



### AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item:	Consider Fifth Amendment to Agreement for Sale and Purchase of Electric Capacity and Energy with WM Illinois Renewable Energy, LLC for 2019 & 2020		
Presenter & Title:	Hal Wright, Superintendent of Electrical Services		
Date:	January 14, 2019		
<b>Please Check Appropriate Box:</b>			
<input checked="" type="checkbox"/>	Committee of the Whole Meeting		Special Committee of the Whole Meeting
<input checked="" type="checkbox"/>	City Council Meeting		Special City Council Meeting
	Public Hearing		Other -
Associated Strategic Plan Goal/Objective: This initiative most closely relates to the EMS-2 Priority Objective for 2020, The City provides equipment, infrastructure, and facilities necessary to maintain efficient and reliable public services.			
Estimated Cost: \$32.32/MWh for 2019 \$34.32/MWh for 2020	Budgeted?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Other Funding? <input type="checkbox"/> Yes <input type="checkbox"/> No
<i>If "Other Funding," please explain how the item will be funded:</i>			
<b>Executive Summary:</b>			
<p>The current contract between the City of Geneva and WM Illinois Renewable Energy, LLC, for the output from the landfill gas electric generation facility located at Settlers Hill, expired on December 31, 2018. Negotiations with Waste Management to extend the "Agreement for Sale and Purchase of Electric Capacity and Energy", for the years 2019 and 2020 and have resulted in an agreement in principal as follows:</p> <ul style="list-style-type: none"> <li>• Current contract ended in 2016 at \$34.00/MWh.</li> <li>• Proposed contract extension at \$32.32/MWh for 2019 and 32.32/MWh for 2020</li> </ul>			
<b>Attachments:</b> <i>(please list)</i>			
<ul style="list-style-type: none"> <li>• Resolution</li> <li>• Proposed Fifth Amendment</li> </ul>			
<b>Voting Requirements:</b>			
<p><i>This motion requires 6 affirmative votes for passage.</i></p> <p><i>The Mayor may vote on three occasions: (a) when the vote of the aldermen or trustees has resulted in a tie; (b) when one half of the aldermen or trustees elected have voted in favor of an ordinance, resolution, or motion even though there is no tie votes; or (c) when a vote greater than a majority of the corporate authorities is required by state statute or local ordinance to adopt an ordinance, resolution, or motion.</i></p>			
<b>Recommendation / Suggested Action:</b> <i>(how item should be listed on agenda)</i>			
<p>To accept "Fifth Amendment to Agreement for Sale and Purchase of Electric Capacity and Energy" between WM Illinois Renewable Energy, LLC and City of Geneva, for the years 2019 and 2020.</p> <p>Authorize the Mayor and City Clerk to execute, said amendment on behalf of the City of Geneva.</p>			

**RESOLUTION NO. 2019-04**

**RESOLUTION AUTHORIZING EXECUTION OF  
FIFTH AMENDMENT TO AGREEMENT FOR THE SALE AND PURCHASE OF  
ELECTRIC CAPACITY AND ENERGY**

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**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GENEVA, KANE COUNTY, ILLINOIS**, as follows:

**SECTION 1:** That the Mayor and City Clerk are hereby authorized to execute, on behalf of the City of Geneva, the Fifth Amendment to Agreement for Sale and Purchase of Electric Capacity and Energy, in the form attached hereto, relating to the WM Illinois Renewable Energy, LLC, landfill gas generation, located at Settlers Hill.

**SECTION 2:** This Resolution shall become effective from and after its passage as in accordance with law.

PASSED by the City Council of the City of Geneva, Kane County, Illinois, this 22nd day of January, 2019

**AYES: \_\_ NAYS: \_\_ ABSENT: \_\_ ABSTAINING: \_\_ HOLDING OFFICE: \_\_**

Approved by me this 22nd day of January, 2019.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**FIFTH AMENDMENT TO**  
**AGREEMENT FOR THE SALE AND PURCHASE OF ELECTRIC**  
**CAPACITY AND ENERGY**

This Fifth Amendment to Agreement for the Sale and Purchase of Electric Capacity and Energy dated December 31, 2007 ("Fifth Amendment") is entered into as of the 31st day of December, 2018, by and between WM Illinois Renewable Energy, L.L.C., an Illinois limited liability company with principal offices located at 1001 Fannin Street, Houston, Texas 77002 ("Seller"), and the City of Geneva, an Illinois municipal corporation with principal offices located at 22 South 1<sup>ST</sup> Street, Geneva, Illinois 60134, ("Buyer"). Unless otherwise defined herein, capitalized terms shall be given their respective meanings as set forth in the Agreement and the first four amendments to the Agreement, as described below.

**RECITALS**

**WHEREAS**, Seller is the owner of a small power production facility ("Facility") that is fueled by landfill gas and is located at 1031 East Fabyan Parkway, Batavia, Illinois 60510;

**WHEREAS**, Buyer is a municipal electric utility that owns, operates, and maintains an electric distribution system and provides electric service within the City of Geneva, Illinois;

**WHEREAS**, the Facility is interconnected with Buyer's electric distribution system;

**WHEREAS**, Buyer purchases electric energy from Seller pursuant to an Agreement for the Sale and Purchase of Electric Capacity and Energy dated December 31, 2007 ("Agreement");

**WHEREAS**, Buyer and Seller executed a First Amendment to the Agreement dated December 31, 2010;

**WHEREAS**, Buyer and Seller executed a Second Amendment to the Agreement dated December 31, 2012;

**WHEREAS**, Buyer and Seller executed a Third Amendment to the Agreement dated December 31, 2014;

**WHEREAS**, Buyer and Seller executed a Fourth Amendment to the Agreement dated December 31, 2016;

**WHEREAS**, Buyer and Seller wish to amend the Agreement as set forth below in this Fifth Amendment;

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and other good and valuable consideration, Buyer and Seller agree as follows:

1. Article 2 of the Agreement is amended to read:

The Term of this Agreement shall begin at 12:01 A.M. on January 1, 2019 and, unless terminated earlier as provided herein, shall end at 11:59 P.M. on December 31, 2020.

2. Article 4 is deleted in its entirety and replaced by the following:

For each megawatt-hour of Energy delivered to Buyer hereunder, including the associated Capacity, (a) commencing at 12:01 A.M. on January 1, 2019, Buyer shall pay Seller the sum of Thirty-Two Dollars and 32 cents (\$32.32), prorated to reflect delivery of less than a full megawatt-hour of Energy and; (b) commencing at 12:01 A.M. on January 1, 2020, Buyer shall pay Seller the sum of Thirty-Two Dollars and 32 cents (\$32.32), prorated to reflect delivery of less than a full megawatt-hour.

3. This Fifth Amendment may be executed in one or more counterparts, each of which will be deemed to be an original and all of which, when taken together, will be deemed to constitute one and the same amendment.
4. This Fifth Amendment shall be effective immediately upon execution by both Buyer and Seller.
5. Except as specifically provided in this Fifth Amendment, the Agreement as previously amended, is ratified and confirmed in each and every respect, and the Agreement continues to be in full force and effect.

**IN WITNESS WHEREOF**, Buyer and Seller have executed this Fifth Amendment as of the date first set out above.

**WM ILLINOIS RENEWABLE ENERGY, L.L.C.**

By:   
Name: Randy Beck  
Title: VIC PRESIDENT

**CITY OF GENEVA, ILLINOIS**

Attest: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_