves the right to review the Project Owner's Qualifying Facility status and associated support and compliance documents at anytime during the Term of this Agreement.

3.2 Project Owner further represents that the undersigned is authorized to execute this Agreement on behalf of the Facility. Project Owner further represents that Project Owner has the right to occupy the Premises and that Project Owner will maintain all necessary licenses, permits or other permissions from governmental authorities having jurisdiction over the premises or the Facility. Upon Avista's request, Project Owner 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 Project Owner's licenses, permits and permissions are legally and validly issued, are held in the name of the Project Owner, and based on a reasonable independent review, counsel is of the opinion that Project Owner 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. If, at any time during the Term of this Agreement, Project Owner does not maintain the right to occupy the Premises (defined below) or fails to maintain all necessary licenses, permits or other permissions from governmental authorities having jurisdiction over the Premises or the Facility, Project Owner shall promptly provide notice of such change of circumstances to Avista and Avista may immediately terminate this Agreement. Upon request by Avista, Project Owner shall deliver to Avista copies of any licenses or permits required for operation of the Facility.

3.3 Avista makes no warranties, expressed or implied, regarding any aspect of the Facility, Owner'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 power from the Facility to Avista.

4. TERM OF AGREEMENT.

4.1 This Agreement will commence upon the later of:

4.1.1 The effective date of this agreement shall be September 1, 2011; provided however, that this Agreement shall terminate upon Commission rejection of this Agreement, or

will continue, unless otherwise terminated as provided herein through August 31, 2016.

4.2 All obligations required to be performed by the Parties are preserved regardless of the termination or expiration of this Agreement where so required by terms and conditions of this Agreement until such obligations are satisfied.

5. DESCRIPTION OF FACILITY AND PREMISES.

The Facility is an anaerobic digester gas-powered production facility consisting of four co-generation units with a nameplate capacity of 65 kilowatts each for a total of 260 kilowatts. The Facility is located south of the Solids Building in the southeast corner of the Spokane County Regional Water Reclamation Facility at 1004 N. Freya Street, Spokane, WA 99202 ("Premises").

6. SALE OF NET ELECTRIC OUTPUT.

6.1 Project Owner shall sell and deliver to Avista at the Point of Delivery all Net Electric Output not to exceed 5,000 kilowatt-hours in any hour and Avista shall purchase and pay for such Net Electric Output that is delivered to Avista in accordance with this Agreement.

6.2 Commencing on the Commercial Operation Date and continuing for the term of the Agreement, Avista shall, except as provided in Section 6.3 of this Agreement, pay for Net Electric Output delivered to Avista's electrical system at the Point of Delivery at the rate as specified in Exhibit 2.

6.3 Test Energy Price. Test Energy is Net Electric Output produced by the Facility during Start-Up Testing and before the Commercial Operation Date. Seller shall sell and deliver all Test Energy produced by the Facility to Avista and Avista shall purchase all such Test Energy at the lesser of (i) the price in Exhibit 2 or (ii) fifty percent (50%) of the weighted monthly average Intercontinental Exchange ("ICE") daily On- and Off-Peak Firm Index prices for electricity at the Mid-Columbia hub ("Mid-C"), or its successor, or if no successor exists, such other index that is agreed to by the Parties ("Index Price"); provided, however, that in no event shall the price paid for Test Energy be less than zero. In the event that the Index Price is less than zero, the Index Price shall be deemed to be zero for purposes of establishing the Test Energy Price under this Agreement.

7. INTERCONNECTION AGREEMENT.

Project Owner shall maintain in effect during the Term of this Agreement, any necessary Interconnection Agreements to implement this Agreement. Upon Avista's request Project Owner shall provide any such Interconnection Agreements to Avista.

8. OPERATION OF FACILITY.

8.1 Prior to delivering Net Electric Output to Avista, Project Owner shall provide Avista with written documentation proving, to the reasonable satisfaction of Avista, that the Facility has received Qualifying Facility status.

8.2 Project Owner shall construct, operate, and maintain the Facility and all equipment needed to generate and deliver Net Electric Output in accordance with applicable laws and regulations and in accordance with Prudent Utility Practices. Project Owner shall construct, operate, and maintain said Facility and equipment at its own risk and expense.

8.3 Avista may require Project Owner to curtail, interrupt or reduce deliveries of Net Electric Output if Avista determines in its sole judgment that curtailment, interruption or reduction is necessary due to a Force Majeure event, for Avista's compliance with any applicable law or regulatory requirement, or to protect persons or property from injury or damage.

9. PAYMENTS.

9.1 Avista shall prepare and submit to Project Owner monthly statements during the Term of the Agreement summarizing the Net Electric Output delivered to Avista during the previous month. Payments owed by Avista will be paid no later than the 20th day of the month following the end of the monthly billing period. If the due date falls on a non-business day, then the payment will be due on the next business day.

9.2 If Project Owner is obligated to make any payment to Avista under the terms of this Agreement, Avista shall prepare an invoice for such payment. Project Owner shall pay Avista within 30 days from the date of invoice. If the due date falls on a non-business day, then the payment will be due on the next business day.

9.3 Any payments by Avista to the Project Owner or by the Project Owner to Avista, if not paid in full within the time frame set forth in Sections 9.1 and 9.2 will be late. Despite the remedies for default pursuant to Section 15, the late-paying Party will be assessed a charge for late payment equal to the lesser of one and one-half percent (1.5%) per whole or partial month, or the maximum rate allowed by the laws of the State of Washington per whole or partial month multiplied by the overdue amount. Avista shall have the right to offset any amounts due it against any present or future payments due Project Owner.

10. METERING.

10.1 Avista shall own, install, and maintain a kilowatt-hour meter or meters at the Facility in accordance with the terms of the Interconnection Agreement. Sales of Net Electric Output in any month will be determined by a monthly meter reading, as adjusted for losses, taken in that month, net of the reading from the previous month (the "Power Sales Meter Reading"). There will be no pro-rations or date adjustments made to the Power Sales Meter Readings.

10.2 All meters installed for Power Sales Meter Reading will be tested and inspected in accordance with Avista's meter testing program as filed with the Commission. If requested to do so by Project Owner, Avista shall provide copies of applicable test and calibration records and calculations. Avista will test any of such meters as may reasonably be requested by Project Owner and a representative of Project Owner may be present at all times when the meters are tested. If such tests are requested by Project Owner, Project Owner shall pay all reasonable costs for such tests unless any of the meters are found to be substantially inaccurate, in which case Avista shall pay for such tests.

10.3 For errors in Power Sales Meter Reading or related billing discovered within 12 months of the error, Avista shall adjust the affected payment. Avista shall permit representatives

of Project Owner to inspect Avista's records relating to any Power Sales under this Agreement, annually, upon reasonable notice and during normal business hours at Avista's corporate headquarters.

11. FORCE MAJEURE.

11.1 Except for the obligation to pay when due, 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, 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.

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

11.3 Nothing contained in this Section will require any Party to settle any strike, lockout, or other labor dispute.

11.4 If a Force Majeure event occurs, the delayed Party shall provide the other Party notice by telephone or email as soon as reasonably practicable, and written notice within 14 days after the beginning of the Force Majeure event. Such notice must include the particulars of the occurrence. The suspension of performance must be of no greater scope and no longer duration than is required by the Force Majeure and the delayed Party shall use its reasonable best efforts to remedy its inability to perform.

12. INSURANCE.

12.1 Prior to operating the Facility, Project Owner, at his own cost, shall obtain and maintain the following insurance in force over the Term of this Agreement and shall provide assurance and evidence of such coverage to Avista. Avista's acceptance of the evidence of coverage is not intended to, and will not reduce, limit, affect, or modify the primary obligations and liabilities of Project Owner under the provisions of this Agreement. Project Owner must provide notice of cancellation or notice of change in policy terms at least 60 days prior to any change or termination of the policies.

12.1.1 General Liability. Project Owner shall carry and maintain comprehensive general liability insurance with coverage of not less than \$2,000,000 per occurrence and \$5,000,000 in aggregate, including coverage of bodily injury, property damage liability, and contractual liability specifically related to the indemnity provisions of this Agreement. The deductible will not exceed the Project Owner's financial ability to cover claims and will not be greater than prevailing practices for similar operations in the State of Washington.

12.1.2 Qualifying Insurance. The insurance coverage required by this Section 12.1.1 must be obtained from an insurance carrier licensed to conduct business in the state in which the Services are to be performed, and must have an A.M. Best Rating of A-, Class VIII or better, or can be obtained through the Washington Counties Risk Pool (the "Pool"), as provided by RCW 48.62.031. Project Owner agrees that Avista and its directors, officers and employees are named insureds to the required coverage, Avista is named as a loss payee as applicable, cross-liability and severability of interest applies, and the required insurance coverage is primary insurance with respect to the interests of Avista and that any other insurance maintained by Avista is excess and not contributory.

13. ASSIGNMENT.

Neither Party shall voluntarily assign its rights nor delegate its duties under this Agreement, or any part of such rights or duties, without the written consent of the other Party which consent will not unreasonably be withheld. This Agreement will inure to and bind the Parties' successors, heirs, and assigns.

14. NO UNSPECIFIED THIRD PARTY BENEFICIARIES.

Except as specifically provided in this Agreement, 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 13.

15. DEFAULT AND TERMINATION.

15.1 In the event that either Party breaches or otherwise fails to perform the terms set forth in this Agreement (each, an "Event of Default" or "Event"), including failure of Project Owner to deliver Net Electric Output at the times or in the amounts required, the following will apply:

15.1.1 The non-defaulting Party shall give written notice to the defaulting Party of the Event of Default in accordance with this Agreement.

15.1.2 If, after 30 calendar days following the Event of Default, the defaulting Party has not cured such Event, the non-defaulting Party may, at its option, terminate this Agreement. Whether or not the non-defaulting Party elects to terminate this Agreement, the non-

defaulting Party may, in addition to other remedies provided for in this Agreement, pursue such remedies as are available at law or in equity.

15.2 In addition to any breach of or failure to perform the terms and conditions of this Agreement, Project Owner shall also be in default if it:

15.2.1 Becomes insolvent (e.g., is unable to meet its obligations as they become due or its liabilities exceed its assets);

15.2.2 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;

15.2.3 Has filed against it a petition for bankruptcy, reorganization or other relief under any applicable insolvency laws and such petition is not dismissed within 60 days after it is filed; or

15.2.4 Breaches or otherwise fails to perform any obligation under the Interconnection Agreement or if the Interconnection Agreement is suspended or terminated for any reason.

15.3 Any right or remedy afforded to either Party under any provision of this Agreement on account of the breach or default by the other Party is in addition to, and not in lieu of, all other rights or remedies afforded to such Party under any other provisions of this Agreement, under the Interconnection Agreement, by law or otherwise on account of the breach or default.

16. GOVERNMENTAL AUTHORITY.

This Agreement is subject to the rules, regulations, orders and other requirements, now or in effect in the future, 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 in effect in the future, of governmental authorities that are required to be incorporated in agreements of this character are by this reference incorporated in this Agreement.

17. SEVERAL OBLIGATIONS.

Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective and each Party shall be individually liable for its own obligations under this Agreement. This Agreement will not be interpreted or construed to create an employment relationship, association, joint venture, or partnership between the Parties or to impose any partnership obligations or liability upon either Party. 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.

18. INDEMNIFICATION.

18.1 Each Party shall defend and indemnify 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 acts or omissions of that Party (as the "Indemnitor"), including, but not limited to damage to tangible property and bodily injury or death suffered by any person (including employees of Project Owner 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.

18.2 PROJECT OWNER 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.

18.3 EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, 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.

19. IMPLEMENTATION.

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

20. 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 will not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same will be and remain in full force and effect.

verbal notice which affects the payments to be made under this Agreement must be confirmed in writing as promptly as practicable after the verbal notice is given.

26. JOINTLY NEGOTIATED AND PREPARED.

This Agreement was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this Agreement and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

27. 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.

28. SEVERABILITY.

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement will remain in effect; *provided, however*, that the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any applicable law and the intent of the Parties.

29. EXHIBITS.

This Agreement includes the following exhibits, which are attached and incorporated:

- Exhibit 1 – Interconnection Agreement dated August 22, 2011.
- Exhibit 2 – Power Purchase Rate

This Agreement has been executed by each Party's authorized representative on the date(s) set forth below. Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the first date set forth above:

SPOKANE COUNTY
Board of County Commissioners
Spokane County, Washington

By: *Al French*
Printed Name: Al French
Title: Chair

Attest: *Daniela Erickson*
Name: Daniela Erickson, Clerk of the Board

Date: 12/1/2011

AVISTA CORPORATION

By: *RJ Storro*
Printed Name: Richard L. Storro

Title: VP Energy Resources

Date: 12/14/2011



Exhibit 2
Power Purchase Rate

<u>Period</u>	<u>Contract Rate</u> \$/MWh
Jul 2011 - Dec 2011	\$66.74
Jan 2012 - Feb 2012	\$67.74
Mar 2012 - Jun 2012	\$52.69
Jul 2012 - Dec 2012	\$67.74
Jan 2013 - Feb 2013	\$68.76
Mar 2013 - Jun 2013	\$53.48
Jul 2013 - Dec 2013	\$68.76
Jan 2014 - Feb 2014	\$69.79
Mar 2014 - Jun 2014	\$54.28
Jul 2014 - Dec 2014	\$69.79
Jan 2015 - Feb 2015	\$70.84
Mar 2015 - Jun 2015	\$55.09
Jul 2015 - Dec 2015	\$70.84
Jan 2016 - Feb 2016	\$71.90
Mar 2016 - Jun 2016	\$55.92
Jul 2016 - Dec 2016	\$71.90

“Non-Confidential Attachment D”

Avista Corporation
Monthly Power Cost Deferral Report
Month of December 2011

Long-term Power Transaction
(See attached)

**POWER PURCHASE AND SALE AGREEMENT
BETWEEN
HYDRO TECHNOLOGY SYSTEMS
AND
AVISTA CORPORATION**

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This Power Purchase Agreement dated January 1, 2012 ("Effective Date") is made by and between Avista Corporation, a Washington corporation ("Avista"), and Hydro Technology Systems, Inc. ("Project Owner"). Project Owner and Avista may be referred to collectively as "Parties" and individually as "Party."

Background and Purpose: Project Owner owns and operates a power production facility more particularly described in Section 5 of this Agreement ("Facility") with a generating capacity of 5,000 kilowatts ("kW") or less. Project Owner wishes to sell electric power generated by the Facility to Avista and Avista is willing to purchase such electric power. **Therefore**, the Parties agree as follows:

1. DEFINITIONS.

Except as otherwise defined in this Agreement, the following terms will have the following meanings:

1.1 "**Commission**" means the Washington Utilities and Transportation Commission.

1.2 "**Facility**" means the Project Owner's power production facility more particularly described in Section 5 of this Agreement, including all equipment and structures necessary to generate and supply electric energy to Avista's electrical system.

1.3 "**Force Majeure**" will have the meaning provided in Section 11 of this Agreement.

1.4 "**Interconnection Agreement**" means the Small Generator and Interconnection and Construction Agreement or, other similar agreements which govern the terms and conditions under which the Project Owner's Facility will interconnect and operate in parallel with Avista's electric system.

1.5 "**NERC**" means the North American Electric Reliability Corporation or its successor.

1.6 "**Net Electric Output**" means capability and electric power generated by the Facility, less facility service power and less electric power used to compensate for losses, if any, incurred in transmitting electric power generated by the Facility and delivered to Avista's electric system.

1.7 "**Point of Delivery**" means the location, as specified in Exhibit 1 of this Agreement, where the Net Electric Output is delivered to Avista's electrical system.

1.8 "**Power Sales**" means the transactions in which Project Owner sells Net Electric Output to Avista.

1.9 “Premises” means the site owned or operated by Project Owner at which the Facility is located as more particularly described in Section 5 of this Agreement.

1.10 “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.

1.11 “Qualifying Facility” or “QF” means a generating facility which meets the requirements for QF status under the Public Utility Regulatory Policies Act of 1978 (“PURPA”) and part 292 of the Federal Energy Regulatory Commission's Regulations (18 C.F.R. Part 292), and which has obtained certification of its QF status.

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

1.13 “WUTC” means the Washington Utility and Transportation Commission or its successor.

2. COMPLETE AGREEMENT.

This Agreement, including all Exhibits to this Agreement, constitutes the entire understanding of the Parties and supersedes and replaces any prior agreements or understandings, whether written or oral, between said Parties.

3. REPRESENTATIONS.

3.1 Project Owner represents that: (a) Project Owner has investigated and determined that it is capable of performing and will perform the obligations set forth in this Agreement 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 Project Owner may have consulted or relied on in undertaking the transactions contemplated by this Agreement have been solely those of Project Owner; (c) Project Owner will comply with all applicable laws and regulations, and 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. Project Owner's failure to maintain Qualifying Facility status will be a material breach of this Agreement. Avista reserves the right to review the Project Owner's Qualifying Facility status and associated support and compliance documents at anytime during the Term of this Agreement.

3.2 Project Owner further represents that the undersigned is authorized to execute this Agreement on behalf of the Facility. Project Owner further represents that Project Owner has the right to occupy the Premises and that Project Owner will maintain all necessary licenses, permits

or other permissions from governmental authorities having jurisdiction over the premises or the Facility. Upon Avista's request, Project Owner 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 Project Owner's licenses, permits and permissions are legally and validly issued, are held in the name of the Project Owner, and based on a reasonable independent review, counsel is of the opinion that Project Owner 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. If, at any time during the Term of this Agreement, Project Owner does not maintain the right to occupy the Premises (defined below) or fails to maintain all necessary licenses, permits or other permissions from governmental authorities having jurisdiction over the Premises or the Facility, Project Owner shall promptly provide notice of such change of circumstances to Avista and Avista may immediately terminate this Agreement. Upon request by Avista, Project Owner shall deliver to Avista copies of any licenses or permits required for operation of the Facility.

3.3 Avista makes no warranties, expressed or implied, regarding any aspect of the Facility, Owner'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 power from the Facility to Avista.

4. TERM OF AGREEMENT.

4.1 The effective date of this agreement shall be January 1, 2012 and will continue, unless otherwise terminated as provided herein, through December 31, 2013; provided however, that this Agreement shall terminate upon Commission rejection of this Agreement.

4.2 All obligations required to be performed by the Parties are preserved regardless of the termination or expiration of this Agreement where so required by terms and conditions of this Agreement until such obligations are satisfied.

5. DESCRIPTION OF FACILITY AND PREMISES.

The Facility and Premises are specifically described as follows: The Meyers Falls hydroelectric project built in 1915 has a Federal Energy Regulatory Commission project number of 2544 and is located on the Colville River five miles upstream of the Columbia River, near the City of Kettle Falls, Washington with a total nameplate capacity of 1.2 megawatts.

6. SALE OF NET ELECTRIC OUTPUT.

6.1 Project Owner shall sell and deliver to Avista at the Point of Delivery all Net Electric Output not to exceed 5,000 kilowatt-hours in any hour and Avista shall purchase and pay for such Net Electric Output that is delivered to Avista in accordance with this Agreement.

6.2 For the term of the Agreement, Avista shall, except as provided in Section 6.3 of this Agreement, pay for Net Electric Output delivered to Avista's electrical system at the Point of Delivery at the rate as specified in Exhibit 2.

7. **INTERCONNECTION AGREEMENT.**

Project Owner shall maintain in effect during the Term of this Agreement, any necessary Interconnection Agreements to implement this Agreement.

8. **OPERATION OF FACILITY.**

8.1 Upon Avista's request, Project Owner shall provide Avista with written documentation proving, to the reasonable satisfaction of Avista, that the Facility has received Qualifying Facility status.

8.2 Project Owner shall construct, operate, and maintain the Facility and all equipment needed to generate and deliver Net Electric Output in accordance with applicable laws and regulations and in accordance with Prudent Utility Practices. Project Owner shall construct, operate, and maintain said Facility and equipment at its own risk and expense.

8.3 Avista may require Project Owner to curtail, interrupt or reduce deliveries of Net Electric Output if Avista determines in its sole judgment that curtailment, interruption or reduction is necessary due to a Force Majeure event, for Avista's compliance with any applicable law or regulatory requirement, or to protect persons or property from injury or damage.

9. **PAYMENTS.**

9.1 Avista shall prepare and submit to Project Owner monthly statements during the Term of the Agreement summarizing the Net Electric Output delivered to Avista during the previous month. Payments owed by Avista will be paid no later than the 20th day of the month following the end of the monthly billing period. If the due date falls on a non-business day, then the payment will be due on the next business day.

9.2 If Project Owner is obligated to make any payment to Avista under the terms of this Agreement, Avista shall prepare an invoice for such payment. Project Owner shall pay Avista within 30 days from the date of invoice. If the due date falls on a non-business day, then the payment will be due on the next business day.

9.3 Any payments by Avista to the Project Owner or by the Project Owner to Avista, if not paid in full within the time frame set forth in Sections 9.1 and 9.2 will be late. Despite the remedies for default pursuant to Section 15, the late-paying Party will be assessed a charge for late payment equal to the lesser of one and one-half percent (1.5%) per whole or partial month, or the maximum rate allowed by the laws of the State of Washington per whole or partial month multiplied by the overdue amount. Avista shall have the right to offset any amounts due it against any present or future payments due Project Owner.

10. METERING.

10.1 Avista shall own, install, and maintain a kilowatt-hour meter or meters at the Facility in accordance with the terms of the Interconnection Agreement. Sales of Net Electric Output in any month will be determined by a monthly meter reading, as adjusted for losses, taken in that month, net of the reading from the previous month (the "Power Sales Meter Reading"). There will be no pro-rations or date adjustments made to the Power Sales Meter Readings.

10.2 All meters installed for Power Sales Meter Reading will be tested and inspected in accordance with Avista's meter testing program as filed with the Commission. If requested to do so by Project Owner, Avista shall provide copies of applicable test and calibration records and calculations. Avista will test any of such meters as may reasonably be requested by Project Owner and a representative of Project Owner may be present at all times when the meters are tested. If such tests are requested by Project Owner, Project Owner shall pay all reasonable costs for such tests unless any of the meters are found to be substantially inaccurate, in which case Avista shall pay for such tests.

10.3 For errors in Power Sales Meter Reading or related billing discovered within 12 months of the error, Avista shall adjust the affected payment. Avista shall permit representatives of Project Owner to inspect Avista's records relating to any Power Sales under this Agreement, annually, upon reasonable notice and during normal business hours at Avista's corporate headquarters.

11. FORCE MAJEURE.

11.1 Except for the obligation to pay when due, 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, 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.

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

11.3 Nothing contained in this Section will require any Party to settle any strike, lockout, or other labor dispute.

11.4 If a Force Majeure event occurs, the delayed Party shall provide the other Party notice by telephone or email as soon as reasonably practicable, and written notice within 14 days after the beginning of the Force Majeure event. Such notice must include the particulars of the occurrence. The suspension of performance must be of no greater scope and no longer duration than is required by the Force Majeure and the delayed Party shall use its reasonable best efforts to remedy its inability to perform.

12. INSURANCE.

12.1 Project Owner, at his own cost, shall obtain and maintain the following insurance in force over the Term of this Agreement and shall provide assurance and evidence of such coverage to Avista. Avista's acceptance of the evidence of coverage is not intended to, and will not reduce, limit, affect, or modify the primary obligations and liabilities of Project Owner under the provisions of this Agreement. Project Owner must provide notice of cancellation or notice of change in policy terms at least sixty (60) days prior to any change or termination of the policies.

12.1.1 General Liability. Project Owner shall carry and maintain comprehensive general liability insurance with coverage of not less than \$1,000,000 per occurrence, including coverage of bodily injury, property damage liability, and contractual liability specifically related to the indemnity provisions of this Agreement. The deductible will not exceed the Project Owner's financial ability to cover claims and will not be greater than prevailing practices for similar operations in the State of Washington.

12.1.2 Qualifying Insurance. The insurance coverage required by this Section 12 must be obtained from an insurance carrier licensed to conduct business in the state in which the Services are to be performed, must be acceptable to Avista, such acceptance not to be unreasonably withheld, but in no event have an A.M. Best Rating of A-, or Class VIII or better. The policies required under this Agreement must include (i) provisions or endorsements naming Avista and its directors, officers and employees as additional insureds, (ii) Avista as a loss payee as applicable, (iii) a cross-liability and severability of interest clause, and (iv) provisions such that the policy is primary insurance with respect to the interests of Avista and that any other insurance maintained by Avista is excess and not contributory.

13. ASSIGNMENT.

Neither Party shall voluntarily assign its rights nor delegate its duties under this Agreement, or any part of such rights or duties, without the written consent of the other Party which consent will not unreasonably be withheld. This Agreement will inure to and bind the Parties' successors, heirs, and assigns.

14. NO UNSPECIFIED THIRD PARTY BENEFICIARIES.

Except as specifically provided in this Agreement, 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 13.

15. DEFAULT AND TERMINATION.

15.1 In the event that either Party breaches or otherwise fails to perform the terms set forth in this Agreement (each, an “Event of Default” or “Event”), including failure of Project Owner to deliver Net Electric Output at the times or in the amounts required, the following will apply:

15.1.1 The non-defaulting Party shall give written notice to the defaulting Party of the Event of Default in accordance with this Agreement.

15.1.2 If, after 30 calendar days following the Event of Default, the defaulting Party has not cured such Event, the non-defaulting Party may, at its option, terminate this Agreement. Whether or not the non-defaulting Party elects to terminate this Agreement, the non-defaulting Party may, in addition to other remedies provided for in this Agreement, pursue such remedies as are available at law or in equity.

15.2 In addition to any breach of or failure to perform the terms and conditions of this Agreement, Project Owner shall also be in default if it:

15.2.1 Becomes insolvent (e.g., is unable to meet its obligations as they become due or its liabilities exceed its assets);

15.2.2 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;

15.2.3 Has filed against it a petition for bankruptcy, reorganization or other relief under any applicable insolvency laws and such petition is not dismissed within 60 days after it is filed; or

15.2.4 Breaches or otherwise fails to perform any obligation under the Interconnection Agreement or if the Interconnection Agreement is suspended or terminated for any reason.

15.3 Any right or remedy afforded to either Party under any provision of this Agreement on account of the breach or default by the other Party is in addition to, and not in lieu of, all other rights or remedies afforded to such Party under any other provisions of this Agreement, under the Interconnection Agreement, by law or otherwise on account of the breach or default.

16. GOVERNMENTAL AUTHORITY.

This Agreement is subject to the rules, regulations, orders and other requirements, now or in effect in the future, 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 in effect in the future, of governmental authorities that are required to be incorporated in agreements of this character are by this reference incorporated in this Agreement.

17. SEVERAL OBLIGATIONS.

Except where specifically stated in this Agreement to be otherwise, the duties, obligations and liabilities of the Parties are intended to be several and not joint or collective and each Party shall be individually liable for its own obligations under this Agreement. This Agreement will not be interpreted or construed to create an employment relationship, association, joint venture, or partnership between the Parties or to impose any partnership obligations or liability upon either Party. 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.

18. INDEMNIFICATION.

18.1 Each Party shall defend and indemnify 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 acts or omissions of that Party (as the "Indemnitor"), including, but not limited to damage to tangible property and bodily injury or death suffered by any person (including employees of Project Owner 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.

18.2 PROJECT OWNER 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.

18.3 EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, 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, PROVIDED, HOWEVER, THAT THE FOREGOING WILL NOT IN ANY EVENT LIMIT THE LIABILITY OF EITHER PARTY TO THE OTHER FOR OR WITH RESPECT TO THIRD-PARTY CLAIMS.

19. IMPLEMENTATION.

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

20. 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 will not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same will be and remain in full force and effect.

21. AMENDMENT.

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

22. CHOICE OF LAWS AND VENUE.

This Agreement will be construed and interpreted in accordance with the laws of the State of Washington. Any action at law or in equity to enforce the terms and conditions of this Agreement shall be brought before the Commission or the State court in Spokane County, Washington as appropriate.

23. COMPLIANCE WITH LAWS.

Project Owner shall at all times comply with all applicable laws and regulations of governmental agencies having jurisdiction over the Facility and the operation of the Facility. Avista assumes no responsibility or obligation with regard to any North American Electric Reliability Corporation ("NERC") or Western Electricity Coordinating Council reliability standards associated with the Facility or the delivery of electric power from the Facility to Avista.

24. DISPUTE RESOLUTION.

Each Party shall strive to resolve 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 30 days, Avista shall escalate the unresolved dispute to a senior officer. If the Project Owner and senior officer are not able to resolve the dispute within 10 business days of escalation then the Parties may mutually agree to (i) arbitrate or mediate the dispute or (ii) seek resolution of the disputed issues before the Commission or forum, as appropriate.

25. NOTICES.

All written notices required by this Agreement should be mailed or delivered as follows:

to Avista: Director, Power Supply
Avista Corporation
1411 E. Mission Ave., MSC-7
Spokane, WA 99202

to Project Owner: Hydro Technology Systems, Inc.
Mike Johnson
P.O. Box 682
Chattaroy, WA 99003

Changes in persons or addresses for submittal or written notices by a Party to this Agreement must be made in writing to the other Party and delivered in accordance with this Section 25. Any verbal notice which affects the payments to be made under this Agreement must be confirmed in writing as promptly as practicable after the verbal notice is given.

26. JOINTLY NEGOTIATED AND PREPARED.

This Agreement was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this Agreement and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

27. 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.

28. SEVERABILITY.

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement will remain in effect; *provided, however*, that the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any applicable law and the intent of the Parties.

29. USE OF FACILITIES.

Project Developer is the sole user of certain facilities installed, owned, operated and maintained by Avista at Greenwood, WA. Project Developer shall pay a monthly use-of-facilities charge, as shown in Exhibit 3, for the use of such facilities.

30. EXHIBITS.

This Agreement includes the following exhibits, which are attached and incorporated:

Exhibit 1 – Interconnection Agreement dated December 21, 2011.

Exhibit 2 – Power Purchase Rate

Exhibit 3 – Direct Assignment Charges

This Agreement has been executed by each Party's authorized representative on the date(s) set forth below. Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the first date set forth above:

HYDRO TECHNOLOGY
SYSTEMS, INC.
Spokane County, Washington

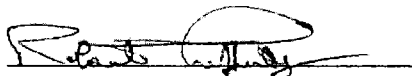
By: 

Printed Name: Mike Johnson

Title: Pres.

Date: 12-29-2011

AVISTA CORPORATION

By: 

Printed Name: Robert Lafferty

Title: Director of Power Supply

Date: 12-27-11

Exhibit 2
Power Purchase Rate

<u>Period</u>	<u>Contract Rate \$/MWh</u>
Jan 2012 - Feb 2012	\$52.78
Mar 2012 - Jun 2012	\$41.05
Jul 2012 - Dec 2012	\$52.78
Jan 2013 - Feb 2013	\$53.58
Mar 2013 - Jun 2013	\$41.67
Jul 2013 - Dec 2013	\$53.58