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Seattle City Light

November ~~December~~ ~~January~~ 20, 2021

Energy Efficiency as a Service – Program Manual

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1 GLOSSARY

“Adjusted Baseline Energy” represents what the baseline energy use would have been if the project Energy Conservation Measures (ECMs) had never been installed, under the same set of post-retrofit conditions.

“Avoided Energy Use” (for existing buildings) is the reduction in energy use that occurred in the Performance Period, relative to what would have occurred if the facility had been equipped and operated as it was in the baseline period, but under Performance Period conditions. Unless and until City adopts another method of quantification consistent with industry best practices, Seattle City Light will base Avoided Energy Use for Existing Buildings on a formula in this format:-

Avoided Energy Use (or Energy Savings) = Adjusted Baseline Energy - Performance Period Energy +/- Non-Routine Adjustments

For New Construction, City will consider the difference between the City of Seattle Energy Code target energy use (C401) and the Participant’s actual energy use to be the Avoided Energy Use unless and until City adopts another method of quantification.

“Baseline Conditions” means the conditions of the existing buildings as found in the baseline period. Baseline Conditions are generally described in an Energy Audit (e.g.: ASHRAE Level II audit).

“Baseline Data” means the measurements and facts describing facility operations and design during the baseline period. This will include energy use or demand, ~~and~~ parameters of facility operation that govern energy use or demand, and definition of Static Factors for the Site.

“Baseline Model” means the mathematical representation or calculation procedure used to predict the energy use in a building or facility (~~or Adjusted Baseline Energy~~) had no ECMs been implemented. Models may be based on equations that specifically represent the physical processes or may be the result of statistical analysis of energy-use data, or other techniques City reasonably determines to be appropriate for Project purposes.

“Baseline Model Equation” means the specific mathematical representation or equation governing the prediction of energy use (~~or Adjusted Baseline Energy~~) had no ECMs been implemented at the Site.

“City” Means the City of Seattle, a Washington State municipal corporation, doing business by and through its Seattle City Light department (“City Light”)

“Efficiency Energy” is the calculated Avoided Energy Use harvested at the Site by the EE Developer, which is quantified by the M&V Consultant. This is an energy efficiency resource.

“Energy Conservation Measure” (**“ECM”**) is any type of energy conservation or efficiency energy project or activity that is related to the installation, repair, or replacement of energy-efficient equipment or building systems, implementation of capital projects, operational & maintenance (O&M) improvements, or new means of training or managing users of the space, intended to improve the energy productivity of or generate Efficiency Energy at the Site.

“Energy Efficiency as a Service Charge” (“EEaS Charge”) means the ~~rate-dollar amount per kWh of Efficiency Energy~~ that shall be billed to the City Light Customer by the City, as determined in the Customer Participation Agreement. ~~expressed in cents per kilowatt-hour, for the delivery of Efficiency Energy from the Efficiency Energy Developer to the City at the Site during the Term of Agreement. The volumetric (\$/kWh) rate(s) of electricity reflected in the active rate code and on the Participant’s bill for the participating Site at the time of billing.~~ (See Customer Participation Agreement Appendix A) ~~for definition.~~

“Energy Efficiency Service Fee” (“EE Service Fee”) means the charges for Efficiency Energy ~~that~~ the City will bill the City Light Customer based on the Avoided Energy Use at the Site.

“Efficiency Energy Developer” (“EE Developer”) means the party who holds this Power Purchase Agreement with the City for the sale of ~~the~~ Efficiency Energy to the City from the Avoided Energy Use at the Site.

“Measurement and Verification Consultant” (“M&V Consultant”) means an independent third-party who will develop and implement an approach to use data-driven models with meter data and other variables to calculate Adjusted Baseline Energy, which will be used by City Light to determine the Avoided Energy Use and Efficiency Energy at the Site. ~~and performance-based savings that will be used to determine the Avoided Energy Use and Efficiency Energy at the Site.~~

“Measurement and Verification (M&V) Guidelines Plan” (“M&V Plan”) means the Program’s M&V guidelines and methodology approved by Seattle City Light. Seattle City Light intends for M&V Guidelines Plan to follow industry standard practices for whole-building estimates of energy savings and non-routine adjustments, if any are needed.

“Measurement Boundary” is the boundary drawn around whole-building meters and building systems to segregate those which are relevant to savings determination from those which are not. The Measurement Boundary shall be determined by the primary utility account and corresponding interval meters, which make up at least 90% of the Site’s electricity consumption. ~~All energy uses of equipment or systems within the measurement boundary must be measured or estimated, whether the energy uses are within the boundary or not.~~

“New Construction” means (1) construction of a new building or structure, (2) an ~~extension or~~ increase in the conditioned floor area or height of an existing building or structure, or (3) major changes in space use type such as major renovations.

“Non-Routine Adjustments” (“NRA”s) are adjustments to the Baseline Model to account for Non-Routine Events, which occurred during the baseline or Performance Period and ~~that~~ cannot be modeled using the considered independent variables.

“Non-Routine Events” (“NRE”s) are changes in building energy use ~~that are~~ not attributable to changes in the independent variables used in the Baseline Model nor to the ECMs that were installed. In the case of an NRE, the Avoided Energy Use may be adjusted by making Non-Routine Adjustments.

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“Participant” is the party who owns the Site. Participants may enter the agreement through an agent with appropriate authority, such as a management or operating entity, who is the City Light customer.

“Participation Agreement” means the agreement between Seattle City Light and the Participant, where the Participant agrees to pay Seattle City Light an Energy Efficiency Service Fee throughout the term of the contract for the Efficiency Energy generated at the Site.

“Performance Period” for Existing Buildings ~~projects~~, refers to the period of time after the EE Developer has implemented initial ECMs at the Site resulting in a reduction ~~of in~~ monthly energy consumption of at least 10% relative to the Baseline Model and written approval has been provided by Seattle City Light. For New Construction projects, the Performance Period begins when the building is 75% occupied and written approval has been provided by City Light.

“Power Purchase Agreement” (“PPA”) means the agreement between Seattle City Light and the Efficiency Energy Developer for the purchase of Efficiency Energy from the Site at the PPA Price throughout the Term of the contract.

“Power Purchase Agreement Payment” (PPA Payment) means the amount to be paid to the EE Developer for delivered Efficiency Energy after each billing cycle throughout the Term of Agreement.

“Power Purchase Agreement Price” (“PPA Price”) means the dollar amount per kilowatt-hour of Efficiency Energy-rate that shall be paid by the City to the EE Developer, expressed in cents per kilowatt-hour, for the delivery of Efficiency Energy from the EE Developer to the City at the Site during the Term of Agreement. ~~(See Power Purchase Agreement Appendix A for definition.)~~

~~**“Power Purchase Payment (PPA Payment)”** means the amount to be paid to the EE Developer for delivered Efficiency Energy after each billing cycle throughout the Term of Agreement.~~

“Program” means Energy Efficiency as a Service Pilot Program which contains a Power Purchase Agreement between the City and the EE Developer whereby the City pays for Efficiency Energy generated at the Site, and an additional Participation Agreement between the Site’s City Light Customer and the City under which Participant pays EE Service Fees to City to receive Efficiency Energy ~~based on the Avoided Energy Use for the Site.~~

“Project” means the collection of ECMs implemented at the Site by the EE Developer throughout the Term of Agreement, which result in the generation of Efficiency Energy.

“Site” means the actual building location that the efficiency energy work will take place. The Site encompasses the project Measurement Boundary. ~~shall be the utility account and corresponding meters, which make up at least 90% of the site’s electricity consumption.~~

“Static Factors” means energy-governing factors that are not usually expected to change (e.g., facility size, design and operation of installed equipment, number of weekly production shifts, or type or

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number of occupants). The associated static factors must be monitored for change throughout the reporting period.

2 PURPOSE

This is the Program Manual ~~for the first solicitation of for~~ the EEaS Pilot Program. This manual introduces the concepts and processes of the Program. The manual provides potential participants with information that will help to determine if this Program is right for their facility. The information in this Program Manual supersedes any prior information released regarding the ~~first solicitation of the~~ EEaS Pilot Program. A finalized form of this manual will be incorporated into and subject to terms and conditions of the Program Participation Agreement for City Light Customers and Power Purchase Agreement for Efficiency Energy Developers.

Customer Energy Solutions, a division of Seattle City Light, is seeking participants for a new pilot Program called Energy Efficiency as a Service (EEaS) through a Request for Projects (RFP), in accordance with City [Ordinance 125556](#), which authorized the execution of agreements with up to 30 buildings for up to 20 years, for the purchase and/or sale of energy under the Energy Efficiency as a Service Pilot Program (EEaS Program).

This ~~second initial~~ project solicitation seeks up to ~~15-10~~ buildings to participate in the Program. Seattle City Light anticipates a future project solicitations to allow for additional use cases.

3 EEAS PROGRAM GOALS

3.1 Energy Efficiency Goals

Through the EEaS Program, Seattle City Light aims to:

1. Unlock deeper energy efficiency in commercial buildings by paying for measured electricity savings over time instead of providing an upfront incentive.
2. Test a mechanism to lessen the “split incentive”¹ between owners and energy users at scale in order to encourage production of greater energy efficiency to reduce City Light electricity production costs.
3. Test a variety of use cases to build upon lessons learned from the innovative Metered Energy Efficiency Transaction Structure (MEETS) prototype project at the Bullitt Center (as approved in Ordinance 124604).

3.2 Workforce Development Goals

To better match the purchase of conservation resources with the values of the City of Seattle, EE Developers participating in EEaS must aim to meet or exceed workforce development goals. Specifically, [Ordinance 125556](#), Section 4 states that agreements entered under EEaS Program must aim to meet or exceed the standards set forth in Seattle’s Priority Hire statute (SMC 20.37.040), which includes but is not limited to the following:

- Use labor that is receiving area standard wages for all craft workers;
- Provide bona fide benefits, vacation, health and welfare, apprenticeship and training funds;
- Meet or exceed 15% apprenticeship utilization per craft;
- Set and meet goals for hiring women and racial minorities as well as for hiring Women- and Minority-Owned Business Enterprises (WMBE) for Developers, and;
- Set and meet goals for hiring women and racial minorities from pre-apprenticeship programs.

The goal of requiring reporting requirements is not to monitor workplace practices or supervise construction, but to align workforce development values.

¹ A split incentive occurs when one party receives the financial benefits resulting from reduced energy bills after an energy retrofit, rather than the entity who paid for the project.

4 WHAT IS EEAS?

The Seattle City Light Energy Efficiency as a Service (EEaS) pilot Program intends to encourage electrical efficiency through deep retrofits in existing buildings and high-performance design in new construction. With this Program, Seattle City Light is creating a monthly transaction mechanism to quantify and return the value of the energy efficiency savings to the party responsible for delivering the efficiency to Seattle City Light. EEaS aims to unlock deeper energy efficiency in commercial buildings by helping to overcome the split incentive and paying for measured electricity savings over a longer time horizon (up to 20 years). EEaS is a mechanism wherein building owners pay Seattle City Light to receive energy efficiency benefits generated at their building and Seattle City Light uses a portion of those payments to buy the energy efficiency benefits from the party who generates them by installing energy improvements.

Without energy efficiency improvements, a building's energy consumption typically remains flat over time. However, once a capital energy project is implemented, monthly energy use and utility bills are often reduced. Participants in EEaS will make monthly payments to Seattle City Light equivalent to what their electricity bill likely would have been had no energy improvements occurred, keeping the electricity bills "neutral"², as illustrated in Figure 1. Under the EEaS Program, Seattle City Light will bill customers in the Program for actual electricity use, plus an "energy efficiency service fee" (EE Service Fee). The EE Service Fee is based on a calculated Avoided Energy Use. The Avoided Energy Use is the building baseline electricity consumption use minus the actual current electricity consumption for a particular billing period. This is multiplied by the ~~electricity rate~~EEaS Charge (\$/kWh) for the billing period to calculate the EE Service Fee. Details on the billing procedure are provided in [Section 5.2 Contract Structure](#). The EEaS Charge approximates the electricity rate for the duration of the contract.

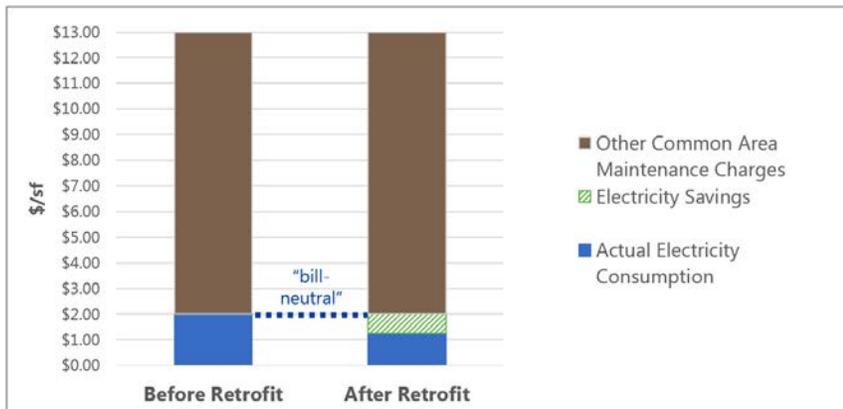


Figure 1. Example of Tenant Bill Neutrality

² "Neutral" means the intent for the EE service fee plus the bill for usage to be equivalent to what the energy user would have paid absent the improvements based on agreed modeling. Seattle City Light cannot guarantee this amount will be absolutely equivalent.

5 THE EEAS PROGRAM STRUCTURE

5.1 Roles and Responsibilities

In order to describe the EEaS Program structure, it is helpful to first to identify the main parties involved.

5.1.1 Participant

The Participant is the party who owns the site. The building owner (either in their own capacity or through a designated agent) is the City Light Customer who is the Participant in the EEaS Program and will be the party holding the Participation Agreement (PA) with Seattle City Light.

The Participant is responsible for accurately collecting and maintaining Site information and project data in ENERGY STAR Portfolio Manager®. If the Participant chooses to pass all or a portion of EE Service Fee payments to tenants, Participant is responsible for accurately identifying that the EE Service Fee is charged to the building as part of participation in the EEaS Program, and is not an electricity rate payment. A key goal of Seattle City Light is transparency of operations to customers. While Seattle City Light intends to set the EE Service Fee at a level that keeps total payments to City Light “neutral” with respect to a building that had not been improved, the party responsible for paying that fee should understand that this payment is in addition to and separate from the standard rate payment for electricity used during the billing period.

In order to run the EEaS Program and conduct Avoided Energy Use calculations, City Light requires access to Baseline Data. Providing City Light access to this data will be the responsibility of the Participant. The Participant can provide access to this data directly, or through a third party working on behalf of the Participant.

5.1.2 Efficiency Energy Developer (EE Developer)

The EE Developer is the party responsible for improving the energy performance of the building by implementing Energy Conservation Measures (ECMs). They will typically secure the investment for the ECMs. The EE Developer will be the party holding the Power Purchase Agreement (PPA) with Seattle City Light and will receive the PPA payment. The role of the EE Developer may be played by the owner, an owner’s representative, or a contractor or developer hired by the owner.

The EE Developer is responsible for reporting on a quarterly basis on status of ECMs, occupancy changes, Non-Routine Events (NREs), and workforce development efforts on capital projects.

5.1.3 Seattle City Light

Seattle City Light is the utility responsible for billing the City Light Customer per the PA and paying the EE Developer per the PPA, based on the Efficiency Energy delivered at the Site. Seattle City Light will review reported and detected NREs and approve NRAs. Interviews and site visits may be performed by Seattle City Light staff or entities appointed by Seattle City Light, as appropriate, to verify ECMs, the presence of NREs, and confirm accuracy of reporting by the Participant and/or EE Developer.

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Seattle City Light will oversee and approve adjustments and improvements to the M&V methodology used by the M&V Consultant, including the use of updates made to the Program's M&V processes. Seattle City Light will review and approve savings recommendations provided by M&V Consultant.

Seattle City Light will bear the general program costs related to set up and maintenance of the M&V tracking system, and the M&V Consultant fees ~~and the Workforce Development tracking system.~~

5.1.4 Measurement and Verification Consultant (M&V Consultant)

The M&V Consultant is a third party specialist, hired by Seattle City Light ~~intends to hire~~ to create and maintain the Baseline Model for all participating buildings, quantify the Avoided Energy Use and Efficiency Energy to be transacted upon, advise on technical issues, monitor ongoing performance, identify Non-Routine Events, and perform Non-Routine Adjustments.

5.2 Contract Structure

City Light ~~intends to will~~ implement the EEaS Program by entering two contracts: a Participation Agreement (PA) and a Power Purchase Agreement (PPA). The PA is an agreement between the Participant and City Light by which Participant agrees to pay the EE Service Fee in exchange for Efficiency Energy. The PPA is an agreement between the EE Developer and City Light by which the City pays the EE Developer for delivery of Efficiency Energy. The PA and PPA set out the terms and conditions for Program participation, which include conditions of payment, requirements for compliance and options for transferability or termination.

Examples of EEaS transactions are summarized visually below in Figures 2a and 2b. Arrows in the figures show payments. Other models might be implemented by participants.

Seattle City Light does not make recommendations on how to structure agreements associated with EEaS between project parties. Neither the PA or nor the PPA create third-party beneficiaries. A Participant should not expect to be granted any rights from the PPA and an Efficiency Energy Developer should not be expected to be granted any rights from the PA. Seattle City Light is not responsible for any agreement made outside of the PA and the PPA. To the extent building tenants will pay for or receive Efficiency Energy, they will do so as a matter of contract with the building owner and not as part of the EEaS Program with City Light.

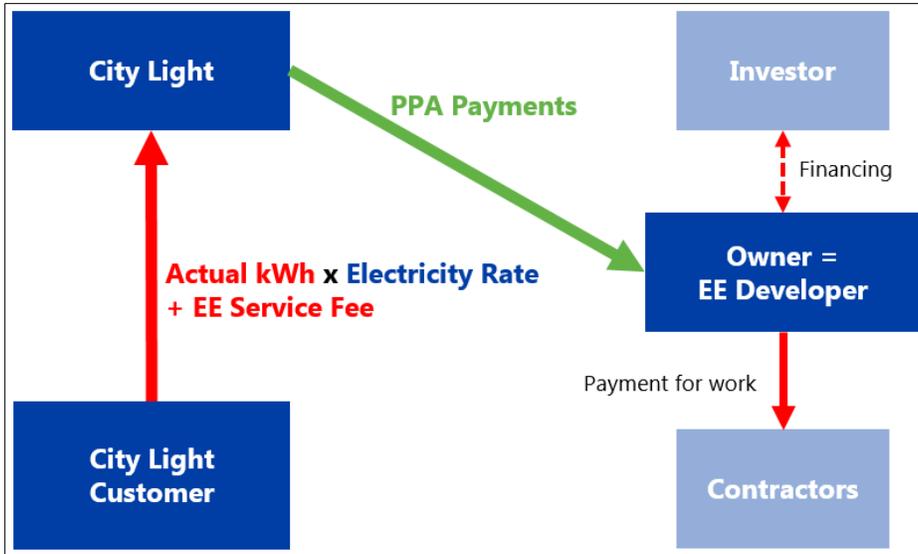


Figure 2a. Example of payments flow in EEaS (EE Developer = Owner)

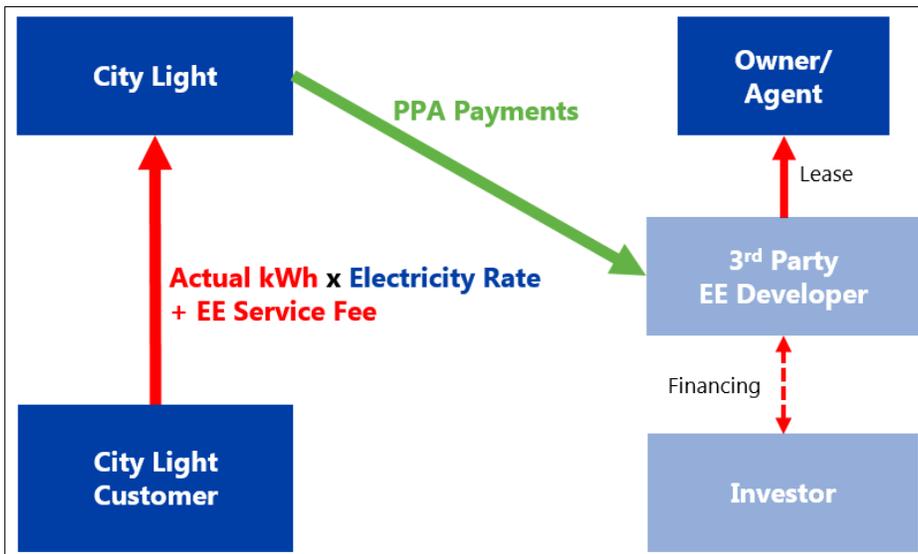


Figure 2b. Example of payments flow in EEaS (EE Developer = 3rd party)

5.2.1 Participation Agreement (PA)

The Participation Agreement will be between the Participant and Seattle City Light. By signing the PA, the Participant agrees to allow Seattle City Light to bill the City Light Customer for actual electricity use and for Efficiency Energy through an EE Service Fee throughout the duration of the contract term.

5.2.1.1 Energy Efficiency Service Fee

The EE Service Fee is calculated by subtracting the actual electricity from the approved building baseline (aka "Avoided Energy Use" or "electricity savings"), then multiplying by the ~~electricity rate~~ **EEaS Charge from that billing period (EEaS Charge)**, as illustrated below in Figure 3.

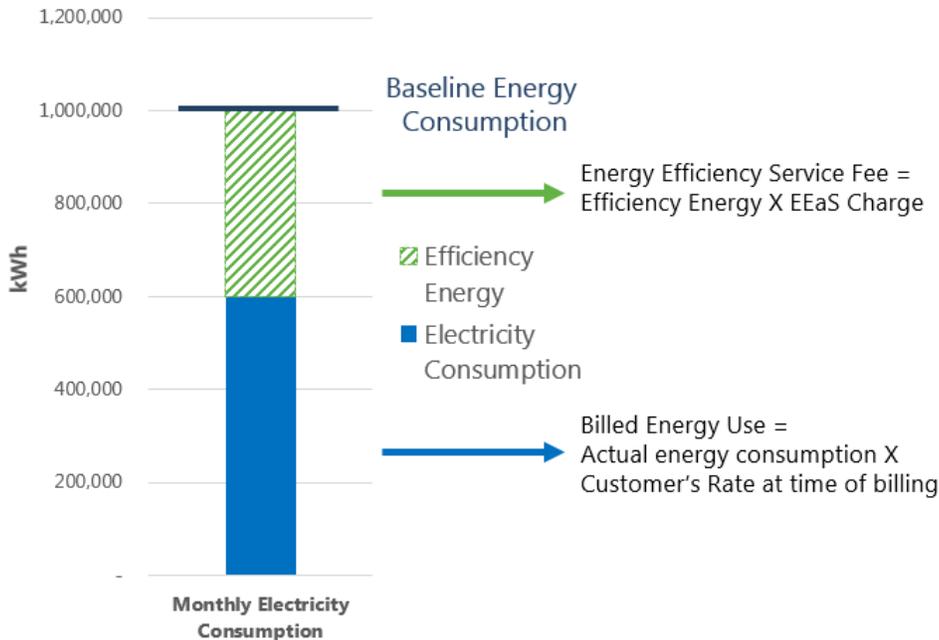


Figure 3. Basis of EEaS Seattle City Light Charges

For each billing cycle, the customer will see two charges. Seattle City Light will first charge the Customer for actual kWh delivered based on the applicable retail kWh rate at the time of billing (e.g. \$0.08/kWh). A second charge, the “EE Service Fee”, will be applied for the value of the Efficiency Energy as calculated per [Section 7 M&V and Data Requirements](#). The fee is determined by multiplying the Efficiency Energy (kWh) by the EEaS Charge.

$$EE\ Service\ Fee = (EEaS\ Charge \times Efficiency\ Energy)$$

1. The EEaS Charge. The EEaS Charge is set at the start of the contract and differentiated based on participant’s project type, customer classification (based on the primary account) and site location. The following is how the EEaS Charge will be determined for projects selected to the Program at the following rates for participants depending on the site location:

a. Retrofit-High Demand General Service. The initial EEaS Charge for Retrofit projects, that fall under the High Demand General Service (HDS) rate structure, will be determined by analyzing the Site’s baseline period’s billing prior to contract execution to determine the total kWh consumed during on-peak and off-peak hours. The volume of kWh on peak and off peak will be converted to the % of total kWh for the billing periods included in the baseline period. The on peak % will be applied to current on-peak rates and the off peak % to current off-peak rates. These totals will be combined and the average volumetric price will be used to represent a weighted-average kWh pricing using the applicable HDS rate for the Site at time of contracting.

$$Initial\ EEaS\ Charge = (\% \text{ On-Peak} * \text{ On-Peak HDS rate} + \% \text{ Off-Peak} * \text{ Off-Peak HDS rate})$$

b. Retrofit-Large General Service. The initial EEaS Charge for Retrofit projects, that fall under the Large General Service (LGS) rate structure, will be determined by analyzing the Site’s baseline period’s billing prior to contract execution to determine the total kWh consumed during on-peak and off-peak hours. The volume of kWh on peak and off peak will be converted to the % of total kWh for the billing periods included in the baseline period. The on peak % will be applied to current on-peak rates and the off peak % to current off-peak rates. These totals will be combined and the average volumetric price will be used to represent a weighted-average kWh pricing using the applicable LGS rate for the Site at time of contracting.

$$\text{Initial EEaS Charge} = (\% \text{ On-Peak} * \text{On-Peak LGS rate} + \% \text{ Off-Peak} * \text{Off-Peak LGS rate})$$

c. Retrofit-Medium General Service. Retrofit projects that fall under the Medium General Service rate structure at time of agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>Non-Downtown Network</u>	<u>\$0.0803/kWh</u>
<u>Downtown Network</u>	<u>\$0.0987/kWh</u>

d. Retrofit-Small General Service. Retrofit projects that fall under the Small General Service rate structure at time of agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>Non-Downtown Network</u>	<u>\$0.1053/kWh</u>
<u>Downtown Network</u>	<u>\$0.1053/kWh</u>

e. New Construction-Large General Service. New Construction projects that fall under the Large General Service rate structure at time of agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>City Network</u>	<u>0.0810/kWh</u>
<u>Non-Downtown, Non-City Network</u>	<u>\$0.0874/kWh</u>
<u>Downtown Network</u>	<u>\$0.0928/kWh</u>

f. New Construction-Medium General Service. New Construction projects that fall under the Medium General Service rate structure at time of agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>Non-Downtown Network</u>	<u>\$0.0803/kWh</u>
<u>Downtown Network</u>	<u>\$0.0987/kWh</u>

g. New Construction-Small General Service. New Construction projects that fall under the Small General Service rate structure at time of agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>Non-Downtown Network</u>	<u>\$0.1053/kWh</u>
<u>Downtown Network</u>	<u>\$0.1053/kWh</u>

2. EEaS Charge Annual Adjustment. An escalator of 2.0% will be applied to the EE Service Fee every December to establish the EEaS Charge for the subsequent year.

5.2.2 Power Purchase Agreement (PPA)

The PPA will be between the EE Developer and Seattle City Light. Potential EE Developers include the building owner itself or an owner’s agent or third-party contractors or developers hired by the owner. The PPA authorizes the EE Developer to receive payment from Seattle City Light based on measured electricity savings.

The PPA includes a commitment to workforce development goals and the EE Developer’s reporting requirements. See [section 3.2 Workforce Development Goals](#) and [section 8.5 Workforce Development Reporting Requirements](#) for additional details.

5.2.2.1 Power Purchase Agreement Payment

For each billing cycle during the Performance Period, the EE Developer will receive a payment from Seattle City Light for the Efficiency Energy. The PPA payment will be calculated per [Section 7 M&V and Data Requirements](#). The payment is determined by multiplying the Efficiency Energy (kWh) by the PPA Price (e.g. \$0.084/kWh). ~~The PPA Rate Price shall have a “price floor” specified in the PPA. The PPA Price will track retail rates of electricity over time, but will never drop below the price floor.~~

$$PPA\ Payment = (PPA\ Price \times Efficiency\ Energy)$$

1. Initial PPA Price. The PPA Price is established at the start of the contract and differentiated based on Participant’s project type, customer classification (based on the primary account) and site location. The following is how the PPA Price will be determined for projects applying in the second solicitation phase:

a. Retrofit-High Demand Service. The initial PPA Price for Retrofit projects, that fall under the High Demand General Service (HDS) rate structure, will be determined by analyzing the Site’s baseline period’s billing prior to contract execution to determine the total kWh consumed during on-peak and off-peak hours. The volume of kWh on peak and off peak will be converted to the % of total kWh for the billing periods included in the baseline period. The on peak % will be applied to current on-peak rates and the off peak % to current off-peak rates. These totals will be combined and the average volumetric price will be used to represent a weighted-average kWh pricing. The PPA Price will be this weighted-average price multiplied by 0.93.

$$\text{Initial PPA Price} = (\% \text{ On-Peak} * \text{On-Peak HDS rate} + \% \text{ Off-Peak} * \text{Off-Peak HDS rate}) * 0.93$$

b. Retrofit-Large General Service. The initial PPA Price for Retrofit projects, that fall under the Large General Service (LGS) rate structure, will be determined by analyzing the Site’s baseline period’s billing prior to contract execution to determine the total kWh consumed during on-peak and off-peak hours. The volume of kWh on peak and off peak will be converted to the % of total kWh for the billing periods included in the baseline period. The on peak % will be applied to current on-peak rates and the off peak % to current off-peak rates. These totals will be combined and the average volumetric price will be used to represent a weighted-average kWh pricing. The PPA Price will be this weighted-average price multiplied by 0.93.

$$\text{Initial PPA Price} = (\% \text{ On-Peak} * \text{On-Peak LGS rate} + \% \text{ Off-Peak} * \text{Off-Peak LGS rate}) * 0.93$$

c. Retrofit-Medium General Service. Retrofit projects that fall under the Medium General Service rate structure at time of agreement execution will have the following initial PPA Price.

<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>Non-Downtown Network</u>	<u>\$0.0747/kWh</u>
<u>Downtown Network</u>	<u>\$0.0918/kWh</u>

d. Retrofit-Small General Service. Retrofit projects that fall under the Small General Service rate structure at time of agreement execution will have the following initial PPA Price.

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<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>Non-Downtown Network</u>	<u>\$0.0979/kWh</u>
<u>Downtown Network</u>	<u>\$0.0979/kWh</u>

e. New Construction-Large General Service. New Construction projects that fall under the Large General Service rate structure at time of agreement execution will have the following initial PPA Price.

<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>City Network</u>	<u>\$0.0754/kWh</u>
<u>Non-Downtown, Non-City Network</u>	<u>\$0.0813/kWh</u>
<u>Downtown Network</u>	<u>\$0.0863/kWh</u>

f. New Construction-Medium General Service. New Construction projects that fall under the Medium General Service rate structure at time of agreement execution will have the following initial PPA Price.

<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>Non-Downtown Network</u>	<u>\$0.0739/kWh</u>
<u>Downtown Network</u>	<u>\$0.0904/kWh</u>

g. New Construction-Small General Service. New Construction projects that fall under the Small General Service rate structure at time of agreement execution will have the following initial PPA Price.

<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>Non-Downtown Network</u>	<u>\$0.0979/kWh</u>
<u>Downtown Network</u>	<u>\$0.0979/kWh</u>

2. PPA Price Annual Adjustment. An escalator of 2.0% will be applied to the PPA Price every December to establish the PPA Price for the subsequent year

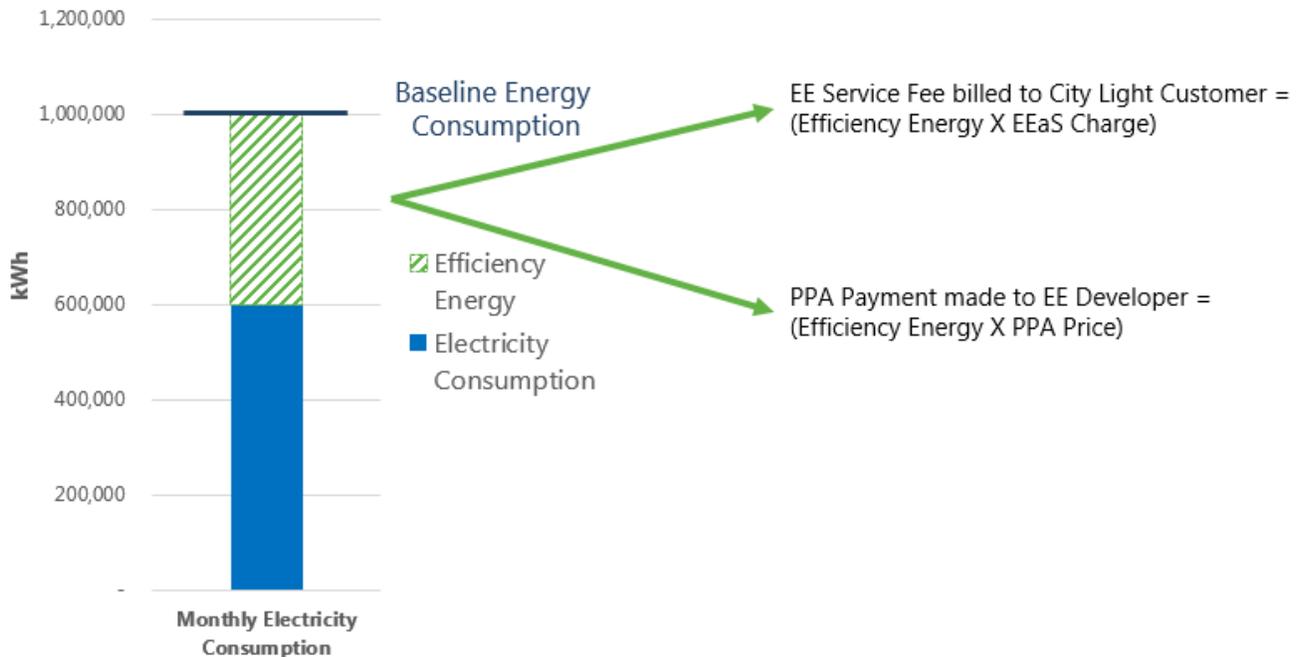


Figure 4. Illustration of Efficiency Energy dependent transactions

5.2.3 EEaS Transaction Timeline

After the Performance Period has begun, Seattle City Light intends to use the following sequence to bill the City Light Customer and pay the EE Developer for delivered Efficiency Energy:

1. End of City Light Customer's billing period.
2. Seattle City Light generates normal utility electricity usage bill.
3. Seattle City Light will provide M&V Consultant necessary information to quantify baseline energy use and Avoided Energy Use.
4. M&V Consultant will provide Seattle City Light a detailed summary of Avoided Energy Use after receiving necessary information from Seattle City Light.
5. Seattle City Light will verify the Avoided Energy Use and calculate Efficiency Energy, EEaS Charge and EE Service Fee.
6. Seattle City Light will include the EE Service Fee on the Participant's subsequent bill and process the PPA payment to Efficiency Energy Developer.

When Non-Routine Events occur, Seattle City Light will continue to bill the Participant and make PPA Payments to the EE Developer based on the current Baseline Model at the time of billing, until it is established whether a Non-Routine Adjustment is required, and if so that Non-Routine Adjustment is-are validated and finalized. At that point retroactive adjustments shall be made on a subsequent billing cycle.

6 PROGRAM ELIGIBILITY

The following criteria must be met for a project to be considered for the EEaS Program

6.1 Participant Eligibility

1. Participant must own the building.
2. Participant must have a satisfactory record of payments and/or satisfactory performance in contracting and/or transacting with Seattle City Light, ~~having utility credit points of at least 750/1000. To check your credit points, call the Seattle City Light Contact Center at 206.684.3000.~~

6.2 Efficiency Energy Developer Eligibility

1. EE Developer must have a demonstrated experience with projects of similar size and complexity.
2. EE Developer must have a demonstrable history of satisfactory contract performance with utilities.

6.3 Building Eligibility

At this time, and in this project solicitation phase, Seattle City Light is not seeking participation from buildings with residential tenants, or where multiple commercial or residential tenants have their own unique City Light accounts³. In future project solicitations, acceptable use cases may be modified, and building, project, and customer eligibility may change.

1. Building must be located in Seattle City Light electric service territory.
- ~~2. Tenants in the building must have a lease type where the owner/tenant split incentive is present. (i.e. Lease language needs to show that utility costs are being paid by tenants. e.g.: directly through CAM charges, rent adjustments based on previous year's utility cost, ...).~~
- 3.2. Primary utility account must account for more than 90% of the building's electricity consumption.
3. Primary utility account must be on a commercial rate code.
4. City Light meters associated with the primary account must be interval meters.
5. Building's conditioned floor area must be greater than 50,000 square feet.
6. All electricity metered must be from the subject building (i.e. no electricity is supplied from any other building).
7. Building must have at least 12 months of energy consumption history (existing buildings only).
8. If new construction or major renovation:
 - a. Electricity is sole fuel source for all end-uses. (Emergency back-up power exempt from this)
 - b. Must demonstrate compliance with Seattle Energy Code via the Target Performance Path (C401.3) ~~for one of the following primary use types: (1) Office, (2) Medical office, (3) Retail, (4)~~

³ New Construction Multifamily (R2) projects that have been granted a Master Metering exception by Seattle City Light can apply to the Program.

~~master-metered Multifamily.~~

6.4 Project Eligibility

6.4.1 Existing Buildings

1. Weather and/or occupancy must be an acceptable predictor of electrical energy consumption. The building's Baseline Model must meet the "goodness-of-fit" criteria outlined in the EEaS M&V Requirements. If this requirement cannot be met because of a significant change in use type (e.g., office building is turned into a hotel), the building can apply through the New Construction pathway.
2. During the term of the contract, the project must plan to implement deep capital Energy Conservation Measures that reduce electricity consumption at least 25% compared to the building's baseline.

6.4.2 New Construction Buildings

1. The project must plan to implement deep capital energy projects saving more than 25% compared to the maximum allowable energy use ~~targets~~ specified in Seattle's Energy Code C401.3.2.
2. The project must demonstrate compliance with the Seattle Energy Code through the Target Performance Path C401.3.

6.4.3 Building Additions or Major Space Use Type Changes

1. Additions or space use type changes shall be considered new construction and must use electricity provided by Seattle City Light for all energy sources⁴.
2. If the site's original building footprint is unaffected, the existing building's Baseline Model may continue to be used for that section of the building, provided existing and new parts of the building are separately metered, and only if it is still an accurate predictor of the Adjusted Baseline Energy use.
3. The project must plan to implement deep capital energy projects saving more than 25% compared to the maximum allowable energy use ~~targets~~ specified in Seattle's Energy Code C401.3.2.
4. The project must demonstrate compliance with the Seattle Energy Code (SEC) through the Target Performance Path C401.3. adopted at the time of construction or renovation, ~~or the most recent Seattle Energy Code with a Target Performance Energy Use Intensity (EUI).~~

⁴ Photo-voltaic panels are allowed but must have a utility meter. Power generated will be subtracted from the Adjusted baseline energy use as discuss in section 7.3.2.3. Emergency or back-up generation is permitted. All fuel use must be accurately reported using ENERGY STAR Portfolio Manager.

7 M&V AND DATA REQUIREMENTS

7.1 M&V Fundamentals

~~The M&V Consultant is a third party specialist, hired by Seattle City Light. Seattle City Light intends to hire a vendor to act as the M&V Consultant for this Program. Their role will ~~is~~ be to calculate monthly Avoided Energy Use values using industry-standards for whole building-based savings. The data used by the M&V Consultant will ~~include~~s, but is not limited to, Seattle City Light revenue-grade metering data, billing data, and building data collected through quarterly reports, ~~and~~ ENERGY STAR Portfolio Manager, ~~and Requests for Information.~~~~

Avoided Energy Use for new construction projects will be calculated by comparing the building's actual consumption to a baseline, set by the maximum energy use ~~targets~~-specified in Seattle's Energy Code C401.3 ~~Target Performance Path~~, as described in [section 7.3 New Construction M&V](#).

7.2 Existing Buildings M&V

7.2.1 Eligibility of fuels and Measurement Boundary

Existing buildings that currently use non-electric fuels may participate in the Program. However, Seattle City Light cannot pay for a conversion from one energy source to another "under Washington State Law."⁵ In addition, Seattle City Light cannot provide monthly EEaS payments to the owner or EE Developer for any non-electric savings as Seattle City Light is not the utility provider for these fuels. As a result, these fuels shall be monitored, but non-electrical energy savings will not be quantified as Avoided Energy Use savings in the EEaS Program.

To participate, owners must agree to not reduce electricity use by switching services that are delivered using electricity to delivery using ~~gas~~~~another fuel source~~, e.g. reducing electric heating by increasing gas heating, and agree to reduce electricity consumption by 25% or more. The primary concern is fuel-switching in order to increase payments to the EE Developer/Participant.

The EE Developer and/or Participant must proactively report to City Light when non-electric fuel increases occur, ~~but t~~~~he~~ M&V Consultant will also scan ENERGY STAR Portfolio Manager data for any changes in non-electric fuel and flag fuel-switching events.

In the case of lighting conversion projects that cause interactive heating and cooling effects, the lighting conversion project will likely have a net benefit kBTU reduction (eliminating the heat load of the lights as well as saving lighting energy). Natural gas increases from the project shall not remove a project from enrollment. However, the M&V Consultant will estimate natural gas fuel increases due to

⁵ See RCW 35.92.360.

interactive effects using engineering calculations.⁶

On-site generation must have an approved Seattle City Light interconnection agreement and meter. Energy production from any on-site generation will be monitored and removed from the quantification of Avoided Energy Use of the Site.

For buildings with multiple accounts or meters, at least 90% of the electricity use of the building must be on one Seattle City Light account and utilize interval meters, as determined in the baseline year. Any remaining electricity use would be considered outside of the Measurement Boundary of this Program and will not be analyzed.

7.2.2 M&V Methods & Protocols

Avoided Energy Use for existing buildings that participate in the Program will be calculated using an existing conditions baseline calculated using historic energy use and through the methodology outlined in ASHRAE Guideline 14, Section 4 and 5.1, Whole Building Prescriptive-Performance Path.

Seattle City Light may change its methodology for calculating Avoided Energy Use, EE Service Fee amounts, and PPA Payments in its sole discretion, based on changes in industry best practices and reasonable utility business judgment. City Light will provide reasonable notice to Participant and EE Developer before implementing a new methodology.

7.2.3 M&V Process

7.2.3.1 Baseline Data

The Participant and the EE Developer shall provide the following information to Seattle City Light for the baseline period:

- Historical monthly utility billing and fuel use information ~~for the 12 months immediately prior to the capital project (can be provided through access to the building's derived from ENERGY STAR Portfolio Manager account)~~;
- ~~Weather data for the baseline, compliant with CalTRACK 2.0 standards.~~
- Occupancy data (% leased sf);
- Floor area data (gross sf);
- Space use type information;
- Engineering description of building systems and operations, occupancy hours, weekend operations
- Details on possible NREs during the baseline period, including but not limited to: COVID period operations, manual adjustment to control system settings, ...
- Detailed description of control system points and trends, availability of historical trend data

⁶ CES-Seattle City Light uses gas heating factors published by the 7th Power Plan, which average as a 1.4% increase in gas heating from lighting conversions.

- Detailed description of available building energy submeters (systems metered, data recording interval, and amount of historical information)
- Description of Static Factors for the building
- Detailed description of all project-related activities, dates of project start and completion, and a description of the magnitude and expected duration of ECM savings.
- Other data as requested

7.2.3.2 Baseline Protocol and Compliance

The City and its M&V Consultant will ~~follow use~~ ASHRAE Guideline 14, Section 4 and 5.1, Whole Building ~~Prescriptive Performance~~ Approach as a basis to set the monthly baseline for existing buildings. The Baseline Model shall be selected based on the simplest model with the best R Squared and CV(RSME), as detailed in the M&V Plan.

7.2.3.3 Performance Period

The Performance Period for an existing building starts after a capital upgrade specified in their ECM plan is complete and when the electricity savings reach at least 10% of monthly baseline energy use. Once determined, Seattle City Light will provide written notification confirming the start date of the Performance Period.

7.2.3.4 Savings Estimates

To calculate the Adjusted Baseline Energy, Performance Period weather (and other independent variables (e.g.: occupancy data or a suitable proxy)⁷ will be applied to the Baseline Model. Energy savings for the site are estimated by summing the differences between the actual energy and Baseline Model's Adjusted Baseline Energy.

$$\text{Avoided Energy Use (or Energy Savings)} = \text{Adjusted Baseline Energy} - \text{Performance Period Energy} +/\text{- Non-Routine Adjustments}$$

7.2.3.5 Non-Routine Events

Non-Routine Events are changes in building energy use that are not attributable to changes in the independent variables used in the Baseline Model or to the ECMs that were installed.

The City Light and the M&V Consultant will work with the EE Developer and Participant to identify Non-Routine Events and make corresponding Non-Routine Adjustments for events that fall significantly outside of normal operations of the building and which significantly impact the Avoided Energy Use calculations, including NREs occurring in the baseline period.

⁷ Relevant Other independent variables will may be specified by the M&V Consultant

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EE Developers will provide documentation, at a minimum, in the quarterly reports to explain the NREs. They should log these events as they happen, describing what the change was, when it happened, the duration, and the anticipated impact on energy use. Ideally, participants can take advantage of tracking systems already in use in the building such as building automation or work-order management systems, capital projects, and tenant change logs. When necessary, the City will issue requests for information (RFIs) to obtain information on various building matters, including Non-Routine Events or anomalies in building energy data.

Examples of Non-Routine Events include:

- Change in space use type, such as from retail to restaurant.
- Expansion or destruction of conditioned building floor area (see NRA section below).
- Addition or removal of large equipment, such as data servers, kilns, and refrigerators.
- Change in operating hours or operations.
- Fuel switching on water or space heat.
- Addition or removal of electric vehicle infrastructure.
- On-site generation.
- Occupancy changes that are not captured in the Baseline Model, measured by leased square footage.
- Temporary, one-time, or rare events that fall outside of regular operation conditions, such as power loss or emergency operations.

Temporary events that are expected to occur in regular operating conditions, for example, normal building closures, maintenance events, or control sequence overrides, are not considered an NRE and will not be removed from the data.

7.2.3.6 Non-Routine Adjustments (NRAs)

If a Non-Routine Event is determined to be significant, the M&V Consultant will recommend a Non-Routine Adjustment to Seattle City Light for approval. Ideally these adjustments will be based on verified sub-metered data. Otherwise, the M&V Consultant may estimate Non-Routine Adjustments with statistical or engineering methods.

Procedures to identify and quantify Non-Routine Events and when and how to perform Non-Routine Adjustments around Non-Routine Adjustments (based on the M&V Plan, and IPMVP's Application Guide on Non-routine Events and Adjustments) may be updated by Seattle City Light to reflect best industry practice (including Efficiency Valuation Organization (EVO) M&V 2.0 & NRE subcommittee's recommendation) during the EEaS Program ~~to identify and quantify Non-Routine Events and when and how to perform Non-Routine Adjustments.~~

If the building increases in size or changes use type during the Performance Period, Seattle City Light may choose to pivot the baseline to the new construction methodology described below, as the Baseline Model is no longer representative of how much energy the building would have used had no ECMs occurred, throughout the term of the PA and PPA.

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The new Baseline Model shall use the maximum allowable energy use set by Target Performance Path EUIs in the Seattle Energy Code (C401.3) adopted at the time of renovation, ~~or the most recent Seattle Energy Code with a Target Performance EUI.~~

- Additions or substantial remodels that change the use type must be electric-only.
- The original footprint of the building may continue to use non-electric fuels and the Baseline Model equation defined in Section 5.37.2.3.1-2 Baseline Data Protocol.

7.3 New Construction M&V

New construction projects will use the M&V methodology and requirements outlined in this section. New construction projects are defined by the following: (1) construction of a new building or structure, (2) an extension or increase in the conditioned floor area or height of a building or structure, or (3) significant changes in space use type.

7.3.1 Eligibility of Fuels and Code as Baseline

Seattle City Light provided electricity must be the sole fuel source for all end-uses in new construction projects, with the following exceptions:

- Backup Generator fuel use is allowed, but must be reported accurately and consistently in ENERGY STAR Portfolio Manager.
- On-site generation must have an approved Seattle City Light interconnection agreement and revenue grade meter. Energy production shall be monitored.

In addition, new construction projects must pursue the Target Performance Path (C401.3) as means of compliance with Seattle Energy Code.

For building being permitted under 2015 SEC: ~~The~~ the participant site's annual baseline is the energy use target required in the SEC Target Performance Path (C401.3). Eligible building types and energy use target Energy Use Intensities (EUI, in kBTU/ft²/year)⁸ are as follows ~~in the 2015 SEC:~~

- Office (40 kBTU/ft²/yr)
- Medical Office (50 kBTU/ft²/yr)
- Retail (60 kBTU/ft²/yr)
- ~~Master-metered Group R-2 m~~Multifamily (35 kBTU/ ft²/yr) (if granted Master-metering exemption)

The target EUIs may also include partial loads from:

⁸ Based on the energy model and the densities allowed in SEC 2015 section C401.3.4, the total allowable EUI may be greater than these specific targets. The Target Performance Path section is updated in the SEC 2018.

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- o Data centers as allowed in C401.3.2.1
- o Parking garages (6 kBtu/ ft²/yr for open garages, 10 kBtu/ ft²/yr for enclosed)

For buildings being permitted under subsequent versions of the Seattle Energy Code; the participant site's annual baseline will be set using the maximum allowable energy use under the Target Performance Path (C401.3) for the building. Residential new construction projects will only be allowed to participate if they have been granted a master metering exemption by the utility.

For buildings with multiple accounts or meters, at least 90% of the electricity use of the building must be on one account and utilize interval meters, as determined in the baseline year. Any remaining electricity use will be considered outside of the Measurement Boundary of this Program and ~~does will~~ not ~~need to~~ be analyzed.

7.3.2 M&V Process and Methodology

7.3.2.1 Baseline Model Development

For new construction projects, the Seattle Energy Code C401.3 and Code Official requirements shall guide the development of the Baseline Model.

For building being permitted under 2015 SEC; ~~the~~ the total allowable annual baseline EUI shall be determined by the code-based allowable energy use targets for the building. Code-based targets for Group R-2⁹, S1 & S-2, E, and I-2 are currently excluded from the Phase ~~1-2~~ EEaS solicitation.

For mixed-use buildings, Seattle City Light will use a floor area-weighted kBtu/ft² to calculate the baseline EUI, as shown below.

Example 1 – Office Building

	<i>Square Feet by Use Type (ft²)</i>	<i>Baseline EUI (401.3.2 Code) (kBtu/ft²/yr)</i>
Office	100,000	40
Enclosed Parking	15,000	10
Total / Weighted	115,000	36.09

Example 2 – Mixed Use Building

	<i>Square Feet by Use Type (ft²)</i>	<i>Baseline EUI (401.3.2 Code) (kBtu/ft²/yr)</i>
Office	100,000	40
Medical Office	50,000	50
Retail	25,000	60

⁹ Projects with individually-metered multifamily (R2) are currently excluded. Multifamily (R2) projects that have been granted a Master mMetering exception ~~multifamily (R2) projects~~ can apply to the Program.

Total / Weighted	175,000	45.71
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For building being permitted under subsequent versions of Seattle Energy Code; the maximum allowable energy use for the building will be determined using the methodology outlined under the Target Performance Path (C401.3) of the version of the SEC used for permitting of the project.

The M&V Consultant will use the Participant's energy model (proposed model) submitted to the Seattle Department of Construction and Inspections (SDCI) ~~for to demonstrate~~ energy code compliance to calculate the first year's ~~monthly~~ values of the Baseline Model. The Participant will make the energy model data files and reports available to City Light and the M&V Consultant upon permit approval.

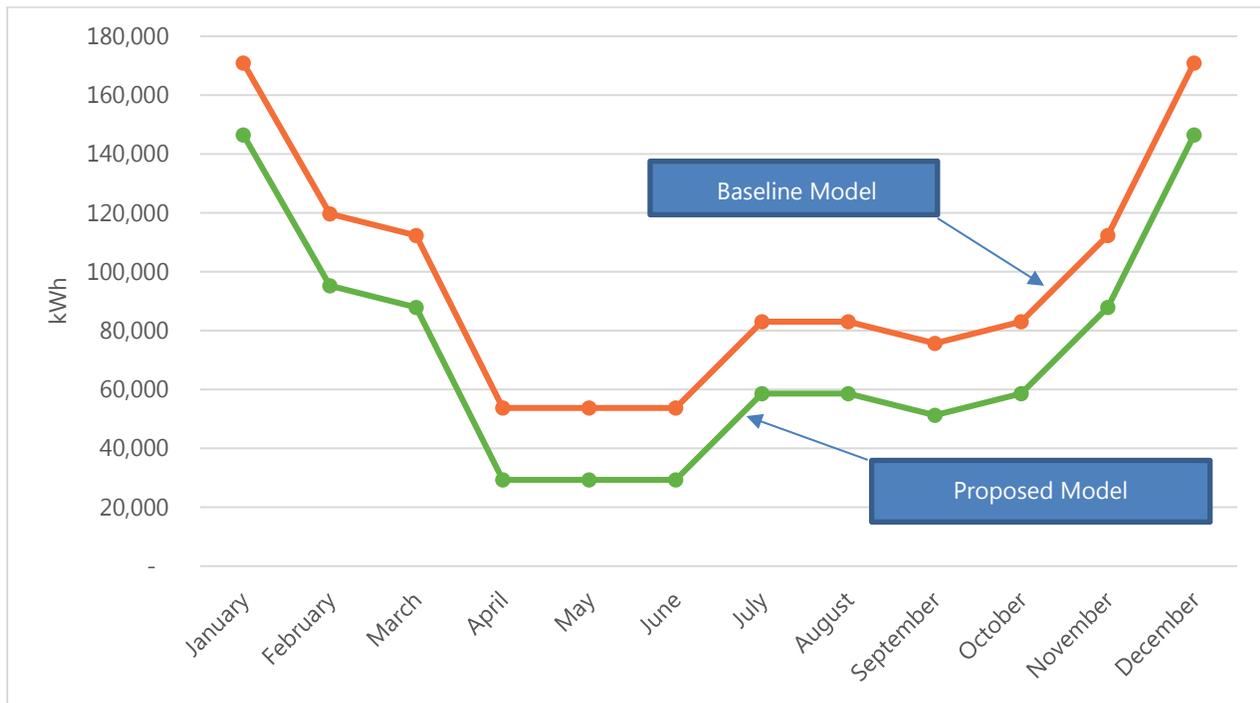


Chart 1. Example First Year Baseline Model and Proposed Model

7.3.2.2 Performance Period

The Performance Period for new construction starts after occupancy reaches at least 75% (measured in % leased square footage). Once determined, Seattle City Light will provide written notification confirming the start date of the Performance Period. Seattle City Light shall be notified immediately if occupancy decreases below the 75% target.

7.3.2.3 Savings Estimates

The M&V Consultant shall ensure that the Baseline Model and the actual energy use (for each billing period) do the following:

- Describe the same Measurement Boundary.
- Describe the same time period.

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- Use the same assumptions and calculations.
- On-site generation is correctly removed from the Avoided Energy Use savings.

For any weather adjustments, the M&V Consultant shall adjust the EUI baseline per Seattle Energy Code C401.3.9.

7.3.2.4 Annual Routine Adjustments (new construction only)

Each year throughout the term, the Participant's Baseline Model shall be adjusted in the following ways:

- Actual energy use data shall be used to update the shape of the curve for the next year. The total maximum allowable energy use EUI will ~~remain the product based on of~~ the Seattle Energy Code the building is permitted under.
- For buildings permitted under SEC 2015, ~~the~~ total allowable annual baseline EUI will be adjusted for any data center, cold years, or retail operating hours as allowed by SEC sections C401.3.2.1, C401.3.9, and C401.3.10.

Any other types of adjustments will follow the Non-Routine Event and Non-Routine Adjustment sections below.

7.3.2.5 Non-Routine Events (NREs)

Non-Routine Events are changes in building energy use that are not attributable to changes in the independent variables used in the Baseline Model or to the ECMs that were installed.

NREs for new construction ~~include~~ are limited to:

- Change in space use type or space type mix, such as from retail to restaurant or vice versa.
- Expansion or destruction of conditioned building floor area.
- Changes in leased square footage that drop the building below 75% occupied.
- Electric vehicle charging infrastructure (shall be sub-metered and added to the baseline).
- On-site generation (shall be sub-metered and removed from the Avoided Energy Use of the Site).

7.3.2.6 Non-Routine Adjustments (NRAs)

For new construction projects, only the NREs listed above ~~will~~ can trigger a Non-Routine Adjustment. ~~As~~ When these NREs are significant, the M&V Consultant will recommend Seattle City Light make a Non-Routine Adjustment to the Participant's code baseline.

Occupancy changes between 100% and 75% occupancy in new construction use cases do not require a non-routine adjustment. Below 75% occupancy, the Participant and EE Developer will need to resubmit their SDCI proposed model ~~to~~ adjusted for the major occupancy changes.

If there is an addition or building use type change¹⁰ during the Performance Period, Seattle City Light may choose to pivot the Baseline Model to another use type code baseline, as the Baseline Model is no longer representative of how much energy the building would have used had no improvements occurred.

7.4 Data Requirements

The Participant and EE Developer will collaborate on developing the project's application and provide as complete and accurate data as possible during the application. When selected, City Light and the M&V Consultant will work with the Participant and EE Developer to ascertain all required data to develop the Baseline Model. This will be done through meetings and requests for information (RFIs). The Participant and EE Developer are expected to complete these requests for information to the best of their ability. Requests for information will be used by City Light as needed throughout the contract period.

The participating building's All-ENERGY STAR Portfolio Manager ~~profile~~~~Site~~ and energy use information must be accurately collected and maintained by the Participant. The Participant will grant Seattle City Light, and any agent working on the City's behalf as part of the EEaS Program, access to the Site's data as it relates to participation in the EEaS Program, including but not limited to the Site's ENERGY STAR Portfolio Manager profile, ~~and~~ interval data, and other supporting data (if available) throughout the term of the Participation Agreement.

Project information will be provided by the EE Developer to Seattle City Light on a quarterly basis throughout the term of the PPA, using the report format provided by City Light. The Participant and EE Developer will grant Seattle City Light, and any agent working on the City's behalf as part of the EEaS Program, access to the project's data as it relates to the participation in the EEaS Program, including but not limited to workforce data.

The EE Developer shall provide to Seattle City Light and their M&V Consultant on a quarterly basis updated forms specifying building data, including:

- ECM Plan status.
- Confirmed changes in space use, gross square footage, leased square footage, and/or implementation of non-project related capital projects.

7.5 Quality Assurance and Quality Control (QA/QC)

Data quality procedures to verify the quality and accuracy of the projects before, during, and after ECMs have been implemented, will be administered by the M&V Consultant as they relate to monthly estimation methods, and NRE detection and quantification methods. Seattle City Light will evaluate quantitative and qualitative aspects of the Program and its participating projects.

¹⁰ See [SEC 2015 C401.3.8 – C401.3.10](#) for guidance.

Seattle City Light reserves the right to perform random site verifications of the participating projects in order to monitor project quality and savings. Seattle City Light reserves the right to review documentation supporting any data submitted by Participants and EE Developers.

8 PROGRAM REQUIREMENTS

8.1 Participant Requirements

1. Participant must notify all tenants who will be required to pay all or a portion of the EE Service Fees dictated by Program participation. Tenant notification must at a minimum state that the EE Service Fee, charged to the building as part of participation in the EEaS Program, is not an electricity rate payment. Participant will not represent or imply that EE Service Fees are a City Light charge for electricity delivered. Participant will provide evidence of this notice to City Light upon request.
2. Participant must give Seattle City Light and the M&V Consultant access to their ENERGY STAR Portfolio Manager account. Participant agrees to upload energy consumption to Portfolio Manager monthly, and maintain other relevant data housed in the Portfolio Manager system.
3. Participant must grant the M&V Consultant access to Seattle City Light billing information and interval meter data (e.g. through MeterWatch) for the participating building.
4. Participant must provide building data with City Light and the M&V Consultant required to develop a viable baseline and determine Avoided Energy Use. The Participant can provide access to this data directly, or through a third-party working behalf of the Participant.
- 3.5. Participants must respond to RFIs in a timely manner.

8.2 EE Developer Requirements

1. EE Developer must provide Seattle City Light with quarterly reports throughout the duration of the construction and Performance Period.
2. EE Developer must ~~provide Seattle City Light with~~adhere to their workforce development plan and reports at 50% and 100% completion of construction, for projects over 5 million dollars.
3. EE Developer must achieve at least 10% electricity savings after the construction period. (Existing Buildings only)
- 3.4. EE Developers must respond to RFIs in a timely manner.

8.3 Building Requirements

1. All participating buildings must be set-up and current (within 2 months) in ENERGY STAR Portfolio Manager.
2. Buildings located in the City of Seattle must be in compliance with the City of Seattle's Energy Benchmarking and Reporting program. See www.seattle.gov/environment/benchmarking for more information.

8.4 Project Requirements

1. Quantification of Avoided Energy Use shall exclude the effect of any on-site generation. Any on-site

generation must be outside the project boundary and separately metered with a ~~Seattle City Light installed~~ revenue grade meter.

2. Participant must provide and maintain a list of ~~planned~~ ECMs to be implemented as part of the project and keep Seattle City Light informed on the status of implementation on a quarterly basis.
3. The participating building will not be eligible for any other Seattle City Light efficiency programs while participating in the EEaS Program. (Participants are free to pursue other grant or incentives from non-City Light funding sources for efficiency work that effects other fuel/energy sources.)

8.5 Workforce Development Reporting Requirements

The EE Developer will be required, under the PPA, to report workforce development metrics listed below for capital projects above 5 million dollars in total capital project costs. The goal of requiring reporting is not to monitor workplace practices or supervise construction, but to align workforce development values with those of the City. Reporting will be required for all energy efficiency related capital project work over 5 million dollars in total capital project costs performed to achieve the proposed savings, including the construction period.

As this is not a public works project, the EE developer shall aim to meet or exceed the goals set by the EE Developer in the project solicitation. Ideally, these goals will align with the standards set forth in Seattle's Priority Hire statute (SMC 20.37.040), which includes, but is not limited to, the following:

- Use labor that is receiving area standard wages for all craft workers;
- Provide bona fide benefits, vacation, health and welfare, apprenticeship and training funds;
- Meet or exceed 15% apprenticeship utilization per craft;
- Set and meet goals for hiring women and racial minorities as well as for hiring Women- and Minority-Owned Business Enterprises (WMBE) for Developers, and;
- Set and meet goals for hiring women and racial minorities from pre-apprenticeship programs.

The forms for reporting on workforce development will be required at the 50% and 100% completion point of each capital project above 5 million dollars and will be submitted to City Light. Reports will require the following details:

- Whether or not workers are receiving area standard wages and bona fide benefits;
- Apprenticeship utilization percentage;
- Priority hire utilization (% of workers who live in economically distressed zip codes);
- Utilization of women and people of color;
- Women and minority business enterprise utilization, and;
- Percent utilization of women and people of color from pre-apprentice programs.

9 PARTICIPATION PROCESS

9.1 Submit Project Proposal

By ~~March-April 31-30, 2020-2021~~

1. Develop a project plan outlining ECMs and their specific contribution to your proposed EUI or kWh savings goal.
2. Complete and submit the Project Application.

9.2 Await Response Regarding Selection

~~March-April 31-30, 2020-2021~~ – May ~~22-31, 2020-2021~~

1. Seattle City Light will conduct eligibility checks and project scoring based on selection criteria.
2. Seattle City Light, at its discretion, may interview and/or send requests for information to representatives of the proposed projects considered most competitive.
3. Seattle City Light will notify successful candidates of their selection status by email.

9.3 Contract with Seattle City Light (If Selected)

1. Seattle City Light's M&V Consultant will develop a Baseline Model which will be used as the basis for measuring electricity savings. Participant and EE Developer may review the Baseline Model and request adjustments (adjustments are subject to Seattle City Light approval).
2. Participant (Building Owner or Owner's Representative) will sign Participation Agreement with Seattle City Light.
3. Participant indemnifies Seattle City Light against tenant complaints.
4. EE Developer signs PPA with Seattle City Light.
5. The term of the contracts starts when both contracts are signed.

9.4 Construction Period

1. Implement ECMs or construct/renovate facility (if new construction).
2. Submit an updated Workforce Development report to Seattle City Light at 50% and 100% completion of construction, for projects over 5 million dollars.
3. Notify Seattle City Light when the ECM project(s) or construction has been completed.

9.5 Performance Period

1. In order to start the Performance Period and initiate EEaS transactions, the following conditions need to be met:
 - For Existing Building projects, >10% electricity savings must occur on a monthly basis.
 - For New Construction projects, the building must have over 75% occupancy as measured by leased square footage.

2. EE Developer submits an updated quarterly reporting package to Seattle City Light
3. Seattle City Light and M&V Consultant will monitor building performance and submittals for NREs (using quantitative and qualitative data). As part of this, Seattle City Light and M&V Consultant may interview and/or send requests for information to the Participant and/or EE Developer.
4. M&V Consultant will conduct any NRAs as necessary. Participant and EE Developer will be notified of any NRAs and may review the updated Baseline Model and request adjustments (adjustments are subject to Seattle City Light approval).
5. Seattle City Light will include the EE Service Fee on the Participant's subsequent bills and process the PPA payment to Efficiency Energy Developer. City Light Customer shall pay Seattle City Light utility bill including EE service fee.
6. Continue identifying, implementing, and evaluating ECMs.

9.6 Program Evaluation

Seattle City Light will conduct evaluations and interview or survey a sample of Participants, EE Developers, and Customers during the Performance Period. These may be randomly selected to voluntarily provide additional information regarding their participation in the Program. Interview or survey questions may cover topics such as, but are not limited to:

- Satisfaction with the EEaS process
- Satisfaction with the ECMs implemented at the Site
- Motivations for carrying out the ECMs, perception of non-energy benefits, sharing of EEaS experience with the industry, etc.
- NRE occurrence (e.g. increased or decreased occupancy, addition/removal of energy using equipment, etc.) during the Performance Period that might have affected energy use
- Business model approach
- Barriers to success
- Potential improvements to the program design, especially as related to scaling the pilot Program to the next phase
- Confidence levels in and satisfaction with the M&V process

10 PROPOSAL REQUIREMENTS

The following section describes the requirements for the proposal documentation. Each application must specify who will assume the role of Participant and EE Developer and provide contact information for both parties for the application submittal to be considered complete. Seattle City Light may ask for additional information or clarification during the selection process. All proposal documentation must use a font size of 10 or larger.

The entire proposal package must not exceed 23MB.

10.1 Letter of Interest/Introduction

(Max 2 pages)

10.2 Participant Information

10.2.1 Participant

(Submission form)

1. Company name
2. Authorized signer
3. Project contact
4. Contact information
5. Owner's representative information (if applicable)

10.2.2 Efficiency Energy Developer

(Submission form)

1. Company who will assume the role of the EE Developer. This company will be the recipient of the PPA.
 - a. Name
 - b. Years in business
2. Authorized signer
3. Project Manager
4. Contact information

(Supporting Documentation (Max 4 pages))

5. Description of company
6. Resume of project manager
7. List and summary of similar projects completed
8. References

10.2.3 Participation details

(Submission form)

1. How is the split incentive between landlord and tenant present in your building?
2. How are energy costs allocated to your tenants? (i.e. submetering, square-footage allocation, etc.)
3. Types and quantity of lease type(s) present in the building.
4. What is your desired term length? (up to 20 years)

10.3 Building Description

(Submission form)

1. General description of building;
 - a. Name, address(es)
 - b. Year built
 - c. Years owned
 - d. Number of tenants
 - e. Number of stories
 - f. Gross and conditioned building square footage
2. Square footage by occupancy type from ENERGY STAR Portfolio Manager.
3. Inventory of all energy sources and Seattle City Light accounts (must be reflected in ENERGY STAR Portfolio Manager).
4. Annual use of other energy sources (natural gas, steam, solar, oil).
5. General description of existing building systems, including controls system, HVAC, lighting, envelope, etc. (existing only).
6. Occupancy rate by month for prior 12 months as a percent of leasable square feet (existing only).
7. General weekly occupancy schedule (e.g. 12 hours per day, M-F).
8. Recent major changes to space use, building systems, or occupancy (existing only).
9. Expected major changes to space use, building systems, fuel type, or occupancy over the next 5 years.

(Supporting Documentation)

10. Most recent statement of Energy Performance from ENERGY STAR Portfolio Manager.

10.4 Project Description

(Submission Form)

1. Overview of the types of Energy Conservation Measures (ECMs) planned:
 - a. ECM description,
 - b. Project type (i.e. capital, behavioral, O&M, etc.),
 - c. Estimated annual energy savings from preliminary audit(s),
 - d. Estimated completion date

2. Commitment to share ENERGY STAR Portfolio Manager account of the building.

(Supporting Documentation (Max 2 pages))

3. Summary of the ECM study and savings calculation methodology.

10.5 Workforce Development

(Submission Form)

1. Commitment to report on workforce development efforts:
 - a. Workers receiving prevailing wage
 - b. Workers receiving bona fide benefits
 - c. Apprenticeship utilization percentage
 - d. Priority Hire utilization
 - e. Utilization of women and people of color
 - f. Women and minority business enterprise utilization
 - g. Women and people of color from pre-apprentice programs
2. Description of strategy to achieve Priority Hire workforce goals.

11 PROPOSAL SUBMITTAL

Proposals must be delivered to Seattle City Light electronically. Proposals received after the deadline will be considered for the next selection period, if offered. All times listed below are Pacific Standard time.

All proposals become the property of the City of Seattle and can be subject to the public disclosure requests. The content of all proposals will be treated as confidential; any proprietary data must be clearly marked "Confidential - Proprietary Information." Proposals entirely marked as confidential will not be accepted.

1. Proposals must be received by Seattle City Light no later than the date and time given in [Section 13 TIMELINE/SCHEDULE](#), except as revised by Addenda.
2. All pages are to be numbered and identify the project submittal. The format should follow closely to that requested in [Section 10 PROPOSAL REQUIREMENTS](#).
3. The submitted proposal shall cover ~~the all~~ topics and details identified in sections 10.1 through 10.5 of this Program Manual. Each section of the proposal shall be aligned with the section headers in sections 10.1 through 10.5.
4. The City has page limits specified in ~~Section 10 PROPOSAL REQUIREMENTS~~~~Section 3 "Proposal Requirements."~~ Any pages that exceed the page limit will be excised from the document for purposes of evaluation.
5. The proposer has full responsibility to ensure the response arrives at the City within the deadline. A response submitted or delivered after the time fixed for receipt will not be accepted unless waived as immaterial by the City, given the specific fact-based circumstances. Responses arriving after the deadline may not be considered for this solicitation round, may be included for future selection processes, or the Seattle City Light may accept the package and make a determination as to lateness.

Submittal

1. Send electronic submittal to Seattle City Light SCLEnergyAdvisor@seattle.gov, on or before the deadline noted in [Section 13 TIMELINE/SCHEDULE](#), except as revised by Addenda.
2. Title the e-mail very clearly with "EEaS Proposal" and your company name.
3. Any risks associated with transmittal are borne by the Proposer.
4. The City e-mail system will generally allow documents up to, but no larger than, ~~203~~ Megabytes.

12 PROJECT SELECTION CRITERIA

Seattle City Light will evaluate all [phase 2](#) proposals received against Section 6 PROGRAM ELIGIBILITY and Section 8 PROGRAM REQUIREMENTS. If Seattle City Light receives more than [15-10](#) eligible projects by [December-March](#) 31, 2021-19, each project will be scored against the criteria below. The [150](#) projects with the highest ranking will be selected for this phase of implementation. [If projects leave the Program after being selected, their spot will be offered to the next highest scoring project that meets eligibility criteria.](#) Eligible projects that are not selected may be considered for future project solicitations, if they notify Seattle City Light of their continued interest in the pilot Program.

Project Criteria	Metric	Points
Building Performance	<ul style="list-style-type: none"> Depth of electrical energy savings: building performance above & beyond 25% savings minimum goal Likelihood of ECMs proposed meeting savings target Methodology used to determine saving estimates 	25
Project Team	<ul style="list-style-type: none"> Strength, experience, and ability of team to deliver project as proposed 	5
Project Timeline	<ul style="list-style-type: none"> Performance period can start within 2 years or earlier of selection 	5
Environmental Impact	<ul style="list-style-type: none"> Degree of carbon savings, e.g. through beneficial electrification (ranked relative to other projects in solicitation) 	5
Equity and Workforce Development	<ul style="list-style-type: none"> Ability/commitment to report desired metrics Women and minority owned business inclusion plan Implementation strategy to achieve Priority Hire workforce goals 	20
Tenant Benefits	<ul style="list-style-type: none"> Financial – extent to which the value of efficiency energy will be passed on to tenants Health & wellness – projects that exceed ventilation, lighting, and thermal comfort standards of ASHRAE and/or healthy building guidelines Tenant engagement – commitment to engaging commercial tenants in saving energy 	10
Innovation/Value-added	<ul style="list-style-type: none"> How is your project innovative? How will this Program help you achieve higher energy performance? 	5
Use-case diversity	<ul style="list-style-type: none"> Is this type of project under or over-represented in the mix of projects received? 	20
Submittal	<ul style="list-style-type: none"> Responsiveness of submittal (concise, complete and accurate) 	5
Total		100

13 TIMELINE/SCHEDULE

Milestone	Date
Request for Projects Issued	July <u>Jan 2021</u> , 2019 <u>21</u>
Draft Update Program Manual, Power Purchase Agreement, Customer Participation Agreement , released	August <u>Jan 2021</u> , 2019
Questions/requests for information due to Seattle City Light Information Session + Response to initial clarifications/requests for information submitted	August <u>Feb 29</u> <u>12</u> , 2019 <u>2021</u>
Seattle City Light publishes response to questions Questions/requests for information due to Seattle City Light Information Session Seattle City Light publishes response to questions-	September <u>Feb 2021</u> , 2019 <u>2021</u>
EEaS Feedback Discussion	October <u>Mar 11</u> <u>11</u> , 2019 <u>2021</u>
Power Purchase Agreement, Participation Agreement, Updated Program Manual, M&V Guidelines released for comments	October <u>14</u> , 2019
Deadline for comments	November <u>22</u> , 2019
Final program documents released	December <u>6</u> , 2019
Proposals due to City Light	December <u>21</u> , 2019
Blackout period - applicants cannot correspond with Seattle City Light about the RFP	March <u>Apr 31</u> <u>30</u> , 2020 <u>2021</u>
Participants selected Notification of selection status to applicants	March <u>31</u> <u>Apr 30</u> , 2020 <u>2021</u> – May <u>Jun 22</u> <u>30</u> , 2020 <u>2021</u>
Target Participation Agreement and PPA Execution Date	Jul 1 <u>May 22</u> , 2020 <u>2021</u> Aug <u>July 32</u> , 2020 <u>2021</u>

*For Information Purpose Only
Subject to Change and Not an Offer*

14 QUESTIONS AND CLARIFICATIONS

Any questions and/or clarifications must be submitted electronically to an Energy Advisor at Seattle City Light SCEnergyAdvisor@seattle.gov in written format with the e-mail header **EEaS RFP Question** by ~~March-February 31th12th~~, 2021~~0~~.

[INSERT DATE]

PROJECT NUMBER & NAME

XXXXX

SITE ADDRESS

XXXXX

CITY LIGHT CUSTOMER

XXXXX

EFFICIENCY ENERGY DEVELOPER

XXXXX

GLOSSARY OF TERMS

“Adjusted Baseline Energy” represents what the baseline energy use would have been if the project ECMs had never been installed, under the same set of post-retrofit conditions.

“Agreement” means this Power Purchase Agreement.

“Avoided Energy Use” (for existing buildings) means the reduction in electricity use that occurred in the performance period, relative to what would have occurred if the facility had been equipped and operated as it was in the baseline period, but under performance period conditions. Unless and until City adopts another method of quantification consistent with industry best practices, City will base Avoided Energy Use for Existing Buildings on a formula in this format:

Avoided Energy Use (or “Energy Savings”) = Adjusted Baseline Energy - Performance Period Energy +/- Non-Routine Adjustments

For New Construction, City will consider the difference between the City of Seattle Energy Code target energy use (C401) and the participant’s actual energy use to be the Avoided Energy Use unless and until City adopts another method of quantification.

“Baseline Conditions” means the conditions of the existing buildings as found in the baseline period. Baseline Conditions are generally described in an Energy Audit (e.g.: ASHRAE Level II audit).

“Baseline Data” means the measurements and facts describing facility operations and design during the baseline period. This will include energy use or demand, ~~and~~ parameters of facility operation that govern energy use or demand, and definition of Static Factors for the Site.

“Baseline Model” means the mathematical representation or calculation procedure that is used to predict the energy use in a building or facility ~~(or Adjusted Baseline Energy)~~ had no ECMs been implemented. Models may be based on equations that specifically represent the physical processes, may be the result of statistical analysis of energy-use data, or other techniques City reasonably determines to be appropriate for Project purposes.

“Baseline Model Equation” means the mathematical representation or equation governing the prediction of energy use ~~(or Adjusted Baseline Energy)~~ had no ECMs been implemented at the Site.

“City” means the City of Seattle, a Washington State municipal corporation, doing business by and through its Seattle City Light department (“City Light”).

“Efficiency Energy” means the calculated Avoided Energy Use harvested at the Site by the EE Developer. This is an energy efficiency resource. City Light will determine Efficiency Energy based on quantification provided by the M&V Consultant.

“Energy Conservation Measure” (“ECM”) means any type of energy conservation or efficiency energy project or activity conducted, related to the installation, repair, or replacement of energy-efficient equipment or building systems, implementation of capital projects, operational & maintenance (O&M) improvements, or new means of training or managing users of the space, intended to improve the energy productivity of or generate Efficiency Energy at the Site.

“Energy Efficiency Service Fee” (“EE Service Fee”) means the charges for Efficiency Energy ~~that~~ the City will bill the City Light Customer based on the Avoided Energy Use at the Site.

“Efficiency Energy Developer” (“EE Developer”) means the party who enters this Power Purchase Agreement with the City for the sale of ~~the~~ Efficiency Energy to the City from the Avoided Energy Use at the Site.

“Measurement and Verification Consultant” (“M&V Consultant”) means an independent third-party hired and selected by City that will develop and implement an approach to use data-driven models with meter data and other variables to ~~estimate~~ calculate Adjusted Baseline Energy, which will be used by City Light to determine the Avoided Energy Use and Efficiency Energy at the Site. M&V Consultant will be selected by standard City procurement procedures and is subject to change if and when required by City policy or business needs.

“Measurement and Verification Guidelines Plan” (“M&V Guidelines Plan”) means the program’s M&V guidelines and methodology approved by City. The City intends for M&V Guidelines Plan to follow industry standard practices for whole-building estimates of energy savings and non-routine adjustments, if any are needed.

“Measurement Boundary” means the boundary drawn around whole-building meters and building systems to segregate those which are relevant to savings determination from those which are not. The Measurement Boundary shall be determined by the primary utility account and corresponding interval meters, which make up at least 90% of the Site’s electricity consumption. All energy uses of equipment or systems within the measurement boundary must be measured or estimated, whether the energy uses are within the boundary or not.

“New Construction” means (1) construction of a new building or structure, (2) an ~~extension or~~ increase in the conditioned floor area or height of an existing building or structure, or (3) major changes in space use type such as major renovations.

“Non-Routine Adjustments” (“NRA”s) means adjustments to the Baseline Model to account for Non-Routine Events, which occurred during the baseline or Performance Period and ~~that~~ cannot be modeled using the independent variables considered in the Baseline Model.

“Non-Routine Events” (“NRE”s) means changes in building energy use ~~that are~~ not attributable to changes in the independent variables used in the baseline model nor to the ECMs that were installed. In the case of an NRE, the Avoided Energy Use may be adjusted by making Non-Routine Adjustments.

“Participant” is the party who owns the Site, acting either through itself or through an agent with appropriate authority, such as a management or operating entity, who is the City Light customer.

“Party” or “Parties” means the City and or the EE Developer.

“Performance Period” means for Existing Buildings the period of time after the EE Developer has implemented initial ECMs at the Site resulting in a reduction ~~of in~~ monthly energy consumption of at least 10% relative to the baseline model and written approval has been provided by City. For New Construction, the performance period begins when the building is 75% occupied and written approval has been provided by City.

~~**“Power Purchase Agreement Payment” (“PPA Payment”)** means the amount to be paid to the EE Developer for delivered Efficiency Energy under the terms of this Agreement as calculated in Appendix A unless and until City determines another methodology is a better calculation of Avoided Energy Use based on its reasonable utility judgment and industry best practices.~~

“Power Purchase Agreement Price” (“PPA Price”) means the ~~rate-dollar amount per kilowatt-hour of~~ Efficiency Energy that will be paid by the City to the EE Developer, expressed in US cents-dollars per kilowatt-hour, for the delivery of Efficiency Energy from the EE Developer to the City at the Site under the terms of this Agreement. (See Appendix A)

~~**“Power Purchase Payment” (“PPA Payment”)** means the amount to be paid to the EE Developer for delivered Efficiency Energy under the terms of this Agreement as calculated in Appendix A unless and until City determines another methodology is a better calculation of Avoided Energy based on its reasonable utility judgment and industry best practices.~~

“Program” means City’s Energy Efficiency as a Service Pilot Program. Components of the program include both this Agreement under which the City pays EE Developer for Efficiency Energy generated at the Site, and a separate Participation Agreement between City and Participant under which Participant pays EE Service Fees to City to receive Efficiency Energy ~~based on the Avoided Energy Use for the Site.~~

“Project” means the collection of ECMs implemented at the Site by the EE Developer intended to generate Efficiency Energy throughout the Term of Agreement.

“Site” means the actual building location that the Efficiency Energy work will take place. The Site encompasses the Measurement Boundary. The project boundary shall be the utility account and corresponding meters, which make up at least 90% of the site’s electricity consumption. The Site location for this Agreement is [INSERT ADDRESS, LEGAL DESCRIPTION, PARCEL NUMBER OR OTHER SPECIFIC IDENTIFIER OR REFERENCE AND ATTACH THE SITE DETAILS AS EXHIBIT B]

“Static Factors” means energy-governing factors that are not usually expected to change (e.g., facility size, design and operation of installed equipment, number of weekly production shifts, or type or number of occupants). The associated static factors must be monitored for change throughout the reporting period.

TERMS & CONDITIONS

This Agreement is entered into by and between the Parties to implement the Program a City energy conservation program. The EE Developer is voluntarily participating in the City’s Program to sell verified Efficiency Energy to the City under the terms and conditions of this Agreement. This Program aims to mitigate the split incentive through this Power Purchase Agreement for the City to purchase the Efficiency Energy delivered through the Project from the EE Developer and through a Participation Agreement to bill the City Light Customer for the Efficiency Energy generated at the Site.

~~SCL implementation of this~~ This Program requires both execution and implementation of this Power Purchase Agreement with the EE Developer at the Site and execution and implementation of a separate Participation Agreement between City Light and Participant by which Participant consents to be billed an Energy Efficiency Service Fee based on the Efficiency Energy generated at the Site. For avoidance of doubt, the Participant is not a party to this Agreement and the EE Developer is not a party to the Participation Agreement. Efficiency Energy will be determined by the City based on information provided by the M&V Consultant, operating under a contract with the City and subject to the City’s approval.

In consideration for EE Developer’s participation and full performance in the Program, both parties agree to the following:

- 1. Term of Agreement.** This Agreement shall become effective on the date the Agreement is signed by execution of signatures by both Parties (execution date) and shall remain in effect until **01/22/2040** unless terminated earlier by the terms of this Agreement. The execution date must be prior to ECM equipment being ordered for projects intending to use existing building baseline methodology. Projects using new construction baseline methodology must have an execution date prior to 50% completion/construction of project.
- 2. Entire Agreement.** This Agreement shall incorporate, as terms and conditions to this ~~a~~ Agreement only, identified attachments, appendices, M&V Plan, and the Program Manual as it may be updated or amended during the term of this Agreement. The Agreement, including the incorporated documents, contains the entire Agreement between the Parties and supersedes any and all prior written and/or oral agreements. In the event of any conflict or inconsistency between Program Manual and the Agreement, the Agreement will control.
- 3. Voluntary Participation/Assumption of Risk.** The EE Developer is fully aware of the risks and hazards connected with the activities of implementing ECMs, and EE Developer is aware that such activities include the risk of injury and even death. EE Developer hereby elects to participate voluntarily in the Program knowing that the activities may be hazardous to EE Developer’s property and person and the property and person of third parties, including the Participant and residents or tenants of the Site. EE Developer will inspect the Site before conducting any work and will only implement the ECMs on the Site if EE Developer determines that the Site is suitable for the ECMs to be implemented. EE Developer voluntarily assumes full responsibility for and waives all claims against City arising from any loss, property damage, or personal injury, including death, which may be sustained by EE Developer, Participant, or third parties, or any loss or damage to property and Site, as a result of being engaged in such activities, to the fullest extent allowed by law.

- 4. Payment.** The EE Developer shall deliver Efficiency Energy to the City in exchange for PPA payment at the PPA Price as identified in Appendix A.
- a. **Performance Guarantee.** Upon completion of the first year in the performance period and for the rest of the contract period, the Avoided Energy Use for the past 12 months (determined on a rolling basis) shall be at least 12.5% of the baseline energy use for the baseline used during the time of recording of the savings (Non-Routine Adjustments will be applied retroactively). If the City determines that the Avoided Energy Use is less than 12.5% of the baseline energy use ("Performance Deficiency"), EE Developer will be in breach of this Agreement under Section 19(a). City will deem the Performance Deficiency and breach cured if during the cure period the Project's Avoided Energy Use for the past 12 months (determined on a rolling basis) returns to be at least 12.5% of the baseline energy use, for the baseline used during the time of recording of the savings.
 - b. **Payment Amount.** Determination of the amount of Efficiency Energy, and thus PPA Payment, will remain the sole discretion of the City. City will use the services of the M&V Consultant, or other provider reasonably determined by City to provide the same level of relevant expertise to develop and implement a Baseline Model for the Site and to determine the Avoided Energy Use and Efficiency Energy each payment cycle. As this is a pilot, program evaluations may be conducted that recommend a change in the methodology used to calculate Avoided Energy Use and may be subject to change to align with industry best practices. City will notify EE Developers of change, and provide a 60-day comment period prior to adoption. For each billable kilowatt-hour of Efficiency Energy measured by the M&V Consultant and confirmed by City, the City shall pay the EE Developer the PPA Payment Amount as calculated in Appendix A for each billing cycle. If the Avoided Energy Use calculated for a billing cycle is zero or less than zero, this will result in no Efficiency Energy payment for that cycle or debit for the EE Developer. The EE Developer will only receive PPA payments for Efficiency Energy generated within the Measurement Boundary. The equations that govern the Baseline Model will be provided to the EE Developer in writing by the City or its M&V Consultant and will be used to quantify Avoided Energy Use and Efficiency Energy. The City, using the services of the M&V Consultant, has sole discretion to modify the Baseline Model as needed to assure verified Efficiency Energy savings at the Site. City will notify the EE Developer of all modifications and provide a 60-day comment period prior to adoption. All adjustments are subject to City Light approval. A record, log, and revision history of this Baseline Model will be maintained by the City to reflect the nature and timing of any permanent Non-Routine Adjustments made throughout the Term of the Agreement; this will be provided to the EE Developer upon request. Non-Routine Events flagged as significant by the City, using the services of the M&V Consultant, will have NRAs made to the Avoided Energy Use calculations.
 - c. **Dispute Process.** If the EE Developer believes there is an error in the detailed summary of the Avoided Energy Use provided by the City for a particular billing cycle, then EE Developer shall notify the City of the potential error (including a ~~reasonably~~ detailed description of the nature and effect of the error), within thirty (30) days after receiving the detailed summary for that billing cycle. Failure to provide notice to the City will waive the EE Developer's ability to dispute that particular PPA Payment. The City will review the Avoided Energy Use calculation and claimed discrepancy and notify the EE Developer whether any adjustments to the Avoided Energy Use are needed. Any payment adjustments made as result of this investigation will be retroactively corrected on subsequent EE Developer payments. If the Parties are unable to resolve the dispute within sixty (60) days after their initial notification, Parties will attempt to resolve the dispute through mediation. If the dispute is not resolved by mediation either applicable Party may proceed to seek any remedy that may be available

to that Party at law or in equity (provided that any such remedies shall be limited as provided in this Agreement).

- d. **Taxes.** The EE Developer shall be responsible for payment of any applicable federal, state or local income and corporate tax liability associated with the EE Developer's receipt of the City's PPA Payment for efficiency energy. This PPA applies to only the EE Developer and the ECMs implemented at the Site. Should the EE Developer wish to enroll additional Sites in the Program, the EE Developer must separately apply for those Sites in accordance with whatever program requirements may be in place at that time. City will evaluate each Program application individually and this Agreement does not guaranty any preference in future City Light program applications.

5. Adjustments & Process Requirements.

- a. **Program Requirements & Manual.** EE Developer will implement ECMs at the Site in accordance with all requirements set out in the Program Manual and M&V Plan.
- b. **Timeline.** Once the Performance Period has begun, the City will pay the EE Developer for delivered Efficiency Energy at the PPA Price as defined in Appendix A. City intends to follow the following steps to determine and provide payment, subject to change, on written notice to EE Developer based on City's reasonable determination of business needs:
- i. End of Participant billing period.
 - ii. City will provide information to M&V Consultant regarding Baseline Energy Use and Avoided Energy Use.
 - iii. M&V Consultant will provide City a detailed summary of Avoided Energy Use based on this information.
 - iv. City will verify the Avoided Energy Use and Efficiency Energy, calculate PPA Price, and make payment to EE Developer.

c. **Non-Routine Events.** Non-Routine Events are changes in building energy use ~~that are~~ not attributable to changes in the independent variables used in the Baseline Model nor to the ECMs that were installed at the Site. Because these changes are unrelated to the ECMs implemented as part of the Project, they are not to be considered in the quantification of Efficiency Energy, and the Avoided Energy Use may be adjusted by making Non-Routine Adjustments. The EE Developer and Participant will be responsible for reporting potential Non-Routine Events as soon as they arise, or at a minimum, in Quarterly Reports. The EE Developer shall act in good faith to assist the City in investigating possible NREs. City, using M&V Consultant as appropriate, will be responsible for identifying Non-Routine Events (through review of Quarterly Reports, inspection of energy use data, and post-retrofit change detection models). ~~City, using M&V Consultant may and~~ collecting additional data through follow-up phone interviews, requests for information, observation of unexpected energy use patterns, review of additional project data, periodic site visits, and/or other methods, as appropriate. For existing buildings, City will use standard practice statistical and engineering methods to determine how and when the identified NREs have affected the facility's energy use. If City determines the Project is New Construction (including change of use type and major renovations), City will use the then-current Seattle Energy Code and Code Official guidance to identify and perform any adjustments to the facility's code baseline. For detailed information on how NREs will be identified and tracked, or for a list of typical Non-Routine Events, please see the Program Manual.

~~c.~~

~~For existing buildings, City will use standard practice statistical and engineering methods to determine how and when the identified NREs have affected the facility's energy use.~~

~~If City determines the Project is New Construction (including major renovations), City will use the then-current Seattle Energy Code and Code Official guidance to identify and perform any adjustments to the facility's code baseline.~~

~~For detailed information on how NREs will be identified and tracked, or for a list of typical Non-Routine Events, please see the Program Manual.~~

- d. **Non-Routine Adjustments.** Non-Routine Adjustments shall be made on an annual basis, when necessary, to the Baseline Model or Adjusted Baseline Energy to account for significant Non-Routine Events which have occurred. City, after consulting with the M&V Consultant as appropriate, will apply Non-Routine Adjustments City determines in its sole discretion to be necessary to remove the influence of Non-Routine Events in the Avoided Energy Use calculation and quantification of Efficiency Energy. City will notify the EE Developer of any Non-Routine Adjustments and allow a 30-day comment period prior to implementation. All adjustments are subject to Seattle City Light approval. Until Non-Routine Adjustments are validated and finalized, City will continue to bill the Participant and make PPA Payments to the EE Developer based on the current Baseline Model at the time of billing. Retroactive adjustments shall be made on a subsequent billing cycle. City may update procedures around Non-Routine Adjustments at any time during the Program to reflect new industry best practices.
- e. **Validation.** City retains the right and responsibility to determine Avoided Energy Use and Efficiency Energy at the Site. City will use the M&V Consultant or other appropriate resources in making these determinations. To the extent the M&V Consultant provides energy calculations and modelling related to the Site, City may at its discretion evaluate and validate the M&V Consultant's work including, but not limited to: Avoided Energy Use calculations, Baseline Model, and Non-Routine Adjustments. Should evaluation and validation find that the amount of Efficiency Energy delivered by the EE Developer at the Site requires adjustment, City will direct M&V Consultant to make these adjustments. If these adjustments result in an increase or decrease of Efficiency Energy delivered at the Site, payment adjustments will be reflected in an increase or decrease in subsequent EE Developer payments to reflect the value of Efficiency Energy actually delivered to City.

6. Site Verification & Data Collection.

- a. City must be granted permission and access to the Site and Site data to perform ECM and Site evaluations for the Program, including baseline period data. The City may, at its discretion, request data via requests for information or perform pre- and post- installation monitoring and visual verification of the implemented ECMs, in order to determine the energy savings, and if necessary, to verify EE Developer's compliance and performance obligations under this Agreement. The EE Developer shall act in good faith to assist the City in obtaining access to the requested data, or Site. The EE Developer's understands that the scope of any visual verification and review performed by the City does not include any kind of safety, code, or other compliance review or inspection, and is for administrative and verification purposes only. If City and M&V Consultant are unable to access the Site due to failure by EE Developer or Participant to grant permission or otherwise, City will deem the Site no longer practical to generate Efficiency Energy and with thirty (30) days' written notice to EE Developer, this Agreement will terminate without further liability or obligation to either Party.
- b. EE Developer acknowledges that the City intends to collect and compile certain information, including, but not limited to, building design specifications, submetering data, occupancy data, systems operations data, invoices, ECM descriptions, status for purposes of program evaluation, and data for preparing case studies under this Program.

- 7. Efficiency Energy Developer Protocols.** This Agreement is contingent on EE Developer providing verifiable Efficiency Energy to City. Any action taken by EE Developer that City determines was intended to or could mislead an Efficiency Energy purchaser will be a material breach of this Agreement and will subject EE Developer to contract liability and other remedies available at law. Without limitation, EE Developers found to be either: (a1) intentionally inflating the incidence of NREs in a manner that would be financially favorable to the EE Developer; or (b2) disguising the impact of NREs to resemble expected energy savings will be deemed to have breached this Agreement.
- a. To minimize the possibility of misleading reports of Efficiency Energy:
 - i. EE Developer shall not systematically target, recruit, or enroll Participants who expect to experience a decline in energy consumption due to Non-Routine Events within the coming twelve months; and
 - ii. EE Developer shall not misrepresent the scope of ECMs in such a way as to disguise energy use reduction resulting from Non-Routine changes as Avoided Energy Use attributable to ECMs; and
 - iii. EE Developers shall not install secondary heating sources or power generation fueled by non-metered fuels;
 - iv. EE Developer shall ensure that all reporting related to Efficiency Energy is correct and shall promptly inform City if EE Developer becomes aware that any information provided by EE Developer to City is untrue or could mislead City about the amount of Efficiency Energy Delivered.
 - b. While it is anticipated that EE Developers will participate in the pilot in good faith, these requirements will ensure the accurate evaluation of a framework designed to unlock deeper energy efficiency in commercial buildings and help EE Developers overcome the split incentive.
 - c. Methodology for detecting fraudulent NRE patterns: if the frequency of NREs which create reductions in Avoided Energy Use cannot be explained by random occurrence within Project (i.e. a pattern of NREs triggers concern), the Project will be examined by the City to assess whether the NREs are statistically indicative. City reserves the right to randomly inspect the Site to verify that ECMs reported by the EE Developer have been installed and properly functioning.
 - d. If at any time, the City determines the EE Developer has delivered unverified or misleading Efficiency Energy, by negligently or intentionally inflating the incidence of Non Routine Events in a manner that would be financially favorable to the EE Developer, or disguising the impact of Non Routine Events to resemble expected energy savings, this shall constitute a material breach of this Agreement. If in City's sole discretion this material breach was unintentional and curable, City will provide opportunity to cure under Section 19(a) of this Agreement. If City does not determine the material breach to be unintentional or if the EE Developer fails to cure the breach to the satisfaction of the City within thirty (30) days of receiving notice, City may in its sole discretion terminate the PPA with thirty (30) days' written notice to the EE Developer, require repayment of City payments for Efficiency Energy claimed by EE Developer but not verified by City, and seek any other remedies available at law or equity.
- 8. On-Site Generation.** EE Developer must provide the City thirty (30) days' written notice before installing any energy generation equipment at the Site, including but not limited to solar panels, cogeneration or geothermal energy equipment. This notice must contain enough information for City to determine how the amount of energy produced on-site at the Site may be calculated. Any on-site generation must be metered with a revenue grade meter and data made available to the City. City will remove this produced energy from the Site's Avoided Energy Use methodology. City will not pay the EE Developer for this produced energy through the PPA Payment and will not bill the Participant for this produced energy

through the EE Service Fee. If City reasonably determines on-site generation will make calculation of the Avoided Energy Use impractical or impossible, City may deem this a breach and terminate [this Agreement](#) under Section 19(a). Any form of on-site generation at the Site must be City sub-metered under applicable law and City requirements. If Participant will be participating in the installation of on-site generation equipment, notice under this section ~~may~~**must** be provided by either EE Developer or Participant. Installation of on-site generation equipment without prior notice to City will be a material breach of this Agreement.

- 9. Participant Permission Required.** City is not acting as an agent or representative of Participant or EE Developer and is not a party to any agreements between Participant and EE Developer that have been executed or will be executed related to the Site. The City is not an intermediary or agent for the EE Developer or Participant. EE Developers are private businesses not affiliated with the City and are hired at the sole discretion of the Participant. The City makes no recommendations on suitability of any EE Developer and will not defend, favor, or be held responsible for any disputes that arise between Participant and EE Developer. The EE Developer must obtain written permission from the Participant for all work associated with implementation of ECMs and continuing use of the Site for generation of Efficiency Energy. If Participant revokes permission for EE Developer to use the Site at any time, this Power Purchase Agreement will terminate without liability to either Party and City will cease paying EE Developer for Efficiency Energy.
- 10. Project Work Selection, Operation and Maintenance.** Proper selection, design, installation, and commissioning of the ECMs or equipment is the sole responsibility of the EE Developer. Neither the City nor any of its departments, subsidiaries, affiliates and officers, directors, employees, agents, representatives or volunteers are responsible for determining whether the design, engineering and installation of the ECMs are proper or compliant with any particular laws, codes, or industry standards. EE Developer is solely responsible for all aspects related to the ECMs, code compliance, and project work at the Site, including but not limited to: selecting the equipment; selecting contractors to perform any Project work; inspecting the Project work and the equipment; ensuring that the equipment is in good working order and condition; ensuring that the equipment is of appropriate manufacture, design specifications, size and capacity, and that the equipment and Project are safely and properly installed and suitable for EE Developer's purposes; and otherwise performing and meeting all Program requirements and applicable laws, regulations and codes. The EE Developer acknowledges and agrees the City is not a manufacturer of, or regularly engaged in the sale or distribution of, or an expert with regard to, any equipment that the EE Developer selected, purchased, replaced, retrofitted and/or installed under this Program.
- 11. Workforce Development.** EE Developers in the Program will need to report data and information regarding workforce and Women and Minority Owned Businesses (WMBE) utilization as specified in the Program Manual.
- 12. Public Records Act Compliance.** The City may release documents and records related to this Power Purchase Agreement when the City determines it is required to do so by Washington's Public Records Act, RCW Chapter 42.56, or other disclosure laws. Additionally, as a party contracting with a governmental entity, EE Developer may have obligations under disclosure laws. The EE Developer is responsible for understanding and complying with any applicable disclosure requirements.
- 13. Compliance with Laws.** EE Developer represents and warrants that the EE Developer, the EE Developer's agent and employees, or any contractors retained to install or maintain the equipment, are familiar with, and at all times will comply with all applicable federal, state and local laws, codes, ordinances, rules and regulations, Program Manual, Guidelines and other Program policies and requirements including, but not limited to, those pertaining to the implementation of ECMs at the Site.

Efficiency Energy harvested at the Site under this Agreement are unique energy savings and cannot be sold twice under any other Agreement.

14. The City of Seattle Disclaimer. THE CITY DISCLAIMS, ANY AND ALL IMPLIED OR EXPRESS WARRANTIES, including without limitation, ANY REPRESENTATIONS OR PROMISES WITH RESPECT TO THE ECMs, MATERIALS OR LABOR REQUIRED FOR THE implementation OF THE ECMs ON THE City Light CUSTOMER 'S SITE, OR THE COST OF SUCH equipment, MATERIALS AND LABOR, OR ANY ENERGY SAVINGS THAT MAY ACCRUE FROM THE IMPLEMENTATION OF SUCH ECMs. THE CITY MAKES NO IMPLIED OR EXPRESS WARRANTIES REGARDING THIS PROGRAM, ITS POLICIES, PROCEDURES, ITS ADMINISTRATIVE VERIFICATIONS, AND / OR ANY OWNER INSTALLED equipment, OR equipment INSTALLED BY A CONTRACTOR, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OR MERCHANTABILITY OR FITNESS OF SUCH equipment FOR ANY PARTICULAR PURPOSE. Any required maintenance, repair or replacement of the equipment shall be the sole responsibility of, and at the expense of the EE Developer. THIS DISCLAIMER SHALL SURVIVE ANY CANCELLATION, COMPLETION, TERMINATION OR EXPIRATION OF THE EE DEVELOPER'S PARTICIPATION IN THE PROGRAM.

15. Indemnity/Limitation of Liability.

- a. EE Developer acknowledges and agrees: (i) participation in this Program is voluntary; (ii) that the City is providing payments for Efficiency Energy for conservation purposes only; and (iii) that the City assumes no liability for: EE Developer's decision to enter into this Agreement; EE Developer's decision to implement ECMs at the Site; the ECMs selected by EE Developer; any third parties selected by EE Developers to implement such ECMs; any promises or representations that might be made between EE Developer and the Participant, operator, or occupants; or any disputes arising out of installation, repair or replacement of the equipment installed as part of this Project.
- b. To the fullest extent allowed by law, EE Developer agrees to release, defend, indemnify, and hold harmless the City, its departments, subsidiaries, affiliates and officers, directors, employees, agents, representatives or volunteers, from any and all claims, losses, harm, costs, liabilities, damages and expenses (including attorney's fees) of any nature whatsoever, or allegations thereof, arising directly or indirectly out of this Agreement, including but not limited to claims related to any method Participant may use to recoup Energy Efficiency Service Fee charges (such as requiring Site tenants to pay all or a portion of those charges), claims brought by the Participant related to this PPA or Participant's Participation Agreement or the PPA, claims related to the acts or omissions of third parties selected by EE Developer to perform work related to the implementation of this Agreement or at the Site, and claims related to installation, maintenance and repair of ECMs intended to generate Efficiency Energy, except to the extent that any such claims, losses, harm, costs, liabilities, damages and expenses are caused by the City's sole negligence or willful misconduct. EE Developer's indemnity, protection, and hold harmless obligations shall include any demand, claim, assignment, suit or judgment for damages to property or injury to or death of persons, or for any incentive payment by the City, or for any payment made under or in connection with any Workers' Compensation law or under any plan for employees' disability and death benefits. The EE Developer expressly waives by mutual negotiation, all immunity and limitation on liability under any industrial insurance act, including Title 51 RCW, other Workers' Compensation Act, Disability Benefit Act, or other Employee Benefit Act of any jurisdiction, which would otherwise be applicable in the case of such claim.
- c. To the fullest extent allowed by law, the City's liability shall be limited to paying only the approved payments in accordance with this Power Purchasing Agreement. The City, and its departments, affiliates and officers, directors, employees, agents, representatives or volunteers shall maintain no liability to the EE Developer or any other party for any other obligation under the Program. In no

event, whether as a result of breach of contract, tort, or any other theory of recovery shall the City be liable in connection with this Power Purchase Agreement or the Program for any or all special, indirect, incidental, penal, punitive or consequential damages of any nature.

16. Governing Law and Venue. This Agreement shall 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 solely in a court in King County Superior Court.

17. Survivability. The provisions of Sections 3, 6, 7, 10, 12, 13-16 shall survive the expiration, termination, or completion of the EE Developer's participation in the Program.

18. Severability. If any provision of this Power Purchase Agreement, in whole or in part, is deemed invalid by any court or administrative body of competent jurisdiction, then these provisions shall be construed as reformed to the extent necessary to render such provision valid, and the remaining provisions shall remain in effect as reformed. The EE Developer and the City agree that any and all provisions of these Terms and Conditions are severable.

19. Termination.

- a. If through any cause the EE Developer fails to comply with the obligations under this Agreement or fails to conform with the requirements of the Program Manual, EE Developer will be in breach of ~~contract~~Agreement, and the City shall have the right to terminate this Agreement by giving written notice to the EE Developer of such termination. City will confer with EE Developer regarding the notice of termination, the identified breach, and what, if any, action would cure the breach. If in City's reasonable judgment the breach is susceptible to being cured, City will identify what steps, if any, EE Developer must take to cure the default. City will set the length of any cure period in its reasonable discretion, but in no circumstance will the cure period be less than thirty (30) days or more than one hundred eighty (180) days. City may in its reasonable discretion extend such time to cure. If EE Developer fails to cure, then the City shall terminate this Agreement and cease paying EE Developer for Efficiency Energy. PPA Payments will be paid in full up to the date of the initial breach event and not after. If any PPA payments were made after the initial breach event date, this amount will be owed for full reimbursement to the City from the EE Developer. If EE Developer cures the breach to City's satisfaction in the cure period provided, City will rescind its notice of termination.
 - i. If the breach is not cured within the cure period allowed by City, City may, in its sole discretion, permanently reduce PPA Payments to an amount determined by City to reflect decreased value of energy savings at Site rather than terminating the Agreement.
 - ii. If the City allows a cure period longer than thirty (30) days, City may reduce PPA Payments during the cure period to an amount determined by City to reflect decreased value of energy savings at Site until the breach has been cured.
 - iii. If City determines that EE Developer has committed multiple breaches of this Agreement, City need only provide one written notice and one cure period for EE Developer to address all breaches.
- b. If the Site is sold to a new owner who fails to enter a Participation Agreement for the purchase of ~~Avoided Efficiency~~Energy at the Site within thirty (30) days of close of sale, this Agreement will terminate without liability to either party and City will cease paying EE Developer for Efficiency Energy.
- c. In the event that the Agreement is terminated within the first five (5) years from the execution date, the EE developer may be eligible for an energy efficiency incentive from City Light. This incentive would be earned through current City Light conservation energy program offerings at the time of termination. Any Energy Efficiency incentive provided by City Light standard programs is subject to

eligibility, verification, evaluation, and will exclude efficiency energy already paid for under this Agreement.

- d. Notwithstanding any other provision of this Agreement, the EE Developer shall have the right at any time to terminate this Agreement in its entirety without cause on sixty (60) calendar days' written notice.

- 20. Force Majeure.** If any event or circumstances outside of the Parties control arises which makes it impossible or unlawful for either or both Parties to fulfil their contractual obligations under this Agreement, then this will constitute a termination of Agreement with no liquidated damages.
- 21. Assignment.** Neither party may assign its rights and obligations in and under this Agreement without first obtaining prior written consent of the other party.
- 22. Amendments.** If either party desires a change in this Power Purchase Agreement an amendment must be requested through written notice. Changes to this Power Purchase Agreement will only be effective if set forth in a document signed by authorized representatives of both the City and the EE Developer.
- 23. No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Parties and creates no rights enforceable by any entity other than City and EE Developer. EE Developer is not the third-party beneficiary of any other agreement entered into by City, including the Participation Agreement with the Participant who owns or operates the Site.
- 24. Non-Waiver.** Failure or forbearance by any Party to exercise any of its rights or remedies under this Agreement shall not constitute a waiver of such rights or remedies. No Party shall be deemed to have waived or forborne any right or remedy resulting from such failure to perform unless it has made such waiver specifically in writing.
- 25. EE Developer as Participant.** EE Developer may be the Participant for this Project. In that case, EE Developer must comply with all terms and conditions of this Agreement and the Participation Agreement in which it is the Participant. If at any time, EE Developer breaches the Participation Agreement through failure to pay amounts owed to City or otherwise, that shall also be a material breach of this Agreement.
- 26. Construction.** The headings contained in this Agreement are for convenience only and do not affect the meaning or interpretation of this Agreement. Words used in the singular included the plural and words used in the plural include the singular.
- 27. Notices** Unless otherwise provided in this Agreement, all notices, demands, requests, approvals or other communications which may be or are required to be given, served or sent pursuant to this Agreement shall be in writing and shall be emailed, hand-delivered, mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or delivered by overnight courier addressed as follows:

Email: SCLenergyadvisors@seattle.gov

Mail:

SCL Energy Advisors

Seattle City Light

700 5th Avenue, Suite 3200

Seattle, WA 98124

By signing this Agreement, I acknowledge that I have fully read, understand, and agree to be bound by the above Terms and Conditions of this Power Purchase Agreement for participation in the Seattle City Light Energy Efficiency as a Service Pilot Program.

I certify or declare, under penalty of perjury, under the laws of the State of Washington that I am the Seattle City Light Program Efficiency Energy Developer, or the corporate officer, agent or representative of the business entity listed below, who is authorized to execute and agree to the terms and conditions of this Power Purchase Agreement for participation in the Seattle City Light Energy Efficiency as a Service Pilot Program.

~~Authorized~~ Signature of Authorized Signer of Program Efficiency Energy Developer:

_____ Date: _____

Printed Name of Authorized Signer of Efficiency Energy Developer: _____

Title: _____

City of Seattle, City Light Department:

By: _____ Date: _____

Email: _____

Phone: _____

Appendix A. Contract Amounts for PPA

The PPA Payment shall be calculated according to the following formula:

$$\text{PPA Payment} = \text{PPA Price} \times \text{Efficiency Energy}$$

The PPA Price is established upon Agreement execution and differentiated based on participant's project type, customer classification of the customer's primary account at the Site, and Site location.

1. Initial PPA Price. The following is how the PPA Price will be determined for selected:

a. Retrofit-High Demand Service. The initial PPA Price for Retrofit projects, that fall under the High Demand General Service (HDS) rate structure, will be determined by analyzing the Site's baseline period's billing prior to contract execution to determine the total kWh consumed during on-peak and off-peak hours. The volume of kWh on peak and off peak will be converted to the % of total kWh for the billing periods included in the baseline period. The on peak % will be applied to current on-peak rates and the off peak % to current off-peak rates. These totals will be combined and the average volumetric price will be used to represent a weighted-average kWh pricing. The PPA Price will be this weighted-average price multiplied by 0.93.

$$\text{Initial PPA Price} = (\% \text{ On-Peak} * \text{On-Peak HDS rate} + \% \text{ Off-Peak} * \text{Off-Peak HDS rate}) * 0.93$$

b. Retrofit-Large General Service. The initial PPA Price for Retrofit projects, that fall under the Large General Service rate structure, will be determined by analyzing the Site's baseline period's billing prior to contract execution to determine the total kWh consumed during on-peak and off-peak hours. The volume of kWh on peak and off peak will be converted to the % of total kWh for the billing periods included in the baseline period. The on peak % will be applied to current on-peak rates and the off peak % to current off-peak rates. These totals will be combined and the average volumetric price will be used to represent a weighted-average kWh pricing. The PPA Price will be this weighted-average price multiplied by 0.93.

$$\text{Initial PPA Price} = (\% \text{ On-Peak} * \text{On-Peak LGS rate} + \% \text{ Off-Peak} * \text{Off-Peak LGS rate}) * 0.93$$

c. Retrofit-Medium General Service. Retrofit projects that fall under the Medium General Service rate structure at time of agreement execution will have the following initial PPA Price.

<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>Non-Downtown Network</u>	<u>\$0.0747/kWh</u>
<u>Downtown Network</u>	<u>\$0.0918/kWh</u>

d. Retrofit-Small General Service. Retrofit projects that fall under the Small General Service rate structure at time of agreement execution will have the following initial PPA Price.

<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>Non-Downtown Network</u>	<u>\$0.0979/kWh</u>
<u>Downtown Network</u>	<u>\$0.0979/kWh</u>

e. New Construction-Large General Service. New Construction projects that fall under the Large General Service rate structure at time of agreement execution will have the following initial PPA Price.

<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>City Network</u>	<u>\$0.0754/kWh</u>
<u>Non-Downtown, Non-City Network</u>	<u>\$0.0813/kWh</u>
<u>Downtown Network</u>	<u>\$0.0863/kWh</u>

f. New Construction-Medium General Service. New Construction projects that fall under the Medium General Service rate structure at time of agreement execution will have the following initial PPA Price.

<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>Non-Downtown Network</u>	<u>\$0.0739/kWh</u>
<u>Downtown Network</u>	<u>\$0.0904/kWh</u>

g. New Construction-Small General Service. New Construction projects that fall under the Small General Service rate structure at time of agreement execution will have the following initial PPA Price.

<u>Customer Location</u>	<u>2021 PPA Price</u>
<u>Non-Downtown Network</u>	<u>\$0.0979/kWh</u>
<u>Downtown Network</u>	<u>\$0.0979/kWh</u>

1.2. PPA Price Annual Adjustment. An escalator of 2.0% will be applied to the PPA Price every December to establish the PPA Price for the subsequent year

[INSERT DATE]

PROJECT NUMBER & NAME

XXXXX

SITE ADDRESS

XXXXX

CITY LIGHT CUSTOMER

XXXXX

GLOSSARY OF TERMS

“Adjusted Baseline Energy” represents what the baseline energy use would have been if the Project ECMs had never been installed, under the same set of post-retrofit conditions.

“Agreement” means this Participation Agreement.

“Avoided Energy Use” (for existing buildings) means the reduction in electricity use that occurred in the Performance Period, relative to what would have occurred if the facility had been equipped and operated as it was in the baseline period, but under Performance Period conditions. -Unless and until City adopts another method of quantification consistent with industry best practices, City will base Avoided Energy Use for Existing Buildings on a formula in this format:

Avoided Energy Use (or Energy Savings) = Adjusted Baseline Energy - Performance Period Energy +/- Non-Routine Adjustments

For New Construction, City will consider the difference between the City of Seattle Energy Code target energy use (C401) and the Participant’s actual energy use to be the Avoided Energy Use unless and until City adopts another method of quantification.

“Baseline Conditions” means the conditions of the existing buildings as found in the baseline period. Baseline Conditions are generally described in an Energy Audit (e.g.: ASHRAE Level II audit).

“Baseline Data” means the measurements and facts describing facility operations and design during the baseline period. This will include energy use or demand, and parameters of facility operation that govern energy use or demand, and definition of Static Factors for the Site.

“Baseline Model” means the mathematical representation or calculation procedure that is used to predict the energy use in a building or facility (or Adjusted Baseline Energy) had no ECMs been implemented. Models may be based on equations that specifically represent the physical processes, may be the result of statistical analysis of energy-use data, or other techniques City reasonably determines to be appropriate for Project purposes.

“Baseline Model Equation” means the mathematical representation or equation governing the prediction of energy use (or Adjusted Baseline Energy) had no ECMs been implemented at the Site.

“City” means the City of Seattle, a Washington State municipal corporation, doing business by and through its Seattle City Light department (“City Light”).

“Efficiency Energy” means the calculated Avoided Energy Use harvested at the Site by the EE Developer. This is an ~~an -cost-effective~~ energy efficiency resource. City Light will determine Efficiency Energy based on quantification provided by the M&V Consultant.

“Energy Conservation Measure” (“ECM”) means any type of energy efficiency or energy conservation project or activity conducted, related to the installation, repair, or replacement of energy-efficient equipment or building systems, implementation of capital projects, operational & maintenance (O&M) improvements, or new means of training or managing users of the space, intended to improve the energy productivity of or generate Efficiency Energy at the Site.

“Energy Efficiency as a Service Charge” (“EEaS Charge”) means the dollar amount per kWh of Efficiency Energy as determined by this Agreement. (See Appendix A)

“Energy Efficiency Service Fee” (“EE Service Fee”) means the charges for Efficiency Energy ~~that~~ the City will bill Participant based on the Avoided Energy Use at the Site.

“Energy Efficiency Developer” (“EE Developer”) means the party who enters the Power Purchase Agreement with the City for the sale of ~~the~~ Efficiency Energy to the City from the Avoided Energy Use at the Site.

“Measurement and Verification Consultant” (“M&V Consultant”) means an independent third-party hired and selected by City that will develop and implement an approach to use data-driven models with meter data and other variables to ~~estimate~~ calculate Adjusted Baseline Energy, which will be used by City to determine the Avoided Energy Use and Efficiency Energy at the Site. M&V Consultant will be selected by standard City procurement procedures and is subject to change if and when required by City policy or business needs.

“Measurement and Verification ~~Guidelines~~Plan” (“M&V ~~Guidelines~~Plan”) means the Program’s M&V guidelines and methodology approved by City. The City intends for M&V ~~Guidelines-Plan~~ to follow industry standard practices for whole-building estimates of energy savings and Non-Routine Adjustments, if any are needed.

“Measurement Boundary” means the boundary drawn around whole-building meters and building systems to segregate those which are relevant to savings determination from those which are not. The Measurement Boundary shall be determined by the primary utility account and corresponding interval meters, which make up at least 90% of the Site’s electricity consumption. ~~All energy uses of equipment or systems within the measurement boundary must be measured or estimated, whether the energy uses are within the boundary or not.~~

“New Construction” means (1) construction of a new building or structure, (2) an ~~extension or~~ increase in the conditioned floor area or height of an existing building or structure, or (3) major changes in space use type such as major renovations.

“Non-Routine Adjustments” (“NRA”s) means adjustments to the Baseline Model to account for Non-Routine Events, which occurred during the baseline or Performance Period and ~~that~~ cannot be modeled using the independent variables.

“Non-Routine Events” (“NRE”s) are changes in building energy use ~~that are~~ not attributable to changes in the independent variables used in the Baseline Model nor to the ECMs that were installed. In the case of an NRE, the Avoided Energy Use may be adjusted by making Non-Routine Adjustments.

“Participant” is the ~~City Light Customer party~~ who owns the Site, acting either through itself or through an agent with appropriate authority, such as a management or operating entity, who is the City Light customer.

“Party” or **“Parties”** means City and/or Participant.

“Performance Period” means for Existing Buildings the period of time after the EE Developer has implemented initial ECMs at the Site resulting in a reduction ~~of in~~ monthly energy consumption of at least 10% relative to the Baseline Model and written approval has been provided by City. For New Construction, the Performance Period begins when the building is 75% occupied and written approval has been provided by City.

“Power Purchase Agreement” (“PPA”) means the Agreement between City and the Energy Efficiency Developer for the purchase of Efficiency Energy from the Site.

“Program” means City’s Energy Efficiency as a Service Pilot Program. Components of the Program include both a Power Purchase Agreement under which the City pays EE Developer for Efficiency Energy generated at the Site, and this Agreement under which Participant pays EE Service Fees to City to receive Efficiency Energy ~~based on the Avoided Energy Use for the Site.~~

“Project” means the collection of ECMs implemented at the Site by the EE Developer intended to generate Efficiency Energy throughout the term of this Agreement.

“Site” means the actual building location that the Efficiency Energy work will take place. The Site encompasses the Measurement Boundary. The project boundary shall be the utility account and corresponding meters, which make up at least 90% of the site’s electricity consumption. The Site location for this Agreement is [INSERT ADDRESS, LEGAL DESCRIPTION, PARCEL NUMBER OR OTHER SPECIFIC IDENTIFIER OR REFERENCE AND ATTACH THE SITE DETAILS AS EXHIBIT B]

“Static Factors” means energy-governing factors that are not usually expected to change (e.g., facility size, design and operation of installed equipment, number of weekly production shifts, or type or number of occupants) the associated static factors must be monitored for change throughout the reporting period.

TERMS & CONDITIONS

This Agreement is entered into by and between the Parties to enter into Energy Efficiency as a Service, a City energy conservation program. The Participant is voluntarily participating in the Program to buy verified Efficiency Energy from the City under the terms and conditions of this Agreement. This Program aims to mitigate the split incentive through a Power Purchase Agreement for the City to purchase the Efficiency

Energy delivered through a deep retrofit or new construction Project from the EE Developer and through this Participation Agreement to bill the City Light Customer for the Efficiency Energy generated at the Site.

This Program requires both execution and implementation of a Power Purchase Agreement with an EE Developer at the Site and execution and implementation of this Participation Agreement by which Participant consents to be billed an Energy Efficiency Service Fee based on the Efficiency Energy generated at the Site. For avoidance of doubt, the EE Developer is not a party to this Agreement and Participant is not a party to the Power Purchase Agreement. Efficiency Energy will be determined by City based on information provided by the M&V Consultant, operating under a contract with City and subject to City's approval.

In consideration for Participant's participation and full performance in the Program, both parties agree to the following:

- 1. Term of Agreement.** This Agreement shall become effective on the date the Agreement is signed by execution of signatures by both Parties (execution date) and shall remain in effect until **01/22/2040** unless terminated earlier by the terms of this Agreement. The execution date must be prior to ECM equipment being ordered for projects intending to use existing building baseline methodology. Projects using new construction baseline methodology must have an execution date prior to 50% completion/construction of Project.
- 2. Entire Agreement.** This Agreement shall incorporate as terms and conditions to this Agreement only identified attachments, appendices, M&V Plan, and the Program Manual. The Agreement, including the incorporated documents, contains the entire Agreement between the Parties and supersedes any and all prior written and/or oral agreements. In the event of any conflict or inconsistency between Program Manual and the Agreement, the Agreement will control.
- 3. Voluntary Participation/Assumption of Risk.** Participant is fully aware of the risks and hazards connected with the activities of implementing ECMs, and Participant is aware that such activities include the risk of injury and even death, and Participant hereby elects to participate voluntarily in the Program knowing that the activities may be hazardous to Participant's person and property, including the Site and residents or tenants of the Site. Participant voluntarily assumes full responsibility for and waives all claims against City arising from any loss, property damage, or personal injury, including death, which may be sustained by Participant, or any loss or damage to property owned by Participant, as a result of being engaged in such activities, to the fullest extent allowed by law.
- 4. Single Program Participation.** The Participant waives any and all rights or access to any future conservation incentive programs offered by the City for this Site for the effective term this Agreement is in place and agrees that it will not apply or submit any requests for other energy conservation programs offered by City.
- 5. Energy Efficiency Service Fee.**
 - a. **Contingencies.** This Agreement is contingent on City executing a Power Purchase Agreement with the EE Developer for the Project. If for any reason, the PPA for this Project Site terminates, this Agreement will terminate on thirty (30) days' notice to Participant without liability or obligation to either Party. If Participant revokes permission for EE Developer to use or access the Site, the Participant must notify the City within fifteen (15) days.
 - b. **Payment.** Participant is obligated to pay the Energy Efficiency Service Fee for the term of this Agreement. The Participant acknowledges and agrees that the Energy Efficiency Service Fee is separate from and additional to charges for actual electricity used, which will be billed by City Electrical Rates pursuant to City Light's Policies and Procedures, as they may be updated and amended. The Energy Efficiency Service Fee is a contract payment, not a charge for electricity used

by Participant. The Efficiency Energy amount posted on a monthly bill reflects Avoided Energy Use from prior billing period.

- c. **Payment Procedures and Collections.** The Energy Efficiency Service Fee will be billed to the Participant following these payment procedures:
- i. All Participants shall receive uniform consideration and courtesy in all credit and collection matters.
 - ii. All charges are due and payable by the due date shown on the City Light bill and become delinquent thereafter. Late payments are subject to the charges described below. Participants who question or dispute their bills are encouraged to contact City Light. An investigation will take place regarding any charges that the Participant believes are in error. Any bill adjustments made as result of an investigation will be retroactively trued-up on subsequent Participant bills.
 - iii. For Participants who owe on any Program bills more than fifteen (15) calendar days past due a 1% interest fee will be charged to the Participant's account per month until paid in full. ~~Interest~~ Interest will compound per billing cycle. A \$10 additional fee per month may be added to Participant's accounts to cover cost of past due administration and collection efforts.
 - iv. If Participant is unable to pay in full on next billing cycle the City Light Credit and Collections Unit, may charge additional late fees or interest, may refer accounts to the Law Department or to a collection agency, or use other available legal procedures.
 - v. Right of Appeal – Participants who disagree with the decisions of designated Department, shall have the further right to appeal to the Department's Hearing Officer.
 - vi. If nonpayment occurs for any 6 months, sequential or nonsequential, it will constitute a material breach of this Agreement and a termination notice will be provided to the Participant in writing.
- d. **Methodology & Roles.** Participant acknowledges and understands that City will use a M&V Consultant or other appropriate means to 1) develop and maintain the Baseline Model 2) calculate Avoided Energy Use (and hence the monthly Energy Efficiency Service Fee) 3) identify Non-Routine Events 4) perform Non-Routine Adjustments and 5) resolve disputes related to the quantification of the Energy Efficiency Service Fee. City will provide Participant a detailed summary of the Avoided Energy Use, Efficiency Energy, and Energy Efficiency Service Fee for each billing period. For each billable kilowatt-hour of Avoided Energy Use measured by City (through the M&V Consultant or otherwise), City will bill Participant based on the methodology described in Appendix A. If the Avoided Energy Use calculated for a billing cycle is zero or less than zero, this will result in no Energy Efficiency Service fee for that cycle for the Participant. As this is a pilot, program evaluations may be conducted and may recommend a change in the methodology used to calculate Avoided Energy Use and may be subject to change by written agreement from both Parties.
- e. **Dispute Process.** If the Participant believes ~~that~~ there is an error in the Energy Efficiency Service Fee ~~bill~~ or the summary of the Avoided Energy Use, Participant must notify City of the perceived error (including a reasonably detailed description of the nature and effect of the error), within thirty (30) days after receiving the detailed summary for that billing cycle. Failure to provide this notice to City will waive Participant's claim and Participant will be responsible for full and prompt payment of all billed expenses. If the Parties are unable to resolve the dispute within sixty (60) days after their initial meeting, Parties will attempt to resolve the dispute through mediation. If the dispute is not resolved by mediation either applicable Party may proceed to seek any remedy that may be available to that Party at law or in equity, subject to limitations and waivers set out in this Agreement.

6. Verification Inspection & Data Collection.

- a. The Avoided Energy Use will be calculated according to the M&V protocols described in [approved Program's M&V Guidelines-Plan](#) and Program Manual.
- b. The Participant shall grant City and its M&V Consultant permission and access to the Site, and the City may, at its option, during reasonable hours and with notice to the Participant, perform pre- and post- installation monitoring and visual verification of the implemented ECMs, in order to determine the energy savings, and if necessary, to verify Participant's compliance and performance obligations under this Agreement. The Participant understands that the scope of any visual verification and review performed by the City does not include any kind of safety, code, or other compliance review or inspection, and is for administrative and verification purposes only. Failure to grant permission and access to the City for the purposes set out in this section shall constitute a termination of this Agreement by Participant.
- c. Participant is solely responsible for obtaining permission and access rights for City verification from tenants or other entities using, occupying or residing in the Site. Upon request, Participant will provide City confirmation that tenants or occupants have granted permission for City and M&V Consultant to access all or a portion of the Site.
- d. Participant acknowledges that the City intends to collect and compile certain information, including but not limited to building design [and equipment](#) specifications, submetering data, occupancy data, invoices, ECM descriptions, status, [ECM validation details](#), for purposes of program evaluation, Avoided Energy Use calculation, and preparing case studies under this Program.
- e. In order to conduct Avoided Energy Use calculations, the City (acting through M&V Consultant as appropriate) will require access to the data listed below [in Table 1](#) at the frequency specified for the purpose described below. [Providing the City access to this data will be the responsibility of the Participant. The Participant can provide access to this data directly, or through a third-party working behalf of the Participant.](#)

Table 1: Data Access Required

Data Type	Purpose	Frequency
<p>Quarterly Reports:</p> <ol style="list-style-type: none"> 1. <u>Reporting</u>: occupancy, hours, ECMs, space use, IT loads, etc. 1-2. <u>Notice of: NRE occurrences, Changes to static factors</u> 	<p>Savings validation, performance tracking, Non-routine event identification & resolution</p>	<p>Quarterly</p>
<p>Requests For Information, which can include:</p> <ol style="list-style-type: none"> 1. <u>Updated list of ECMs, if any</u> 2. <u>Engineering description of building systems and operations, occupancy hours, weekend operations</u> 3. <u>More detail on ECMs, including</u> <ol style="list-style-type: none"> a. <u>Descriptions</u> b. <u>Savings calculations</u> c. <u>Installation and completion dates</u> d. <u>Operational verification reports</u> e. <u>Savings verification methods</u> 4. <u>Existing control system capabilities</u> 5. <u>Plans for additional metering or submetering</u> 6. <u>List of meters and areas served by them</u> 7. <u>Questions based on review of baseline period energy use data</u> <ol style="list-style-type: none"> a. <u>Operation modes</u> b. <u>COVID period operations</u> c. <u>Manual adjustments to control system settings</u> d. <u>Other.</u> 8. <u>Additional data sources available</u> <ol style="list-style-type: none"> a. <u>Sub-metering data</u> b. <u>BAS trends</u> c. <u>Records such as leased tenant space per month</u> 9. <u>Static factors (List of items not expected to change but have potential to in next 20 years)</u> 10. <u>Periodic maintenance events that may affect energy use (if any): e.g.: Pumping load after fire sprinkler test, Backup generator tests, Battery tests</u> 11. <u>NRE clarification data.</u> 12. <u>(For New Construction) Energy model data files and reports</u> 	<p><u>Baseline development, savings validation, performance tracking, Non-routine event identification & resolution</u></p>	<p><u>Upon Request</u></p>
<p><u>Buildings ENERGY STAR Portfolio Manager account</u></p>	<p>Savings validation, performance tracking</p>	<p><u>Monthly Ongoing access, for the contract duration</u></p>
<p>Interval Meter Data (if available)</p>	<p><u>Baseline development, Savings validation, Non-routine event identification & resolution</u></p>	<p><u>Upon Request Ongoing access, for the contract duration</u></p>

Submetering Data	Non-routine event identification & resolution	Upon Request
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Participant acknowledges and agrees that, in the course of its engagement with the City, the City will transfer Participant's meter and Site data to the M&V Consultant or other professional selected by City to conduct energy calculation and validation. City's use of this data will be subject to federal, state and City laws on data management and privacy.

7. Adjustments & Process Requirements.

- a. **Program Requirements & Manual.** The Participant will implement ECMs at the Site in accordance with all requirements outlined in the Program Manual, [M&V Plan and this Agreement](#). If City determines, at any time, that the ECMs do not comply with all requirements defined in the Program Manual, City may, in its sole discretion, terminate this Agreement with thirty (30) days' notice.
- b. **Non-Routine Events.** Non-Routine Events are changes in building energy use that are not attributable to changes in the independent variables used in the Baseline Model nor to the ECMs that were installed at the Site. Because these changes are unrelated to the ECMs implemented as part of the Project, they are not to be considered in the quantification of Efficiency Energy, and the Avoided Energy Use may be adjusted by making Non-Routine Adjustments. The Participant and EE Developer will be responsible for reporting potential Non-Routine Events as soon as they arise, or at a minimum, in Quarterly Reports. The Participant shall act in good faith to assist the City in investigating possible NREs. City, using M&V Consultant as appropriate, will be responsible for identifying Non-Routine Events (through review of Quarterly Reports, [inspection of energy use data](#) and post-retrofit change detection models). [City, using M&V Consultant as appropriate, may and collect](#)ing additional data through follow-up phone interviews, [requests for information](#), observation of unexpected energy use patterns, review of additional Project data, periodic site visits, and/or other methods, as appropriate. For existing buildings, City will use standard practice statistical and engineering methods to determine how and when the identified NREs have affected the facility's energy use. If City determines the Project is New Construction (including [change of use type and major renovations](#)), City will use the then-current Seattle Energy Code and Code Official guidance to identify and perform any adjustments to the facility's code baseline ~~EUI~~. For detailed information on how NREs will be identified, tracked or for a list of typical Non-Routine Events, please see the Program Manual.
- c. **Non-Routine Adjustments.** Non-Routine Adjustments shall be made [on an annual basis, when necessary](#), to the Baseline Model or Adjusted Baseline Energy to account for [significant](#) Non-Routine Events which have occurred. City, after consulting with the M&V Consultant as appropriate, will apply Non-Routine Adjustments City determines, at its sole discretion, to be necessary to remove the influence of Non-Routine Events in the Avoided Energy Use calculation and quantification of Efficiency Energy. City will notify the Participant of any Non-Routine Adjustments and allow a 30-day comment period prior to implementation. All adjustments are subject to City Light approval. Until Non-Routine Adjustments are validated and finalized, City will continue to bill the Participant based on the current Baseline Model at the time of billing. Retroactive adjustments shall be made on a subsequent billing cycle. City may update procedures around Non-Routine Adjustments at any time during the Program to reflect new industry best practices.
- d. **Validation.** City may (at its discretion) conduct evaluation and validation of the M&V Consultant's work including, but not limited to: Avoided Energy Use calculations, Baseline Model, and Non-Routine Adjustments. Should evaluation and validation find the amount of Efficiency Energy delivered by the EE Developer at the Site requires adjustment, adjustments will be performed by the

M&V Consultant and approved by City. If these adjustments result in an increase or decrease of Efficiency Energy delivered at the Site, payment adjustments will be reflected on subsequent EE Service Fees.

- 8. Efficiency Energy Delivery to Participant.** The City will deliver Efficiency Energy to Participant. City will procure this Efficiency Energy from the Site using a portion of the Energy Efficiency Service Fee paid by Participant. This Efficiency Energy is intended to provide Participant the same customer experience as other City Light energy users with greater conservation benefits, and to provide greater predictability in energy bill charges over time. Participant agrees that this Efficiency Energy, measured by Avoided Energy Use, constitutes sufficient consideration from the City and that no other service or product is required by City in exchange for the Energy Efficiency Service Fee.
- 9. Obligation to Disclose.** If Participant chooses to pass through Energy Efficiency Service Fee charges to Site tenants or any other person or entity, Participant will disclose to the paying person(s) that the Energy Efficiency Service Fee is not an electricity rate for actual electricity usage.
- 10. Building Size or Occupancy Changes Static Factors.**
 - a. A change in the static factors of the Site may change the Project baseline and, if City determines the change to be significant, could result in a Non-Routine Adjustment that changes the Energy Efficiency Service Fee to be paid by Participant to City. Participant will notify the City in writing sixty (60) days in advance of any proposed change to the Site, including
 - i. Changes in space use type, e.g: from retail to restaurant or vice versa.
 - ii. Expansion or destruction of conditioned building floor area.
 - iii. Addition or removal of large electric loads, such as data servers, kilns, and refrigerators.
 - iv. Change in operating hours or operations.
 - v. Fuel switching on water heat or space heat.
 - vi. Electric vehicle charging infrastructure (shall be sub-metered and added to the baseline).
 - vii. On-site generation (shall be metered with a revenue grade meter and removed from the Avoided Energy Use of the Site).
 - viii. Occupancy changes that are not captured in the Baseline Model, measured by leased square footage.
 - ix. Temporary, one-time, or rare events that fall outside of regular operation conditions, such as power loss or emergency operations.
 - ~~a. major renovations, significant changes in square footage (expansion or demolition), changes in space use type, or changes in occupancy (as measured by leasable floor space) for the term of this Agreement. A change in the structure, use, or occupancy of the Site may change the project baseline and, if City determines the change to be significant, could result in a Non-Routine Adjustment that changes the Energy Efficiency Service Fee to be paid by Participant to City.~~
 - b. City based its business decision to enter this Agreement in part on the understanding that Site is a single ~~meter-~~ utility account property. City may terminate this Agreement on thirty (30) days' notice if any change in space results in a change from a single utility account to multiple utility accounts within Measurement Boundary of the Site.
- 11. On-Site Generation.** Participant must provide the City thirty (30) days' written notice before installing any energy generation equipment at the Site, including but not limited to solar panels, cogeneration or geothermal energy equipment. -This notice must contain enough information for City to determine how the amount of energy produced on-site may be calculated. Any on-site generation must be metered with a revenue grade meter and data made available to the City. City will remove this produced energy from the Site's Avoided Energy Use methodology. City will not bill the Participant for this produced energy through the EE Service Fee and will not pay the EE Developer for this produced energy through

the PPA Payment. If City reasonably determines that on-site generation will make calculation of the Avoided Energy Use impractical or impossible, City may terminate this Agreement under Section 5(a) after providing Participant sixty (60) days' notice of its determination. If City determines that Participant has addressed City's concern within this 60 days' notice period, City may rescind its notice of termination. Any form of on-site generation at the Site must be City sub-metered under applicable law and City requirements. ~~Installation of on-site generation equipment without prior notice to City will be a material breach of this Agreement.~~ If EE Developer will be participating in the installation of on-site generation equipment, notice under this section ~~may~~must be provided by either Participant or EE Developer.

12. Building Sale.

- a. Participant will not enter into any transaction to sell or transfer ownership or control over the Site without providing City thirty (30) days' prior written notice of intent to sell. Participant will ~~also~~ provide the City ~~with a~~ written notice of transfer of Site ownership within five (5) days of close of sale. Participant understands the Agreement is a binding obligation for the full term regardless of Site ownership. Participant agrees to include as a term of any purchase and sale agreement, and as a condition of any property transfer, the obligation for the subsequent owner to assume all Participant obligations and rights under this Agreement.
- b. Within thirty (30) days of close of sale or property transfer, Participant and the new Site owner must execute an assignment of this Agreement in a form provided by or acceptable to City that identifies the then-current Site owner as the Participant for the remainder of the term of this Agreement and subject to all obligations herein.
- c. Failure to provide City notice of sale or transfer as required by subparagraph 12(a) or failure to provide an executed assignment as required by subparagraph 12(b) will terminate this Agreement with no further liability or obligation to City.

13. Public Records Act Compliance. The City will release documents and records related to this Agreement when the City determines it is required to do so by Washington's Public Records Act, RCW Chapter 42.56, or other disclosure laws. Additionally, as a party contracting with a governmental entity, Participant may have obligations under disclosure laws. Participant is responsible for understanding and complying with any applicable disclosure requirements.

14. Compliance with Laws. Participant represents and warrants that Participant, Participant's agent and employees, or any contractors retained to install or maintain the equipment, are familiar with, and at all times will comply with all applicable federal, state and local laws, codes, ordinances, rules and regulations, Program Manual, product specifications, and other Program policies and requirements, including, but not limited to those pertaining to the implementation of any ECMs at the Site. Efficiency Energy harvested at the Site is unique and cannot be transacted twice under any other agreement.

15. The City of Seattle Disclaimer. THE CITY DISCLAIMS, ANY AND ALL IMPLIED OR EXPRESS WARRANTIES, including without limitation, ANY REPRESENTATIONS OR PROMISES WITH RESPECT TO MATERIALS OR LABOR REQUIRED FOR THE implementation OF ANY ENERGY CONSERVATION MEASURES ON PROGRAM PARTICIPANT'S SITE, OR THE COST OF SUCH equipment, MATERIALS AND LABOR, OR ANY ENERGY SAVINGS THAT MAY ACCRUE FROM THE IMPLEMENTATION OF SUCH ENERGY CONSERVATION MEASURES. THE CITY MAKES NO IMPLIED OR EXPRESS WARRANTIES REGARDING THIS PROGRAM, ITS POLICIES, PROCEDURES, ITS ADMINISTRATIVE VERIFICATIONS, AND / OR ANY OWNER INSTALLED equipment, OR equipment INSTALLED BY A CONTRACTOR, EE DEVELOPER, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OR MERCHANTABILITY OR FITNESS OF SUCH equipment FOR ANY PARTICULAR PURPOSE. Any required maintenance, repair or replacement of the equipment shall be the sole responsibility of, and at the expense of the Program Participant. THIS

DISCLAIMER SHALL SURVIVE ANY CANCELLATION, COMPLETION, TERMINATION OR EXPIRATION OF THE PROGRAM PARTICIPANT'S PARTICIPATION IN THE PROGRAM.

16. Limitation of Liability, Waiver & Indemnity.

- a. Participant acknowledges and agrees participation in this Program is voluntary and that the City assumes no liability for: Participant's decision to enter into this Agreement; Participant's decision to collaborate with the EE Developer; the Energy Efficiency Measures or ECMs selected by Participant or the EE Developer; any third parties selected by Participant or EE Developer to implement such ECMs; any disputes arising out of installation, repair or replacement of the equipment installed by EE Developer or subcontractors; any promises or representations that might be made between Participant and EE Developer, operator or occupants of the Site; or any disputes arising if Participant chooses to recoup Energy Efficiency Service Fee payments by passing on charges to tenants or other third parties. The Participant will be solely liable for any and all disputes with Site tenants related to the Program or tenant funded improvements, which may not result in reduced Energy Efficiency Service Fees. The City makes no recommendations or suitability of any EE Developer for this Project, their services, quality of work, or decisions related to the services performed by the EE Developer, this is solely within the Participant's discretion and liability. Participant further acknowledges voluntary agreement to pay Energy Efficiency Services Fee and waives, to the fullest extent allowed by law, all claims arising from or related to the imposition of Energy Efficiency Service Fee charges or inclusion of the Energy Efficiency Service Fee on City Light bills.
- b. To the fullest extent allowed by law, Participant will release, and defend, indemnify, and hold harmless the City, its departments, subsidiaries, affiliates and officers, directors, employees, agents, representatives or volunteers, from any and all claims, losses, harm, costs, liabilities, damages and expenses (including attorney's fees) of any nature whatsoever, or allegations thereof, arising directly or indirectly out of this Agreement, including, but not limited to. claims related to any method Participant may use to recoup Energy Efficiency Service Fee charges (such as requiring Site tenants to pay all or a portion of those charges), claims related to City and M&V Consultant access to and activities on the Site, claims brought by the EE Developer related to this Agreement or the PPA, and claims related to installation, maintenance and repair of ECMs intended to generate Efficiency Energy except to the extent that any such claims, losses, harm, costs, liabilities, damages and expenses are caused by the City's negligence or willful misconduct. Participant's indemnity, protection, and hold harmless obligations shall include any demand, claim, assignment, suit or judgment for damages to property or injury to or death of persons, or for any payment made by the City, or for any payment made under or in connection with any Workers' Compensation law or under any plan for employees' disability and death benefits. Participant expressly waives, by mutual negotiation, all immunity and limitation on liability under any industrial insurance act, including Title 51 RCW, other Workers' Compensation Act, Disability Benefit Act, or other Employee Benefit Act of any jurisdiction, which would otherwise be applicable in the case of such claim.

17. Governing Law and Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. Any action arising from this Agreement shall be brought solely in King County Superior Court.

18. Marketing Colleterial. The City reserves the right to publish general information regarding the Project for the purposes of Program and energy efficiency marketing. All collateral will be provided to the Participant before publication.

19. Survivability. The provisions of Sections 3, 4, 12, 13, 14, 15 and 16 shall survive the expiration, termination, or completion of the Participant 's participation in the Program.

- 20. Severability.** If any provision of this Agreement, in whole or in part, is deemed invalid by any court or administrative body of competent jurisdiction, then these provisions shall be construed as reformed to the extent necessary to render such provision valid, and the remaining provisions shall remain in effect as reformed. The Participant and the City agree that all provisions of these Terms and Conditions are severable.
- 21. Termination.** If Participant fails to comply with the obligations of this Agreement this will result in a breach of contract, and the City shall have the right to terminate this Agreement by giving written notice to Participant of such termination. Upon receipt of written notice, Participant will have 60 calendar days to cure the noncompliance or produce substantial evidence of Participant's efforts to cure. If Participant fails to do so, then the City shall terminate this Agreement.
- 22. Force Majeure.** If any event or circumstances outside of the Parties control arises which makes it impossible or unlawful for either or both Parties to fulfil their contractual obligations under this Agreement, then this will constitute a termination of Agreement with no liquidated damages.
- 23. No Third-Party Beneficiaries.** This Agreement is solely for the benefit of the Parties and creates no rights enforceable by any entity other than City and Participant.
- 24. Non-Waiver.** Failure or forbearance by any Party to exercise any of its rights or remedies under this Agreement shall not constitute a waiver of such rights or remedies. No Party shall be deemed to have waived or forborne any right or remedy resulting from such failure to perform unless it has made such waiver, specifically in writing.
- 25. Participant as EE Developer.** Participant may be the EE Developer for this Project. In that case, Participant must comply with all terms and conditions of this Agreement and the Power Purchase Agreement for the EE Developer. If at any time, a bill payment is delinquent for an Energy Efficiency Service Fee this will cause a material breach of the Agreement. If EE Developer breaches the Power Purchase Agreement that shall also be a material breach of this Agreement.
- 26. Utility Standing.** To enroll in this Program, Participant must be in good standing with the City Light Department, ~~having utility credit points of at least 750/1000.~~ The Participant must have a satisfactory record of payments and/or satisfactory performance in contracting and/or transacting with Seattle City Light ~~shall accrue their own Department credit history, as determined by the Participant's own bill payment and delinquency notice history with City Light. The credit history structure shall be applied uniformly, based on the Department's structured delinquency notice system.~~
- 27. Assignment.** Participant may not assign its rights or obligations under this Agreement without first obtaining prior written consent of City. In the event of a Site sale or transfer, City shall not unreasonably withhold, delay or condition assignment of this Agreement to the new Site owner.
- 28. Amendments.** If either party desires a change in the items specified in this Agreement, an amendment must be requested through written notice. Changes to this Agreement will only be effective if set forth in a document signed by authorized representatives of both the City and the Participant.
- 29. Construction.** The headings contained in this Agreement are for convenience only and do not affect the meaning or interpretation of this Agreement. Words used in the singular included the plural and words used in the plural include the singular.
- 30. Notices.** Unless otherwise provided in this Agreement, all notices, demands, requests, approvals or other communications which may be or are required to be given, served or sent pursuant to this Agreement shall be in writing and shall be emailed, hand-delivered, mailed by first-class, registered or certified mail, return receipt requested, postage prepaid, or delivered by overnight courier addressed as follows:

Email: SCLenergyadvisors@seattle.gov

Mail:
SCL Energy Advisors
Seattle City Light
700 5th Avenue, Suite 3200
Seattle, WA 98124

By signing this Agreement, I acknowledge that I have fully read, understand, and agree to be bound by the above Terms and Conditions of this Agreement for participation in the Seattle City Light Business Conservation Program.

I certify or declare, under penalty of perjury, under the laws of the State of Washington that I am the Seattle City Light Program Participant, or the legal property owner, corporate officer, agent or representative of the business entity listed below, who is authorized on behalf of the Seattle City Light Program Participant, to execute and agree to the terms and conditions of this Agreement for participation in the Seattle City Light Business Conservation Program.

~~Authorized~~ Signature of Authorized Signer of Program Participant: _____

Date: _____

Printed Name of Authorized Signer of Program Participant: _____

Title: _____

City of Seattle, City Light Department:

By: _____ Date: _____

Email: _____

Phone: _____

Appendix A. Energy Efficiency Service Fee Calculation Methodology

The Energy Efficiency Service Fee (EE Service Fee) shall be calculated according to the following formula:

$$\text{EE Service Fee} = (\text{EEaS Charge} \times \text{Efficiency Energy})$$

The EEaS Charge is established upon Agreement execution and differentiated based on participant's project type, customer classification of the customer's primary account at the Site, and Site location.

1. The EEaS Charge: The following is how the EEaS Charge will be determined for selected projects:

a. Retrofit-High Demand General Service. The initial EEaS Charge for Retrofit projects, that fall under the High Demand General Service (HDS) rate structure, will be determined by analyzing the Site's baseline period's billing prior to contract execution to determine the total kWh consumed during on-peak and off-peak hours. The volume of kWh on peak and off peak will be converted to the % of total kWh for the billing periods included in the baseline period. The on peak % will be applied to current on-peak rates and the off peak % to current off-peak rates. These totals will be combined and the average volumetric price will be used to represent a weighted-average kWh pricing using the applicable HDS rate for the Site at time of contracting.

$$\text{Initial EEaS Charge} = (\% \text{ On-Peak} * \text{On-Peak HDS rate} + \% \text{ Off-Peak} * \text{Off-Peak HDS rate})$$

b. Retrofit-Large General Service. The initial EEaS Charge for Retrofit projects, that fall under the Large General Service (LGS) rate structure, will be determined by analyzing the Site's baseline period's billing prior to contract execution to determine the total kWh consumed during on-peak and off-peak hours. The volume of kWh on peak and off peak will be converted to the % of total kWh for the billing periods included in the baseline period. The on peak % will be applied to current on-peak rates and the off peak % to current off-peak rates. These totals will be combined and the average volumetric price will be used to represent a weighted-average kWh pricing using the applicable LGS rate for the Site at time of contracting.

$$\text{Initial EEaS Charge} = (\% \text{ On-Peak} * \text{On-Peak LGS rate} + \% \text{ Off-Peak} * \text{Off-Peak LGS rate})$$

c. Retrofit-Medium General Service. Retrofit projects that fall under the Medium General Service rate structure at time of Agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>Non-Downtown Network</u>	<u>\$0.0803/kWh</u>
<u>Downtown Network</u>	<u>\$0.0987/kWh</u>

d. Retrofit-Small General Service. Retrofit projects that fall under the Small General Service rate structure at time of Agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>Non-Downtown Network</u>	<u>\$0.1053/kWh</u>
<u>Downtown Network</u>	<u>\$0.1053/kWh</u>

e. New Construction-Large General Service. New Construction projects that fall under the Large General Service rate structure at time of Agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>City Network</u>	<u>0.0810/kWh</u>
<u>Non-Downtown, Non-City Network</u>	<u>\$0.0874/kWh</u>
<u>Downtown Network</u>	<u>\$0.0928/kWh</u>

f. New Construction-Medium General Service. New Construction projects that fall under the Medium General Service rate structure at time of Agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>Non-Downtown Network</u>	<u>\$0.0803/kWh</u>
<u>Downtown Network</u>	<u>\$0.0987/kWh</u>

g. New Construction-Small General Service. New Construction projects that fall under the Small General Service rate structure at time of Agreement execution will have the following initial EEaS Charge.

<u>Customer Location</u>	<u>2021 EEaS Charge</u>
<u>Non-Downtown Network</u>	<u>\$0.1053/kWh</u>
<u>Downtown Network</u>	<u>\$0.1053/kWh</u>

1.2. EEaS Charge Annual Adjustment. An escalator of 2.0% will be applied to the EE Service Fee every December to establish the EEaS Charge for the subsequent year.