

1 FIFTH AMENDMENT TO LIGHTING CONTRACT NO. 24289

2 **24289**

3 THIS FIFTH AMENDMENT TO LIGHTING CONTRACT NO. 24289 is
4 made and entered, in duplicate, as of February 10, 1998 for
5 reference purposes only, pursuant to a minute order adopted by the
6 City Council of the City of Long Beach at its meeting held on
7 November 21, 1995, by and between WS LIGHT & POWER, INC., a
8 California corporation ("WS"), assignee of CITY LIGHT & POWER, INC.,
9 a Colorado corporation ("CLP"), and the CITY OF LONG BEACH, a
10 municipal corporation.

11 WHEREAS, the parties entered Contract No. 24289 whereby
12 CLP agreed to convert the City's Street Light System; and

13 WHEREAS, said Contract included a provision whereby the
14 City could choose to include Other Lights in the conversion and the
15 City desires to do so; and

16 WHEREAS, the parties also desire to clarify situations in
17 which City-owned vehicles cause damage to the lighting system;

18 NOW, THEREFORE, in consideration of the mutual terms and
19 conditions in Contract No. 24289 and herein, the parties agree as
20 follows:

21 1. Section 2.4 is hereby added to Contract No. 24289 to
22 read as follows:

23 "2.4. Consideration Payable for Damage Caused by City.
24 The City will pay to WS those amounts which reimburse WS for its
25 actual costs in repairing damage to the Street Light System and
26 general Park lighting and Other Lights caused by City vehicles and
27 by work performed by the City (but not by City's contractors) on the
28 following conditions: (a) WS shall submit a written report to the

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1 City that damage has occurred and that WS has preliminarily
2 identified that the damage was caused by a vehicle operated by any
3 City department or by work performed by any City department; (b) the
4 City will investigate the damage and the alleged cause of the damage
5 and either confirm or deny in writing to the City Engineer that a
6 vehicle operated by a City department or work performed by a City
7 department caused the damage; (c) if the City's investigation
8 confirms that the cause of the damage was a vehicle operated by a
9 City department or work performed by a City department, then the
10 City shall pay, in due course of payments, for the actual and
11 reasonable cost to repair the damage, excluding overhead or similar
12 charges, following submission of an invoice from WS detailing the
13 costs of repair; and (d) if the City denies that it caused the
14 damage, then WS has the right to file a claim under the Government
15 Tort Claims Act.

16 "This Section 2.4 shall supplement Section 'C' of Exhibit
17 'B' to Contract No. 24289."

18 2. Section 19 is hereby added to Contract No. 24289 to
19 read as follows:

20 "19. QUEENSWAY BAY LIGHTS-METAL HALIDE OPTION.

21 "19.1. Conversion. WS shall convert the low-pressure
22 sodium luminaries in the Queensway Bay project area to metal halide
23 luminaries. For purposes of this Contract, the Queensway Bay
24 project area means the Magnolia/Queensway Bay Bridge from Shoreline
25 Drive to the Port of Long Beach side of said Bridge, and Shoreline
26 Drive from Shoreline Village Drive eastward to Ocean Boulevard. At
27 the direction of the City Engineer, WS shall install 400 watt metal
28 halide luminaries or 174 watt metal halide luminaries.

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1 "19.2. Compensation. For the services relating to work
2 on the Queensway Bay Lights, the City shall pay to WS a lump sum of
3 Six Thousand One Hundred Eighty-eight Dollars (\$6,188.00) following
4 completion of said work. City shall pay WS in due course of
5 payments following submission by WS of an invoice identifying work
6 on the Queensway Bay Lights.

7 "19.3. Maintenance. For maintenance and operation
8 relating to the Queensway Bay Lights, the City shall pay to WS an
9 annual sum of Two Thousand Seven Hundred Fifty-two Dollars
10 (\$2,752.00)."

11 3. Section 20 is hereby added to Contract No. 24289 to
12 read as follows:

13 "20. EL DORADO PARK BALLFIELD LIGHTS.

14 "20.1. Conversion. WS shall do all work necessary and
15 related to the design, construction and installation of new sport
16 fields lights in El Dorado Park at four (4) ballfields in accordance
17 with drawings and specifications on file in the office of the City
18 Engineer. WS shall also cause Southern California Edison ('SCE')
19 to install primary service to the new lights and shall pay SCE for
20 such service as part of WS' compensation hereunder.

21 "20.2. Compensation. For the services relating to work
22 on the El Dorado Park Ballfield Lights, the City shall pay to WS a
23 lump sum of Three Hundred Thirty-seven Thousand Nine Hundred Eighty
24 Dollars (\$337,980.00) following completion of said work. City shall
25 pay WS in due course of payments following submission by WS of an
26 invoice identifying work on the El Dorado Ballfield Lights."

27 4. Section 18.2 of Contract No. 24289 is hereby amended
28 in its entirety to read as follows:

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1 "18.2 Compensation. For the services relating to general
2 park lighting (conversion and new installations), the City shall pay
3 to WS an increase in the Basic Fee (including the Assignable Portion
4 of the Basic Fee) by One Hundred Twenty-five Thousand Five Hundred
5 Eighty Dollars (\$125,580.00) annually, beginning on December 1,
6 1997, for the remaining term of the Contract. This change in the
7 Basic Fee is shown on exhibit 'D-1'."

8 5. Except as expressly amended herein and in the previous
9 four amendments, all of the terms and conditions contained in
10 Lighting Contract No. 24289 are ratified and confirmed and shall
11 remain in full force and effect.

12 IN WITNESS WHEREOF, the parties have caused this document
13 to be duly executed with all of the formalities required by law as
14 of the date first stated above.

15 WS LIGHT & POWER, INC., a
16 California corporation, assignee of
17 CITY LIGHT & POWER, INC., a
18 Colorado corporation

19 02/26, 1998

20 By 
21 President

22 2-26, 1998

23 By 
24 Secretary

25 "WS"

26 CITY OF LONG BEACH, a municipal
27 corporation

28 March 10, 1998

By 
ASSISTANT City Manager

"City"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

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This Fifth Amendment to Lighting Contract No. 24289 is approved as to form on 3/3, 1998.

JOHN R. CALHOUN, City Attorney

By *D. F. Gain* Deputy

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DFG:rmb
2-18-98
WSLIGHT.AMD

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

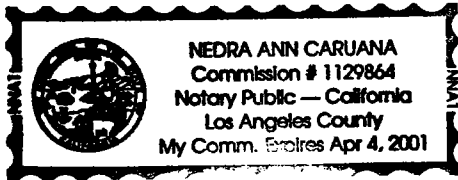
State of California

County of Los Angeles

On Feb. 26, 1998 before me, Nedra Ann Caruana, Notary Public

personally appeared William Simmons and James Mosier

personally known to me – OR – proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Nedra Ann Caruana
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

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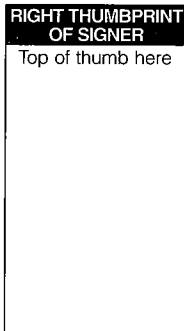
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

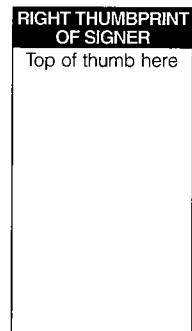
- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing:

