

Kittitas County  
Solid Waste

**Agenda Staff Report**

**AGENDA DATE:**

3/16/2010

**ACTION REQUESTED:**

Board approval on the Second Amendment to the Lease with Invenergy.

**BACKGROUND:**

Kittitas County Solid Waste entered into a lease with Invenergy for a portion of the landfill property located at 25900 Vantage Highway.

This addendum is needed by Invenergy in order to maintain proper set backs from property lines for a turbine to be located adjacent to the South East corner of the property.

**INTERACTION:**

I have been working with Kelly Meyer for Invenergy to insure that the necessary Boundary line adjustment has been completed in order to make this Amendment to the Lease.

**RECOMMENDATION:**

I recommend Boards signature on the attached Lease Amendment with Invenergy.

**HANDLING:**

Return a signed copy to the Solid Waste Department.

**LEAD STAFF:**

Patti Johnson

**Return Address**

Perkins Coie LLP  
1201 Third Ave., Suite 4800  
Seattle, Washington 98101  
Attention: Shasta Smith

**Document Title(s) (or transactions contained therein):**

1. Second Amendment to Wind Energy Lease Agreement
- 2.

**Reference Number(s) of Documents assigned or released:**

(on page \_\_\_ of documents(s))

200912160006

**Grantor(s) (Last name first, then first name and initials):**

1. Kittitas County, a Washington municipal corporation
- 2.

**Grantee(s) (Last name first, then first name and initials):**

1. Vantage Wind Energy LLC, a Delaware limited liability company
- 2.

**Legal description (abbreviated: i.e. lot, block, plat or section, township, range)**

Ptn of Section 16, Township 17 North, Range 21 East, W.M.

☐ Full legal is on page 5 of document.

**Assessor's Property Tax Parcel/Account Number**

17-21-16000-0001

## SECOND AMENDMENT TO WIND ENERGY LEASE AGREEMENT

This SECOND AMENDMENT TO WIND ENERGY LEASE AGREEMENT (this "Amendment") is entered into this 10<sup>th</sup> day of March, 2010 by and between Kittitas County, a Washington municipal corporation ("Owner"), and Vantage Wind Energy LLC, a Delaware limited liability company ("Tenant").

### RECITALS

A. Owner and Tenant are parties to that certain Wind Energy Lease Agreement dated September 16, 2008, as amended by that certain First Amendment to Wind Energy Lease Agreement dated November 17, 2009 (together, the "Lease"), pursuant to which Tenant leases from Owner certain property in Kittitas County, Washington for the construction and operation of wind energy conversion facilities and related electrical generation and transmission structures, all as more particularly described in the Lease. The Lease is disclosed of record by Memorandum of Lease recorded December 16, 2009, under Kittitas County Auditor's File No. 200912160006.

B. Owner and Tenant now wish to replace the legal description of the Property covered by the Lease. Capitalized terms used but not defined in this Amendment shall have the meanings ascribed to them in the Lease.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to amend the Lease as follows:

### AGREEMENT

#### 1. Description of the Property

EXHIBIT A of the Lease is hereby replaced in its entirety with SCHEDULE A attached hereto, such that the property legally described on SCHEDULE A shall become the Property for all purposes of the Lease. Moreover, the map attached behind EXHIBIT A of the Lease shall also be replaced with the map attached behind SCHEDULE A of this Amendment.

#### 2. Ratification; Interpretation

Except as expressly amended herein, the Lease remains in full force and effect unamended, and all of the terms and provisions of the Lease are ratified and confirmed. In the event of any inconsistency between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall prevail.

### **3. Execution of Amendment**

This Amendment may be executed in any number of counterparts, each of which shall be deemed an original and which together shall constitute one and the same instrument. Additionally, delivery of a Party's signature by facsimile, telecopy, or electronic mail shall be deemed to be the delivery of that Party's original signature, provided that such Party's original signature is thereafter mailed to the other Party.

***[SIGNATURES ON FOLLOWING PAGE]***

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year first above written.

**"OWNER"**

KITTITAS COUNTY,  
a Washington municipal corporation

By: [Signature]  
Name: Mark McClain  
Its: BoCC Chair

By: [Signature]  
Name: Paul Jewell  
Its: BoCC Vice Chair

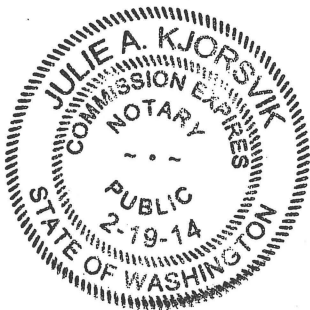
By: [Signature]  
Name: Dan Crankovich  
Its: BoCC

**ACKNOWLEDGEMENT**

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KITTITAS )

On this 11th day of March, 2010 before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Mark McClain, Paul Jewell, and Dan Crankovich to me known to be the duly elected, qualified and acting County Commissioners of Kittitas County, Washington, who executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said County, for the uses and purposes therein mentioned, and each on oath stated that they were authorized to execute said instrument by resolution of the Board of County Commissioners of said County, and that the seal affixed is the official seal of said County.

GIVEN UNDER my hand and official seal the day and year last above written.



[Signature]  
(Signature of Notary)  
Julie A. Kjorsvik  
(Print or stamp name of Notary)  
NOTARY PUBLIC in and for the State of  
Washington, residing at Ellensburg  
My appointment expires: 02-19-14

**"TENANT"**

VANTAGE WIND ENERGY LLC,  
a Delaware limited liability company

By: [Signature]  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

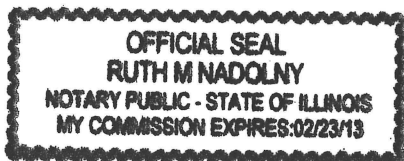
Legal Approval: [Signature]  
Date: Drafted by Perkins Coie

**ACKNOWLEDGEMENT**

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF Cook )

On March 24th, 2010 before me, Ruth M. Nadolny, a Notary Public in and for said County and State, personally appeared James J. Shields, known to me to be the person whose name is subscribed to the within instrument and acknowledged before me that he executed the same in his authorized capacity on behalf of VANTAGE WIND ENERGY LLC, and that by his signature on the instrument, the entity upon behalf of which he acted executed the instrument as its free and voluntary act for the purposes therein stated.

WITNESS my hand and official seal.



Ruth M. Nadolny  
NOTARY PUBLIC

My commission expires: 02/23/13

## **SCHEDULE A**

### **The Property**

THAT PORTION OF SECTION 16, TOWNSHIP 17 NORTH, RANGE 21 EAST, W.M., KITTITAS COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION, BEING A REBAR WITH A YELLOW PLASTIC CAP STAMPED "CRUSE 18078";

THENCE ALONG THE SOUTH LINE OF SAID SECTION, N 89°50'04" W, 1338.16 FEET;

THENCE N 40°32'56" E, 660.57 FEET;

THENCE N 19°08'04" E, 704.55 FEET;

THENCE N 26°30'22" W, 645.43 FEET;

THENCE N 07°23'21" W, 438.70 FEET;

THENCE N 80°53'33" W, 868.21 FEET;

THENCE N 18°55'15" W, 1209.83 FEET;

THENCE N 25°03'16" W, 1113.82 FEET;

THENCE N 08°07'48" E, 932.33 FEET TO THE NORTH LINE OF SAID SECTION;

THENCE ALONG SAID NORTH LINE, N 89°36'16" E, 991.80 FEET TO THE SOUTHWESTERLY MARGIN OF VANTAGE HIGHWAY;

THENCE ALONG SAID SOUTHWESTERLY MARGIN, S 45°17'49" E, 1248.02 FEET TO A POINT OF CURVATURE;

THENCE CONTINUING ALONG SAID SOUTHWESTERLY MARGIN, SOUTHEASTERLY 801.37 FEET THE ARC OF A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 1482.50 FEET, THROUGH A CENTRAL ANGLE OF 30°58'17" TO THE EAST LINE OF SAID SECTION;

THENCE ALONG SAID EAST LINE, S 00°27'16" E, 1441.50 FEET TO THE EAST QUARTER CORNER OF SAID SECTION, BEING A REBAR WITH NO CAP;

THENCE CONTINUING ALONG SAID EAST LINE, S 00°38'47" E, 2699.17 FEET TO THE POINT OF BEGINNING;

CONTAINING 190.28 ACRES, MORE OR LESS.