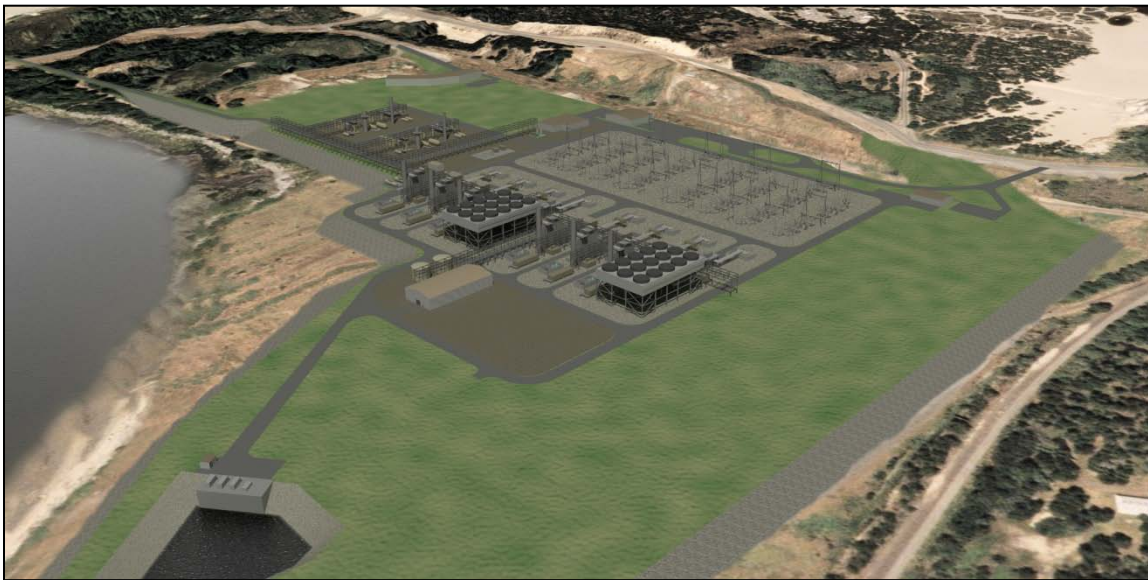


**Notice of Intent  
to Apply for a Site Certificate  
for the  
South Dunes Power Plant  
Coos County, Oregon**



**submitted to  
Oregon Energy Facility Siting Council**

**July 2012**

**Amended November 2012**

**Jordan Cove Energy Project, LP  
125 Central Ave., Suite 380  
Coos Bay, OR 97420**

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## Introduction

The South Dunes Power Plant (SDPP) will be a natural gas fueled combined cycle generating plant located on the North Spit on Coos Bay, in Coos County, Oregon, across from the city of North Bend. The plant will produce a nominal ~~380~~420 megawatts (MW) of electrical power and process steam for gas conditioning prior to delivery to the Jordan Cove LNG facility. Jordan Cove Energy Project, L.P. (JCEP) would construct and operate the SDPP, which will consist of two ~~170~~210 MW blocks of high-efficiency combined cycle combustion turbine generation, with duct firing capability. Three combustion turbine generators (CTG), three heat recovery steam generators (HRSG), and one steam turbine generator (STG), will collectively compose each power block.

Each CTG will produce electricity, with the exhaust gases from the CTG(s) supplying heat to the HRSG(s). Steam produced in the HRSG(s) will be used to power the STG to produce additional electricity and process steam. Duct burners fueled by natural gas in the HRSGs will allow for production of additional steam and additional electricity from the STGs when needed. Steam exhausted from the STGs will be condensed in air-cooled condensers, with the resultant condensate returned to the HRSGs to remake steam.

Fuel will be supplied primarily in the form of boil off gas (BOG) from the Jordan Cove LNG Plant. Supplemental natural gas will be supplied from the Pacific Connector Gas Pipeline, which will connect to a metering station to be located in the southern portion of the SDPP site. The pipeline and metering station will be installed, owned and operated by others. Water will be supplied by the Coos Bay/North Bend Water Board through an existing pipeline that connects to the SDPP site.

One new switchyard with generator transformers will be constructed onsite to switch/direct the power produced by both power blocks. The voltage will be stepped up to 230-kilovolt (kV) for transmission to the LNG Plant and stepped up to 115 kV to interconnect with the local utility systems, should they desire to purchase power from the SDPP. JCEP has evaluated three transmission line options: Option 1 would interconnect to the existing PacifiCorp system onsite (substation to be relocated); Option 2 would include a new Central Lincoln PUD owned and operated 6-mile transmission line located primarily within or adjacent to an existing railroad ROW to interconnect with the Bonneville Power Administration (BPA) system. Option 3 would interconnect to both BPA and PacifiCorp. No determination as to interconnection has been made. If any option is implemented, the total length of all new installed transmission lines would be less than 10 miles.

The CTGs, HRSGs, and STGs will be outdoor units, given the relatively moderate ambient conditions of the area. A control and administrative building will provide space for plant controls and offices for plant personnel. A separate water treatment area will provide a location for the equipment necessary to purify the raw water, producing demineralized water for use in the power plant steam cycle, power augmentation (SPRINT) system, NO<sub>x</sub> emissions control (injection) system, and amine solution for CO<sub>2</sub> removal. The site will also support metering and conditioning facilities for the natural gas supply used by both the SDPP and the LNG plant.

The South Dunes Power Plant will be located on a former Weyerhaeuser linerboard site, closed in 2003 and since demolished. Access to the site will be from US-101 then west on the Trans Pacific Parkway, 2 miles north of North Bend. The site is currently clear of any significant structures or vegetation, with exception of a water tank and a PacifiCorp substation. The site elevation will be built up out of the tsunami inundation zone using material dredged from the Oregon International Port of Coos Bay marine slip under an existing Department of State Lands permit. It is anticipated that except for structures with high overturning moments, spread footing and slab-on-grade foundations will be used to support the plant equipment and buildings.

Within this Notice of Intent (NOI) the terms “SDPP site,” “Site” and “Site Boundary” are used to refer to an area of approximately 130 acres which includes the “South Dunes Power Plant Site.” The term “South Dunes Power Plant Site” (Site) refers to approximately 130 acres of property which JCEP intends to own and control in mid-2012 which will include the generating equipment and gas conditioning equipment. Figure G-1 provides an overview of the Project site, Site and Site Boundary. When constructed, the SDPP will be located within a secured, fenced area of approximately 65 acres.

The majority of construction parking and construction laydown areas will be on property available and leased temporarily from the adjacent Roseburg Forest Products facility located between the SDPP site and the LNG Plant. Critical construction office facilities and temporary laydown area will be located on the SDPP site. Areas disturbed during construction will be restored after construction is complete.

# Exhibit A

## Information about the applicant and participating persons, including:

- (A) The name and address of the applicant including all co-owners of the proposed facility, the name, mailing address, email address and telephone number of the contact person for the NOI, and if there is a contact person other than the applicant, the name, title, mailing address, email address and telephone number of that person;

The applicant's name and address are:

Jordan Cove Energy Project, L.P.  
Suite 380, 125 Central Avenue  
Coos Bay, OR 97420

The principal contact for the applicant is:

Robert L. Braddock, Vice President, Project Manager  
Jordan Cove Energy Project, L.P.  
Suite 380, 125 Central Avenue  
Coos Bay, OR 97420  
(541) 266-7510  
(541) 269-1475 (Fax)  
(303) 748-3746 (Mobile)  
E-mail: [bobbraddock@attglobal.net](mailto:bobbraddock@attglobal.net)

An alternate contact for the applicant is:

Elliot L. Trepper, President  
Jordan Cove Energy Project, L.P.  
550 East 12th Avenue  
Unit 1905  
Denver, CO 80203  
(303) 534-1842  
(303) 534-1858 (Fax)  
(303) 987-7707 (Mobile)  
E-mail: [eltrepper@attglobal.net](mailto:eltrepper@attglobal.net)

- (B) The contact name, address, email address and telephone number of all participating persons, other than individuals, including but not limited to any parent corporation of the applicant, persons upon whom the applicant will rely for third-party permits or approvals related to the facility, and persons upon whom the applicant will rely in meeting any facility standard adopted by the Council.**

There are no other participating persons; therefore, this section is not applicable.

- (C) If the applicant is a corporation, it shall give:**

- (i) The full name, official designation, mailing address, email address and telephone number of the officer responsible for submitting the NOI;**
- (ii) The date and place of its incorporation;**
- (iii) A copy of its articles of incorporation and its authorization for submitting the NOI; and**
- (iv) In the case of a corporation not incorporated in Oregon, the name and address of the resident attorney-in-fact in this state and proof of registration to do business in Oregon.**

The applicant is not a corporation; therefore, this section is not applicable.

- (D) If the applicant is a wholly owned subsidiary of a company, corporation or other business entity, in addition to the information required by paragraph (C), it shall give the full name and business address of each of the applicant's full or partial owners;**

The applicant is not a subsidiary of any company, corporation, or other business entity; therefore, this section is not applicable.

- (E) If the person submitting the NOI is an association of citizens, a joint venture or a partnership, it shall give:**

- (i) The full name, official designation, mailing address and telephone number of the person responsible for submitting the NOI;**
- (ii) The name, business address and telephone number of each person participating in the association, joint venture or partnership and the percentage interest held by each;**
- (iii) Proof of registration to do business in Oregon;**
- (iv) A copy of its articles of association, joint venture agreement or partnership agreement and a list of its members and their cities of residence; and**

- (v) **If there are no articles of association, joint venture agreement or partnership agreement, the applicant shall state that fact over the signature of each member;**

Applicant is a Delaware limited partnership.

- (i) The person responsible for submitting this NOI is:  
Robert L. Braddock, Vice President, Project Manager  
Jordan Cove Energy Project, L.P.  
Suite 380, 125 Central Avenue  
Coos Bay, OR 97420  
(541) 266-7510  
(541) 269-1475 (Fax)  
(303) 748-3746 (Mobile)  
E-mail: [bobbraddock@attglobal.net](mailto:bobbraddock@attglobal.net)
- (ii) Jordan Cove Energy Project L.P. is 75% owned by :  
Fort Chicago Holdings II U.S. LLC, a Delaware limited liability company, with principal office at:  
Veresen, Inc.  
Livingston Place, South Tower  
Suite 900, 222 - 3rd Avenue SW  
Calgary, Alberta T2P 0B4  
Canada  
(403) 213-3643  
Principal contact:  
Kevan King, Vice President  
[kking@vereseninc.com](mailto:kking@vereseninc.com)

And 25% by:

Energy Projects Development LLC, a Colorado Limited Liability Company  
P.O. Box 1809  
Evergreen, CO 80437  
(303)748-3746  
Principal contact:  
Robert L. Braddock  
Tax Matters Partner  
[bobbraddock@attglobal.net](mailto:bobbraddock@attglobal.net)

- (iii) Proof of Registration to do business in Oregon is provided as Appendix A-1.
- (iv) The Limited Partnership Agreement for Jordan Cove Energy Projects L.P. is provided as Appendix A-2. Names and addresses of all partners of Jordan Cove Energy Project L.P. are presented in (ii) above.

**(F) If the applicant is a public or governmental entity, it shall give:**

- (i) **The full name, official designation, mailing address, email address and telephone number of the person responsible for submitting the NOI; and**
- (ii) **Written authorization from the entity's governing body to submit an NOI;**

The applicant is not a public or governmental entity; therefore, this section is not applicable.

**(G) If the applicant is an individual, the individual shall give his or her mailing address and telephone number;**

The applicant is not an individual; therefore, this section is not applicable.



# Appendix A-1. Proof of Registration



Phone: (503) 986-2200  
Fax: (503) 378-1361

Application for Authority to Transact—Foreign Limited Liability Company

Secretary of State  
Corporation Division  
255 Capital Bl. NE, Suite 151  
Salem, OR 97310-1327  
Palsgr@Oregon.com

**FILED**

**AUG 25 2005**

**OREGON  
SECRETARY OF STATE**

REGISTRY NUMBER: 307633-95

In accordance with Oregon Revised Statute 182.416-182.480, the information on this application is public record. We must release this information to all parties upon request and it will be posted on our website.

For office use only

Please Type or Print Legibly in Black Ink. Attach Additional Sheet if Necessary.

1) NAME Jorden Cove Energy Project L.L.C.

NOTE: Must contain the words "Limited Liability Company" or the abbreviations "LLC" or "L.L.C." Must be identical to the name on the Certificate of Existence, Sec 83.

2) STATE OR COUNTRY OF ORGANIZATION

Delaware

Date of Organization: July 12, 2005

8) ADDRESS OF PRINCIPAL OFFICE OF THE BUSINESS

125 Central Avenue, Suite 380

Coos Bay, OR 97420

3) CERTIFICATE OF EXISTENCE

☒ An original certificate of existence, current within 60 days of delivery to this Division, authenticates by the official having custody of the organization, is attached.

9) ADDRESS WHERE THE DIVISION MAY MAIL NOTICES

125 Central Avenue, Suite 380

Coos Bay, OR 97420

4) DURATION (Please check one.)

☐ Latest date upon which the Limited Liability Company is to

expire is \_\_\_\_\_

☒ Duration shall be perpetual.

10) IF THIS LIMITED LIABILITY COMPANY IS NOT MEMBER MANAGED, CHECK ONE BOX BELOW.

☐ This limited liability company is managed by a single manager.

☒ This limited liability company is managed by multiple manager(s).

5) THIS FOREIGN LIMITED LIABILITY COMPANY SATISFIES THE REQUIREMENTS OF ORS 83.714(3).

6) NAME OF OREGON REGISTERED AGENT

Elliot Trepper

7) ADDRESS OF OREGON REGISTERED AGENT (must be an OREGON Street Address, which is identical to the registered agent's business office.)

125 Central Avenue, Suite 380

Coos Bay, OR 97420

11) EXECUTION (At least one member or manager must sign.)

Signature: [Signature]

Printed Name

Elliot Trepper

Title

Vice President

12) CONTACT NAME (To resolve questions with this filing.)

Sheri L. Berndt-Smith

DAYTIME PHONE NUMBER (include area code.)

(206) 903-2373

## FEES

Required Processing Fee \$50 • Confirmation Copy (Optional) \$4

Processing Fees are non-refundable.

Please make check payable to "Corporation Division."

### NOTE:

Fees may be paid with VISA or MasterCard. The card number and expiration date should be submitted on a separate sheet for your protection.

157 (Rev. 1/04)

8/25/05

307633-95

*Delaware*

*The First State*

PAGE FILED

AUG 25 2005

OREGON  
SECRETARY OF STATE

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "JORDAN COVE ENERGY PROJECT L.L.C." IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE THIRD DAY OF AUGUST, A.D. 2005.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "JORDAN COVE ENERGY PROJECT L.L.C." WAS FORMED ON THE TWELFTH DAY OF JULY, A.D. 2005.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE NOT BEEN ASSESSED TO DATE.

3998996 8300

050640826



*Harriet Smith Windsor*  
Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 4067990

DATE: 08-03-05

**Appendix A-2. JCEP Limited Partnership Agreement**  
(The entire 96 page agreement is provided at the end of this document.)

**JORDAN COVE ENERGY PROJECT L.P.**

**LIMITED PARTNERSHIP AGREEMENT**

AMONG

**JORDAN COVE ENERGY PROJECT L.L.C.**

- AND -

**FORT CHICAGO LNG II U.S. L.P.**

- AND -

**ENERGY PROJECTS DEVELOPMENT L.L.C.**

- AND -

**EACH PERSON WHO IS ADMITTED TO THE  
PARTNERSHIP AS A LIMITED PARTNER IN ACCORDANCE  
WITH THE TERMS HEREOF**

July 12, 2005

DMSLegal\040638\00071\2107725v4

## Exhibit B

### **Information about the proposed facility, including:**

#### **(A) A description of the proposed energy facility, including as applicable:**

##### **(i) The nominal electric generating capacity and the average electrical generating capacity, as defined in ORS 469.300.**

Nominal electric generating capacity is defined in Oregon Revised Statutes (ORS) 469.300 as the maximum net electric power output of an energy facility based on the average temperature, barometric pressure, and relative humidity at the site during times of the year when the facility is intended to operate. The nominal electric generating capacity of the South Dunes Power Plant is based on the nameplate ratings of the CTGs and STGs at these conditions with duct firing and is expected to be ~~380~~420 MW for the combined two power blocks.

Average electrical generating capacity is defined as the peak generating capacity of the facility divided by a factor determined by the type of facility. There are three categories of energy facilities; wind or solar facilities have a factor of 3.00, geothermal facilities have a factor of 1.11, and all other facilities have a factor of 1.00. Since the proposed facility utilizes natural gas, the factor applied to the peak generating capacity is 1.00. The average electrical generating capacity of the proposed SDPP is based on the nameplate ratings of the CTGs and STGs at these conditions with duct firing and is expected to be ~~380~~420 MW for the combined two power blocks.

##### **(ii) Major components, structures and systems, including a description of the size, type and configuration of equipment used to generate electricity and useful thermal energy.**

The SDPP will include two blocks of combined cycle power. Each block will consist of three CTGs of approximately ~~50~~56 MW each. Each CTG will have an inlet air filter to ensure that combustion air does not contain any contaminants that could cause physical damage to the rotating parts of the CTG. The CTGs will have two shafts containing a low-pressure compressor section, high-pressure compressor section, combustor, high-pressure turbine section and a low-pressure turbine section. The low-pressure rotor shaft of the CTGs will be connected to a generator to produce electrical power at a 60-cycle alternating current (AC). The compressor sections in the CTGs will compress the inlet air and supply compressed air to the combustion section of the CTGs, where natural gas will be supplied to provide combustion. The exhaust from the combustion section will first go through the high-pressure turbine section, rotating the CTG high-pressure rotor, before expanding through the low-pressure turbine, rotating the CTG low-pressure rotor which, in turn, rotates the generator rotor, producing 60-cycle AC electrical power.

Hot gases exit the CTGs into the HRSGs where the available energy in the exhaust gas is used to produce high pressure (HP) steam before discharging the exhaust gas through exhaust stacks to the atmosphere. Additional heat input into the HRSGs could be provided by duct burners that would burn natural gas. The additional heat from the duct burners would produce additional steam for the STGs, increasing the plant electrical output above what can be produced using only the steam from the CTGs exhaust.

Steam produced in the HRSGs will be supplied to STGs and the gas conditioning facilities for process steam. High-pressure process steam is extracted directly from the HP steam header upstream of the STG, and the remaining HP steam is routed through the steam turbine to turn the steam turbine rotor. Low-pressure process steam is supplied from a controlled steam turbine extraction supplemented by steam from the LP steam header. LP steam from the LP steam header is admitted to the steam turbine directly when the low-pressure process is not in service. The steam turbine rotor is connected to a generator, producing 60-cycle AC power.

The exhaust from the LP section of the steam turbine will connect to an air-cooled condenser (ACC) that would cool the steam to a point where it condenses from steam to water. The condenser operates at a vacuum to increase the efficiency of the STGs. The condensate exiting the ACCs is then returned to the HRSGs, where it is again heated to steam, and the process is repeated. Vacuum pumps are provided to remove air from the ACC for the initial startup and to remove non-condensable gases that enter the condenser during operation.

The configuration of six multiple CTG units is for the purpose of ensuring a continuous and reliable source of power to the LNG plant. With one CTG unit out of service, there will still be sufficient generation to operate the LNG plant. Electrical output from the CTGs and STGs will be connected to generator step-up transformers to raise the voltage to 230 kV. The transformers will be connected by overhead line to a 230 kV switchyard for transmission of the power generated to the LNG Plant. Any excess power would be available for delivery into the grid at 115 kV for grid stabilization or sale.

**(iii) Methods for waste management and waste disposal, including, to the extent known, the amount of wastewater the applicant anticipates, the applicant's plans for disposal of wastewater and storm water, and the location of disposal;**

Wastes produced during operation of the South Dunes Power Plant will consist of HRSG blowdown, neutralized demineralized water treatment wastes, sanitary wastes, condensate polisher backwash, CTG water wash wastes, storm water, and solid waste. HRSG blowdown is necessary to maintain the required water chemistry in the boiler condensate water and steam to meet the steam purity requirements for admitting steam to the STGs. HRSG blowdown will be cooled by mixing with service water, and the resultant wastewater stream sent to the Oregon

International Port of Coos Bay's (Port) Industrial Wastewater Line that originates on the SDPP site. Wastes from the treatment of service water to produce high purity demineralized water are adjusted to a neutral pH if required and will also be sent to the Port's Industrial Wastewater Line. Wastes from condensate polisher backwash cycles are treated to remove polisher resins and will be sent to the Port's Industrial Wastewater Line. No evaporation ponds are proposed.

Sanitary wastes will be routed to a septic field designed to accommodate a permanent SDPP staff of approximately 30 people per shift, 3 shifts per day. Temporary sanitary facilities serviced by a licensed sanitary contractor will be provided during construction.

To maintain CTG efficiency, the compressor section of the CTGs will be periodically water washed to remove any fouling of the compressor blades. This water washing may occur when the CTG is on-line or off-line, and the water from this wash is collected in a holding tank. In general, water washing produces approximately 300 gallons per CTG every two months; or 1,800 gallons per year per CTG. The wash water will contain the detergent used to aid in cleaning and any substances washed from the compressor blades. The wash water will be trucked off site for processing and disposal in an approved facility.

Non-contact storm water from building roofs and other impervious surfaces within the SDPP site will be collected in swales, and allowed to evaporate, seep into the surface, or run off the site. Any storm water that could potentially be contaminated with oil will first pass through an oil/water separator to remove the oil, or else be contained for testing and sampling before being sent to the Port's Industrial Wastewater Line.

No solid wastes are produced as a direct result of the combustion process. Packaging and shipping containers and normal trash from kitchen and office facilities will be collected and temporarily stored onsite for removal by a licensed waste hauler.

**(iv) For thermal power plants:**

**(I) A discussion of the source, quantity and availability of all fuels proposed to be used in the facility to generate electricity or useful thermal energy.**

The CTGs and duct burners will use natural gas as fuel. Assuming a ~~380-420~~ MW average generating plant, the total natural gas consumption of the SDPP is anticipated to be about ~~79-85~~ million standard cubic feet/day. The average generating capacity of ~~380-420~~ MW is peak generating capacity as defined in Exhibit B, A(i). The South Dunes Power Plant will be served from two sources: the Pacific Connector Gas Pipeline (4%), and boil-off gas (BOG) and flash gas (96%) from the LNG Plant. The 36" Pacific Connector Gas Pipeline (PCGP) will enter a Metering Station onsite. From the Metering Station, the gas will go to the gas conditioning facilities onsite. Natural gas for the power plant will be provided after the gas conditioning. As stated in section (A)(vi) below, the PCGP upstream of the Metering Station, Metering Station,

gas conditioning equipment, and JCEP utility corridor (except for the onsite transmission line as a related or supporting facility) are permitted by the Federal Energy Regulatory Commission (FERC) and are not included within the scope of this NOI, although shown and described for informational purposes. Appendix B-1 indicates the site plan and the FERC and EFSC jurisdictional areas. The BOG and flash gas produced in the LNG liquefaction unit and storage tanks will be delivered to the SDPP site by a pipeline located in the JCEP utility corridor. Natural gas will be available on a continuous basis from both sources.

**(II) Methods for disposal of waste heat.**

An air-cooled condenser will be used to dispose of waste heat from each power block. This condenser will provide the necessary cooling for the STG exhaust steam and return condensate to the HRSG. Waste heat is removed in the air-cooled condenser by modules arranged in parallel rows, each module containing a number of fin tube bundles. An axial flow, forced-draft fan located in each module forces cooling air across the heat exchange area of the fin tubes.

**(v) For transmission lines, approximate transmission line voltage, load carrying capacity and type of current.**

The main purpose of the SDPP is to supply uninterrupted power to the Jordan Cove LNG Plant. A one mile, double circuit 230 kV transmission line will deliver electrical power from the SDPP to the LNG Plant. An interconnection through the local 115 kV PacifiCorp system can be provided for local grid stabilization and for provision of power for public sale. Similarly, ~~a~~An interconnection to the 115 kV BPA system could be available through a new 6-mile line (by others) south from the Central Lincoln Substation to the site generally following the Port of Coos Bay/UP Railroad. During construction of the SDPP, power will be taken from PacifiCorp at distribution voltage.

**(vi) For pipelines, approximate operating pressure and delivery capacity in thousand cubic feet per day.**

The Pacific Connector Gas Pipeline (PCGP), which will supply natural gas to the SDPP and LNG Plant, is a FERC-jurisdictional facility; therefore, this section is not applicable.

**(vii) For surface facilities related to underground gas storage, estimated daily injection and withdrawal rates, horsepower compression required to operate at design injection or withdrawal rates, operating pressure range and fuel type of compressors.**

There are no surface facilities related to underground gas storage on the project site; therefore, this section is not applicable.

**(viii) For facilities to store liquefied natural gas, the approximate volume, maximum pressure, liquefaction and gasification capacity in thousand cubic feet per hour.**

Although gas treatment facilities to support the JCEP LNG Plant will be located on the SDPP site, these facilities do not hold or process natural gas into liquid and therefore are not LNG storage facilities. There are no facilities to store liquefied natural gas on the SDPP site; therefore, this section is not applicable.

**(B) A description of major components, structures and systems of each related or supporting facility.**

**Switchyard**

A 115/230 kV, AC, open-air switchyard serving both power blocks will be located immediately north of the CTGs/STGs. The switchyard will be a leveled and graveled area approximately 800 by 400 feet, within the security fence. The switchyard will include 115 and 230 kV circuit breakers and disconnect switches to allow for clearing faults on the connected transmission lines and for maintenance of the circuit breakers and transmission lines. The breakers will be arranged for ultimate connection in a breaker and one-half configuration. Steel take-off towers will be provided for termination of 230 kV overhead transmission lines that will connect the switchyard with the plant generator step-up transformers and outgoing transmission line(s). A small building will be included to provide a controlled environment for the protective relaying and communication equipment.

**Transmission Line**

As discussed in Section A(iv) above, the main purpose of the SDPP is to supply uninterrupted power to the LNG Plant. A one mile, double circuit 230 kV transmission line located in the JCEP utility corridor will connect the two facilities. An interconnection to the local PacifiCorp system could be provided for local grid stabilization. An interconnection to the BPA system could be available through installation of a new 6-mile line (by others) north from the site to the Central Lincoln Substation.

**Interconnecting water pipelines**

One metered connection from the existing Coos Bay North Bend Water Board municipal pipeline to the SDPP site is required to provide water for potable, service, and demineralized water systems. The connection and majority of onsite piping will be installed below grade.

**Utility Corridor**

The 1 mile corridor between the LNG Plant and SDPP will include the BOG natural gas line, conditioned gas line, backup LNG flare pilot gas line, 230 kV transmission line, maintenance road, and telecommunication lines. The corridor width will vary from approximately 100 to 150 feet between the two plants depending on terrain. The corridor is located entirely on JCEP property and is FERC jurisdictional, except for the onsite transmission line as a related or supporting facility.



## **Gas Conditioning**

Extremely low temperatures are required to liquefy natural gas (negative 250 °F). Carbon dioxide (CO<sub>2</sub>) and water must be removed from the gas stream to prevent freezing and equipment damage or impaired operations. In addition, the small amount of mercury that may be present in the pipeline gas (up to roughly 0.05 ppb by volume) must be removed to prevent corrosion of the aluminum exchangers used in the liquefaction process. These facilities require some heat as part of the process, which can be efficiently integrated with the power plant. Locating these facilities on the same site minimizes interconnection distances.

Although the gas conditioning facility is described here and is on the SDPP site, it is not part of the power plant facility and is subject to exclusive FERC jurisdiction; the applicant will not seek EFSC approvals of any parts of the gas conditioning facility. The applicant recognizes this facility is subject to other applicable permitting requirements.

To remove CO<sub>2</sub>, a liquid water-amine solution is contacted with the incoming gas. The amine solution absorbs all but 50 ppm by volume of the incoming CO<sub>2</sub>. The CO<sub>2</sub> is then driven out of the amine solution via dropping the pressure and heating. The CO<sub>2</sub>-rich stream driven off by pressure drop is further processed, while the CO<sub>2</sub>-rich stream generated by heating is vented to atmosphere.

To remove water, the natural gas is passed through vessels filled with solid desiccant, which selectively trap the water via adsorption in molecular-level ‘sieves.’ These desiccant beds leave less than 1 ppm by volume of water in the natural gas stream, which is then sent to the mercury removal system. When a desiccant bed becomes water-saturated, a hot gas stream is passed through the bed to drive off the water from the bed. Water is then condensed from the hot gas stream by fan-driven air cooling. Mercury is then removed from the natural gas in a similar way with a different solid adsorbent, which will be disposed of by a licensed hazardous waste hauler.

## **Roads**

The SDPP onsite loop roads will be 24’ wide paved roads. The site entrance will connect to Trans Pacific Parkway at the northeast corner of the site. A secure 24’ wide maintenance road in the JCEP utility corridor will be hard-surfaced and cross Jordan Cove Road with a new overpass.

## **Buildings**

An administrative building, a control building, and a maintenance building will be built on the site. These three buildings will be shared between uses related to SDPP and the LNG facility.

### **Temporary Construction Facilities**

Areas on the SDPP site will be provided for limited construction offices, construction parking, and construction laydown during the construction process. Primary areas for equipment laydown and construction facilities will be provided on the Roseburg Forest Products property.

### **(C) The approximate dimensions of major facility structures and visible features.**

The SDPP will be located within a fenced area of approximately 65 acres. As an outdoor power plant located at a nominal elevation of 40 feet above mean sea level, most of the major equipment (CTGs, STGs, HRSGs, exhaust stacks, air-cooled condensers, water tanks, and switchyard equipment) will be visible from the east or south. Tall cranes may be onsite during construction.

Each CTG will have a metal enclosure expected to be between approximately 60 and 70 feet in length. The intake air filter, ventilation and variable bleed equipment for the combustion turbine would be located on top of the CTG enclosure. The enclosure outfitted with the intake air filter, ventilation and variable bleed equipment on top is expected to be approximately 40 feet wide and 50 feet tall.

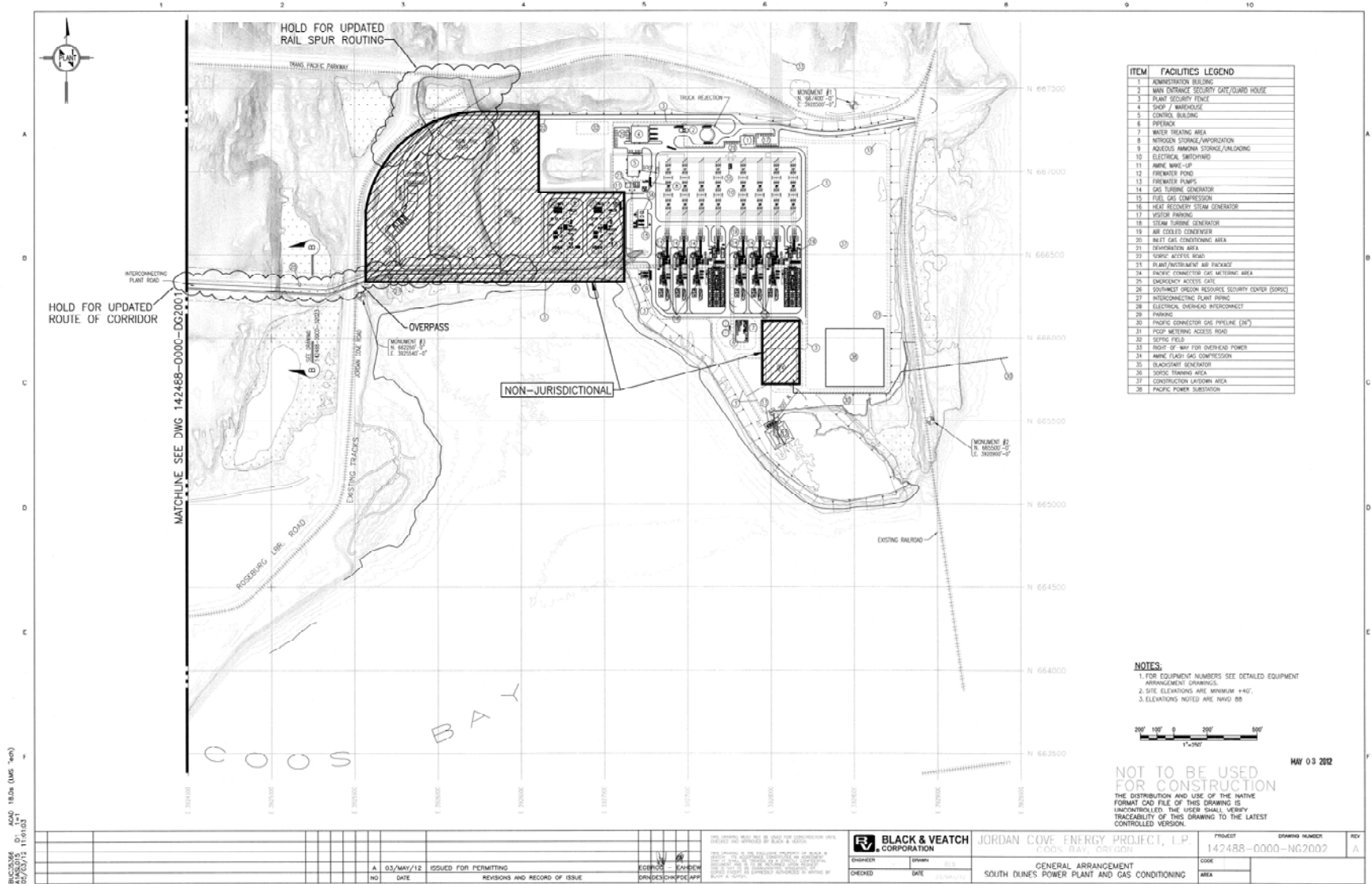
Each STG will have a metal enclosure expected to be between approximately 60 and 90 feet in length, 35 feet wide, and 50 feet high.

Each HRSG will be an outdoor metal structure occupying a footprint of approximately 140 by 25 feet. Two insulated drums will be located on top of each HRSG at an elevation of approximately 75 feet. Each HRSG will connect to the back of a CTG enclosure, extending lengthwise axially with the CTG enclosure on the opposite side of the generator. Each HRSG will connect to a steel exhaust stack approximately 100 feet tall and 11 feet in diameter. The actual values for stack height and diameter will be determined from air dispersion analysis.

Each air-cooled condenser (ACC) consists of finned tube elements called streets, elevated on columns. Each street is divided into multiple cells, with each cell containing a fan to force air across the finned tube bundle to cool and condense the steam. Multiple streets will be required, but the total for each ACC is not expected to exceed 3. The total number of cells for each ACC will be approximately 18 to 24. ACC dimensions are expected to be in the order of 190 by 120 feet, with the top of the structure approximately 60 feet above grade.

The control, administration, and shop/warehouse buildings will be pre-engineered metal buildings with metal roofs and side wall panels. The control building is expected to be approximately 130 feet long, 90 feet wide, and 30 feet tall. The administration building will be approximately 80 feet long, 55 feet wide, and 20 feet tall. The shop/warehouse building will be approximately 102 feet long, 100 feet wide and 30 feet tall.

Outdoor oil-filled generator step-up transformers and auxiliary transformers will be located in an onsite switchyard north of the CTG and STG enclosures. The transformers will be surrounded by concrete walls as required to provide the necessary fire barriers between the transformers.



## Exhibit C

**A description of the location of the proposed energy facility site and the proposed site of each related or supporting facility and all areas that might be temporarily disturbed during construction of the facility, including the approximate land area of each.**

The South Dunes Power Plant will be located on the east side of Jordan Cove on the North Spit of Coos Bay, 1 mile north of the city of North Bend, Oregon. The SDPP site includes approximately 130 acres of a previously demolished linerboard facility in Township 25 South, Range 13 West, Sections 03/04, Willamette Meridian, Coos County. This acreage includes the power plant site and all associated equipment, the utility corridor as far as to Jordan Cove Road, and the natural gas CO<sub>2</sub> removal/dehydrating equipment for the LNG process, although only the SDPP and onsite transmission line to the LNG terminal are jurisdictional to EFSC. The SDPP will be located near the Jordan Cove LNG facility to provide reliable power and support the LNG process. The main plant/power block and utility corridor will be fenced for security. Offsite facilities will include continuation of the utility corridor west of Jordan Cove Road to the LNG site. A legal land description for the site is provided as Appendix C-1. Maps depicting the proposed power plant and utility corridor locations are provided in Exhibit G.

The Pacific Connector Gas Pipeline will enter the east site boundary. The 36" pipeline will provide fuel for the SDPP and the LNG Plant; however, as previously described, this pipeline Metering Station, gas conditioning equipment, and utility corridor are not included within the scope of this NOI. The pipelines upstream and downstream of the Jordan Cove Meter Station (on SDPP site) are jurisdictional to FERC. From the Meter Station, the majority of the gas will go to the gas conditioning and dehydration equipment for processing before delivery via pipeline to the LNG Plant. A supplemental pipeline will be taken downstream of the gas conditioning facilities to deliver natural gas to the SDPP. FERC and EFSC jurisdictional areas are shown in Appendix B-1.

The two power blocks of the SDPP, associated facilities, utility corridor, and support facilities will be built concurrently on the site. During construction, approximately 65 acres will be temporarily disturbed for construction activities. Additional area, approximately 20 acres, for equipment laydown and construction parking will be provided on the Roseburg Forest Products property.

## **Appendix C-1 Legal Description**

### **MILL SITE**

MILL SITE: All that portion of Government Lot 2 in Section 3, Township 25 South, Range 13 West of the Willamette Meridian, Coos County, Oregon, lying East of the Oregon International Port of Coos Bay Railroad right of way as described per Deed Instrument 2010-11360, Deed Records of Coos County, Oregon.

ALSO: That portion of the "Old" Jordan Cove Road right of way in said Section 3 lying 30 feet Southerly and 70 feet Northerly of the following described line: (Description is based on Deed Bearing Microfilm Reel No. 67-10-22858, Records of Coos County, Oregon): Commencing at the Northwest corner of Section 3, Township 25 South, Range 13 West of the Willamette Meridian, Coos County, Oregon;

thence South 333.80 feet along the West boundary of said Section 3;

thence North 87°59'45" East 130 feet, more or less, to the Southerly right of way boundary of the Transpacific Parkway, said point being the True Point of Beginning, said portion of Jordan Cove road to be vacated is a strip of land located 70 feet Northerly and 30 feet Southerly of the following described line: thence South 87°59'45" West 130 feet, more or less, to the West boundary of said Section 3;

thence South 88°00'00" West 901.90 feet;

thence on a 1° curve right through an angle of 2°30'00" of a distance of 250 feet; thence North 89°30'00" West 819.50 feet; thence on a 10° curve left through an angle of 47°34'15" a distance of 475.00 feet, more or less, to the Easterly right of way boundary of the relocated Jordan Cove County Road.

EXCEPTING THEREFROM: A strip of land 150.00 feet wide lying equally 75 feet on each side of the described centerline, described in Deeds and Records of Coos County, Oregon, Volume 283, Page 317.

ALSO EXCEPTING THEREFROM: A right of way for a county road deeded on June 14, 1961 to Coos County, Oregon;

Bearings and Distances per Statutory Quit Claim Deed 2010-917, Deed Records of Coos County.

PARCEL 7 (MILL SITE): All that portion of Government Lot 2 in Section 3, Township 25 South, Range 13 West of the Willamette Meridian, Coos County, Oregon, lying West of the Oregon International Port of Coos Bay Railroad right of way as described per Deed Instrument 2010-11360, Deed Records of Coos County, Oregon.

Bearings and Distances per Statutory Quit Claim Deed 2010-917, Deed Records of Coos County.

PARCEL 8 (MILL SITE): All that land located in Section 4, Township 25 South, Range 13 West of the Willamette Meridian, Coos County, Oregon, described as follows: Government Lots 1 and 2.

ALSO: That portion of the "Old" Jordan Cove Road right of way in said Section 3 lying 30 feet Southerly and 70 feet Northerly of the following described line: (Description is based on Deed Bearing Microfilm Reel No. 67-10-22858, Records of Coos County, Oregon): Commencing at the Northwest corner of Section 3, Township 25 South, Range 13 West of the Willamette Meridian, Coos County, Oregon;

thence South 333.80 feet along the West boundary of said Section 3;

thence North 87°59'45" East 130 feet, more or less, to the Southerly right of way boundary of the Transpacific Parkway, said point being the True Point of Beginning; said portion of Jordan Cove road to be vacated is a strip of land located 70 feet Northerly and 30 feet Southerly of the following described line: thence South 87°59'45" West 130 feet, more or less, to the West boundary of said Section 3;

thence South 88°00'00" West 901.90 feet; thence on a 1° curve right through an angle of 2°30'00" of a distance of 250 feet;

thence North 89°30'00" West 819.50 feet;

thence on a 10° curve left through an angle of 47°34'15" a distance of 475.00 feet, more or less, to the Easterly right of way boundary of the relocated Jordan Cove County Road.

EXCEPTING THEREFROM: A strip of land 150.00 feet wide lying equally 75 feet on each side of the described centerline, as described in Deed Records of Coos County, Oregon, Volume 283, Page 317.

## **Exhibit D**

If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a transmission line or pipeline that, by itself, is an energy facility under the definition in ORS 469.300, identification of at least two proposed corridors, as defined in OAR 345-001-0010, or identification of a single proposed corridor with an explanation of why alternate corridors are unlikely to better meet the applicant's needs and satisfy the Council's standards. The applicant shall include an explanation of the basis for selecting the proposed corridor(s) and, for each proposed corridor, the information described in subsections (e), (g), (i), (j), (k), (n) and (p) that is available from existing maps, aerial photographs, and a search of readily available literature.

All pipelines or transmission lines associated with the South Dunes Power Plant are either exclusively within the jurisdiction of FERC or do not fit within the definition of an "energy facility" in ORS 469.300; therefore this section is not applicable.



## Exhibit E

Identification of all federal, state and local government permits related to the siting of the proposed facility, a legal citation of the statute, rule or ordinance governing each permit, and the name, address, email address and telephone number of the agency or office responsible for each permit. For each permit, the applicant shall provide a preliminary analysis of whether the permit should or should not be included in and governed by the site certificate.

### Federal Permits

#### Air Quality

Prevention of Significant Deterioration (PSD) Permit	
<b>Legal Citations:</b> Clean Air Act (42 USC § 7401 et seq.) 40 CFR Parts 51 ORS Chapters 468 and 468A OAR Chapter 340, Division 224 and 225	<b>Responsible Agency:</b> <i>Federal:</i> Environmental Protection Agency 1200 6 <sup>th</sup> Street Seattle, WA 98101 (206) 553-1200  <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> PSD Permit review authority has been delegated by the federal government to the Oregon Department of Environmental Quality (DEQ) and will be covered by the Air Contaminant Discharge Permit (ACDP) for a major source (see below). As a federally delegated authority to DEQ, this permit will not be included in the site certificate.	

<b>Title IV Acid Rain Permit</b>	
<b>Legal Citations:</b> Clean Air Act Title IV 42 USC §§ 7651 – 7651e 40 CFR Part 73 42 USC § 7651f 40 CFR Part 76	<b>Responsible Agency:</b> <i>Federal:</i> Environmental Protection Agency 1200 6 <sup>th</sup> Street Seattle, WA 98101 (206) 553-1200  <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> The Acid Rain Permit can be granted once the new source (JCEP) has a Title V Operating Permit. As a federally delegated authority to DEQ, this permit will not be included in the site certificate.	

<b>Title V Operating Permit</b>	
<b>Legal Citations:</b> Clean Air Act, Title V (42 USC § 7661-7661f) 40 CFR Part 70 ORS Chapters 468 and 468A OAR Chapter 340, Division 218	<b>Responsible Agency:</b> <i>Federal:</i> Environmental Protection Agency 1200 6 <sup>th</sup> Street Seattle, WA 98101 (206) 553-1200  <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> DEQ rules do not allow a new source to directly apply for the Title V Operating Permit; instead, pursuant to the granting of an ACDP, the Title V Operating Permit may be granted after the source is constructed and operated for a certain time period. The Oregon DEQ Air Quality Division administers the Title V Air Permit program under federally delegated authority. As a federally delegated authority to DEQ, this permit will not be included in the site certificate.	

## Water Quality

<b>National Pollutant Discharge Elimination System 1200-C Construction Stormwater Permit</b>	
<b>Legal Citations:</b> Clean Water Act (33 USC §§ 1251 <i>et seq.</i> ) 40 CFR Parts 122 ORS Chapters 468B OAR Chapter 340, Division 45 and 52	<b>Responsible Agency:</b> <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> Collection and discharge of non-contact storm water from the site during construction. As a federally delegated authority to DEQ, this permit will not be included in the site certificate.	

<b>National Pollutant Discharge Elimination System (NPDES) Permit and 1200-Z Industrial Storm water NPDES Permit</b>	
<b>Legal Citations:</b> Clean Water Act (33 USC §§ 1251 <i>et seq.</i> ) 40 CFR Parts 122 ORS Chapters 468B OAR Chapter 340, Division 45 and 52	<b>Responsible Agency:</b> <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> Collection and discharge of industrial wastewater and storm water from the site during operation. Site will discharge industrial wastewater into Port's existing industrial wastewater line with outfall in Pacific Ocean; will require pre-treatment agreement with Port. Non-contact storm water to natural runoff. As a federally delegated authority to DEQ, this permit will not be included in the site certificate.	

## Wetlands

Clean Water Act Section 404/401 Permit to Discharge Dredged or Fill Material	
<b>Legal Citations:</b> Clean Water Act Section 404 (33 USC § 1344) Clean Water Act Section 401 (33 USC § 1341) 33 CFR Part 323 ORS Chapter 468B OAR Chapter 340, Division 48	<b>Responsible Agency:</b> <i>Federal:</i> USACE, Portland District Regulatory Office 333 SW First Ave., P.O. Box 2946 Portland, OR 97204-3495 (503) 808-4373  <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> In the event the project would require any non-permitted additional dredge or fill of water bodies (such as jurisdictional streams or wetlands) during construction, a Section 404 permit would be required. Responsibility for administering and enforcing Section 404 is shared by the U.S. Army Corps of Engineers (USACE) and Environmental Protection Agency (EPA).  ODEQ is responsible for issuing 401 water quality certifications when a Section 404 permit is required. This process allows the ODEQ to determine if state water quality standards and conditions would be met. This permit will not be included in the site certificate.	

## Department of Energy

Alternate Fuels Capability Certification	
<b>Legal Citations:</b> Power Plant and Industrial Fuel Use Act of 1978 (FUA) 10 CFR 500	<b>Responsible Agency:</b> <i>Federal:</i> Office of Electricity Delivery and Energy Reliability, Forrestal Building, 1000 Independence Avenue, S.W., Room 6H-034, OE-20, Washington, D.C. 20585  <i>State:</i> N/A
<b>Description and Analysis:</b> Developers of a new electric baseload power plant can either self-certify that the facility will have the capability to use coal or other alternate fuels, such as gasified coal, or can apply for a permanent exemption from meeting the statutory prohibition. This certification will not be included in the site certificate.	

## Navigable Airspace

Notice of Proposed Construction or Alteration	
<b>Legal Citations:</b> Federal Aviation Act of 1958 (14 USC § 44718); 14 CFR § 77	<b>Responsible Agency:</b> <i>Federal:</i> Federal Aviation Administration Air Space Branch 1601 Lind Avenue SW Renton, WA 98055-4056 (425) 227-1389  <i>State:</i> N/A
<b>Description and Analysis:</b> Construction of objects with the potential to affect navigable airspace, such as construction cranes or tall stacks (typically height in excess of 200') or within 20,000' of an airport. The North Bend Airport is in the vicinity of the SDPP. This permit will not be included in the site certificate.	

## State Permits

### Energy Facility Siting

Energy Facility Site Certificate	
<b>Legal Citations:</b> ORS 469.300 to ORS 469.570 OAR 345, Divisions 1, 21-24	<b>Responsible Agency:</b> <i>State:</i> Energy Facility Siting Council Oregon Department of Energy 625 Marion Street NE Salem, OR 97301-3737 (503) 378-4040
<b>Description and Analysis:</b> The SDPP will be an "energy facility", as defined in ORS 469.300(11). Therefore, the SDPP and its related or supporting facilities must be authorized through a site certificate issued by the Oregon Energy Facility Siting Council.	

## Air Quality

Air Contaminant Discharge Permit (ACDP)	
<b>Legal Citations:</b> ORS Chapters 468 and 468A OAR Chapter 340, Divisions 216 and 222	<b>Responsible Agency:</b> <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> ACDP are required for any new major source or a modification to a major source. JCEP will request a joint permit for the SDPP and LNG Plant. As a federally delegated authority to DEQ, this permit will not be included in the site certificate.	

## Water Quality

Water Pollution Control Facility Permit (WPCF)	
<b>Legal Citations:</b> ORS Chapters 468B.050 <i>et seq.</i> OAR Chapter 340-045-0015 and 0033(5) <i>et seq.</i>	<b>Responsible Agency:</b> <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> WPCF's are required for disposal systems that dispose of domestic or industrial wastes and wastewater onto or beneath the ground surface and with no direct discharge to surface waters. Septic system discharges will be regulated under an individual WPCF Permit. As a federally delegated authority to DEQ, this permit will not be included in the site certificate.	

<b>Pretreatment Agreement</b>	
<b>Legal Citations:</b> 40 CFR 403 OAR 454.020 and ORS 468B.035 OAR 340-45-015 OAR 340-45-063	<b>Responsible Agency:</b> <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> Required when industrial wastewater is discharged to a POTW. The Pretreatment Agreement ensures that the POTWs control their discharges and meet limits established by the EPA. Approved pretreatment programs in Oregon are managed by local governments including sewerage collection and treatment agencies, cities, and counties. The ODEQ has the authority to approve pretreatment programs at the local level and oversee state-wide pretreatment activities. Required for power plant discharge of industrial wastewater to Port's industrial wastewater discharge pipeline. As a federally delegated authority to DEQ, this permit will not be included in the site certificate.	

<b>Coastal Zone Certification</b>	
<b>Legal Citations:</b> ORS 195 ORS 196 ORS 197 ORS 600	<b>Responsible Agency:</b> <i>State:</i> ODLCD 635 Capitol St. NE, Suite 150 Salem, OR 97301-2540 (503)373-0050 Ext.253
<b>Description and Analysis:</b> Certification required for activities within the area managed under the Coastal Zone Management Act. Because the state exercises authority under delegation from federal law, this certification will not be included in the site certificate.	

<b>Hazardous Waste Activity Notification</b>	
<b>Legal Citations:</b> ORS 466, OAR 340-102-012	<b>Responsible Agency:</b> <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> Hazardous waste generators are required to notify the ODEQ of activities resulting in the generation of hazardous waste. Conditionally Exempt Small Quantity Generator or Small Quantity Generator status anticipated for power plant. This notification will be included in the site certificate.	

<b>Tsunami Inundation Review</b>	
<b>Legal Citations:</b> Building Code Section 1802.1 ORS 455.446 or 517	<b>Responsible Agency:</b> <i>State:</i> Oregon Department of Geology and Mineral Industries 800 NE Oregon Street #28, Suite 965 Portland, OR 97232 (971) 673-1555
<b>Description and Analysis:</b> Required for development activities of specific types of facilities within a tsunami inundation zone. No SDPP facilities will be located in or proposed in the tsunami zone after fill placed onsite. The applicant requests this permit be covered by the Site Certificate.	

### **Archeological Resources**

<b>Archaeological Excavation Permit</b>	
<b>Legal Citations:</b> National Historic Preservation Act (NHPA) 16 USC 470 7 CFR Part 3100 ORS Chapters 97, 358, and 390 ORS Chapter 736, Division 50 OAR 345-022-0090	<b>Responsible Agency:</b> <i>State:</i> Oregon Parks and Recreation Department State Historic Preservation Office (SHPO) 725 Summer Street NE, Suite C Salem, OR 97301 (503) 986-0671
<b>Description and Analysis:</b> SDPP will be constructed on the former linerboard mill site, a previously disturbed industrial site that has no eligible undisturbed historic, cultural or archaeological resources. Cultural Resource surveys were conducted on this site previously and consultation was completed with the SHPO. No eligible sites were recorded. However, if during the construction of the SDPP, an archaeological site is identified, JCEP will apply for the appropriate permit, if necessary. As a federally delegated authority to the state, this permit will not be included in the site certificate.	



## Underground Storage Tanks

Underground Storage Tank Permit	
<b>Legal Citations:</b> ORS 466.750, .760, and .783. OAR 340-150-0020	<b>Responsible Agency:</b> <i>State:</i> Department of Environmental Quality 811 SW 6 <sup>th</sup> Avenue Portland, OR 97204-1390 (503) 229-5696
<b>Description and Analysis:</b> Required for the onsite storage of regulated substances in an underground tank, such as the combustion turbine wash water drain tanks. If applicable, this permit will be included in the site certificate.	

## Local Permits

### Land Use

Site Plan Review	
<b>Legal Citations:</b> Coos County Zoning and Land Development Ordinance and Coos County Comprehensive Plan	<b>Responsible Agency:</b> Coos County Planning Department Coos County Courthouse Annex Coquille, OR 97423 (541) 396-3121 Ext. 21 <a href="mailto:planning@co.coos.or.us">planning@co.coos.or.us</a>  Energy Facility Siting Council Oregon Department of energy 625 Marion Street NE Salem, OR 97301-3737 (503) 378-4040
<b>Description and Analysis:</b> SDPP will be in an industrial zone, where no conditional use permit is necessary. The applicant plans to use the “Path A” approach to comply with the Energy Facility Siting Council’s land use standard. Accordingly, Coos County has the authority to issue land use approvals based on local “applicable substantive criteria.” <u>On November 15, 2012, the Coos County Planning Director approved with conditions the SDPP Site Plan Review application seeking Design and Site Plan review under Article 5.6 and the review of additional regulations for all allowed uses under Article 4.2 of the Coos County Zoning and Land Development Ordinance (CCZLDO) This decision may be appealed. This is the only local land use decision needed for the SDPP.</u>	

**Other Permits and Legal Citations**

Construction of the SDPP will also require compliance with detailed state and local standards such as fire protection, road use, and building codes. Because permits for these activities can only be obtained once detailed engineering design is complete, such actions do not typically fall within the purview of the Site Certification process. Therefore, these potential permits are not listed within this exhibit.

## **Exhibit F**

**A list of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within or adjacent to the site boundary as defined in OAR 345-001-0010. In addition to incorporating the list in the NOI, the applicant shall submit the list to the Department of Energy in electronic format acceptable to the Department for the production of mailing labels. Property adjacent to the site boundary means property that is:**

**(A) Within 100 feet of the site boundary where the site, corridor or micrositing corridor is within an urban growth boundary;**

**(B) Within 250 feet of the site boundary where the site, corridor or micrositing corridor is outside an urban growth boundary and not within a farm or forest zone; and**

**(C) Within 500 feet of the site boundary where the site, corridor or micrositing corridor is within a farm or forest zone;**

The South Dunes Power Plant obtained lists from Coos County in October 2011 of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within or adjacent to the site boundary as defined in OAR 345-001-0010. SDPP will submit the list to the Department of Energy in electronic format acceptable to the Department for the production of mailing labels.

Appendix F-1 contains a table that provides a listing of the owners of property located within or adjacent to the proposed site.

**Appendix F-1**  
**Names and Addresses of Adjacent Landowners**

**Oregon Department of State Lands**

775 Summer Street NE  
Suite 100  
Salem, OR 97301-1279

**Oregon International Port of Coos Bay**

125 Central Avenue  
Suite 300  
Coos Bay, OR 97420

**Oregon Dunes National Recreation Area**

Siuslaw National Forest  
3200 SW Jefferson Way  
Corvallis, Oregon 97331  
541-750-7000  
Fax: 541-750-7234

**Roseburg Forest Products**

P.O. Box 1088  
Roseburg, OR 97470

**U.S. Bureau of Land Management**

Coos Bay Office  
1300 Airport Lane  
North Bend, OR 97459  
541-756-0100  
Email: [BLM OR CB Mail@blm.gov](mailto:BLM_OR_CB_Mail@blm.gov)

**Weyerhaeuser NR Company**

Attn: Rick Little  
CH1 L30  
P.O. Box 9777  
Federal Way, WA 98063-9777

**Coos County Roads Department**

1281 W. Central  
Coquille, OR 97423

## **Exhibit G**

### **A map or maps showing:**

**(A) The proposed locations of the energy facility site, all related or supporting facility sites and all areas that might be temporarily disturbed during construction of the facility in relation to major roads, water bodies, cities and towns, important landmarks and topographic features.**

See map labeled “Facility Sites.”

**(B) The proposed locations of the corridors the applicant has identified under subsection (d) in relation to major roads, water bodies, cities and towns, important landmarks and topographic features.**

No corridors that were jurisdictional to EFSC have been identified, and therefore this section is not applicable.

**(C) The study area(s) for the proposed facility as defined in OAR 345-001-0010.**

For impacts to federally-listed threatened or endangered plant and animal species (OAR 345-001-010(59)(a)), see the map labeled “Federal Status Threatened or Endangered Species.”

For impacts to state-listed threatened or endangered plant and animal species (OAR 345-001-010(59)(a)), see the map labeled “State Status Threatened or Endangered Species.”

For impacts to scenic resources and public services (OAR 345-001-010(59)(b)), see the map labeled “Scenic Resources and Public Services.”

For land use impacts and impacts to fish and wildlife habitat (OAR 345-001-010(59)(c)), see the map labeled “Land Use, Fish, and Wildlife Habitat.”

For impacts to recreational facilities opportunities (OAR 345-001-010(59)(d)), see the map labeled “Recreational Opportunities.”

For impacts to protected areas (OAR 345-001-010(59)(e)), see the map labeled “OAR Protected Areas.”

**(D) The topography of the study area(s) including streams, rivers, lakes, major roads and contour lines.**

See the map labeled “Study Areas Topography.”

**(E) All protected areas in the study area as defined in OAR 345-001-0010 for impacts to protected areas.**

For impacts to protected areas, see the map labeled “OAR Protected Areas.”

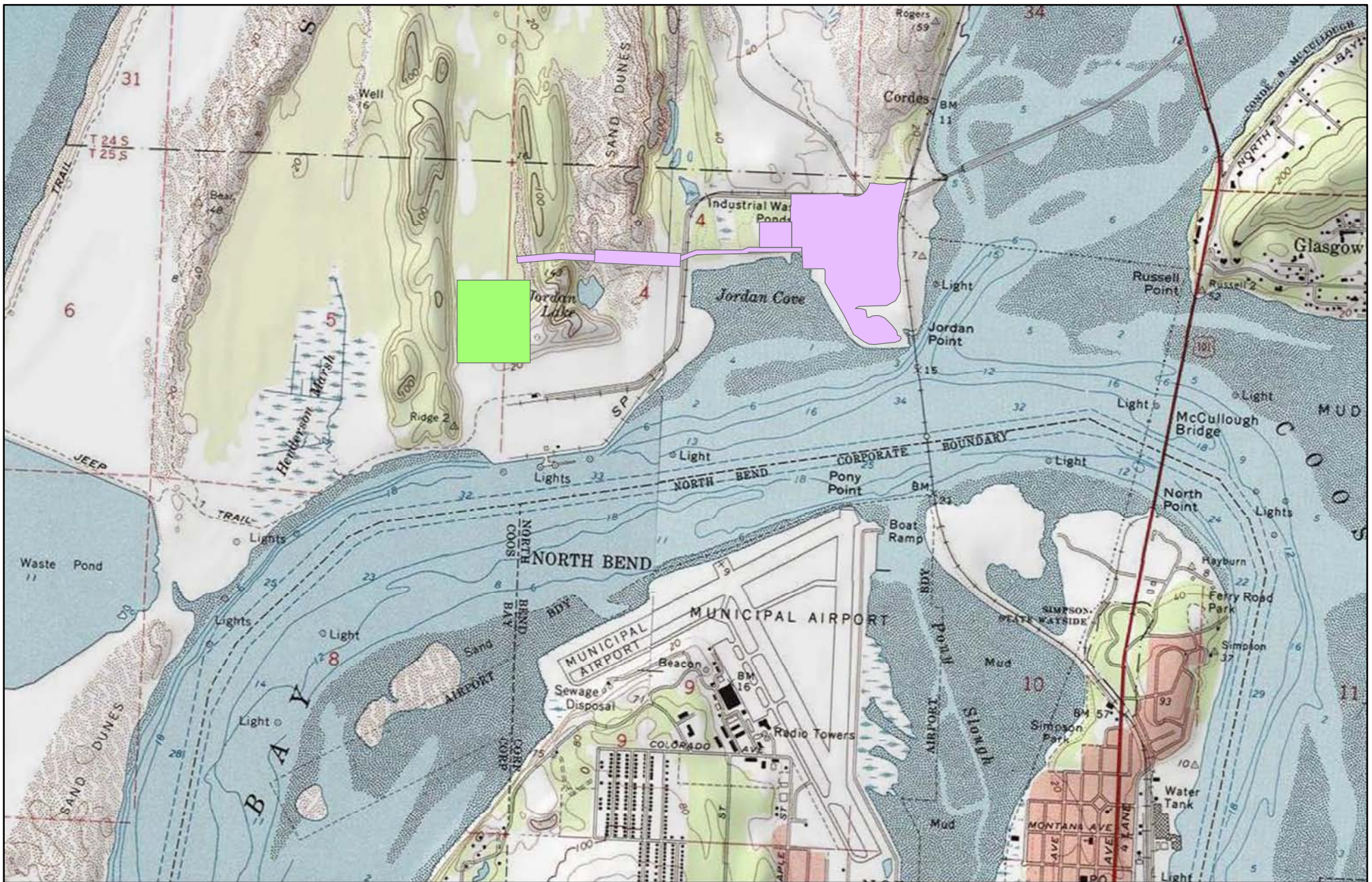
**(F) The location of any potential waters of the state or waters of the United States that are on or adjacent to the site.**

For locations of any potential waters of the state or waters of the United States that are on or adjacent to the site, see the map labeled “Facility Sites.”

**(G) For energy generation facilities, the approximate locations of any other energy generation facilities that are known to the applicant to be permitted at the state or local level within the study area as defined in OAR 345-001-0010 for impacts to public services.**

There are no other generation facilities to be permitted at the state or local level within the study area. Therefore, this section is not applicable.





CHN:GIS/ITC Atlanta/Jordan Cove Resource Report/South Dunes Power Plant/mxd/NOT/Exhibit G Facility Sites.mxd

- Construction Facilities
- Temporary Construction Facilities

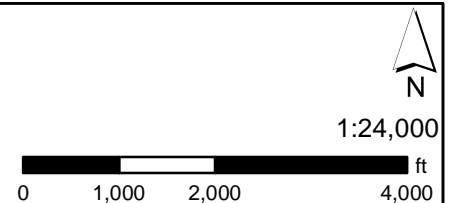


7/25/2012

## Exhibit G

### Facility Sites

### South Dunes Power Plant

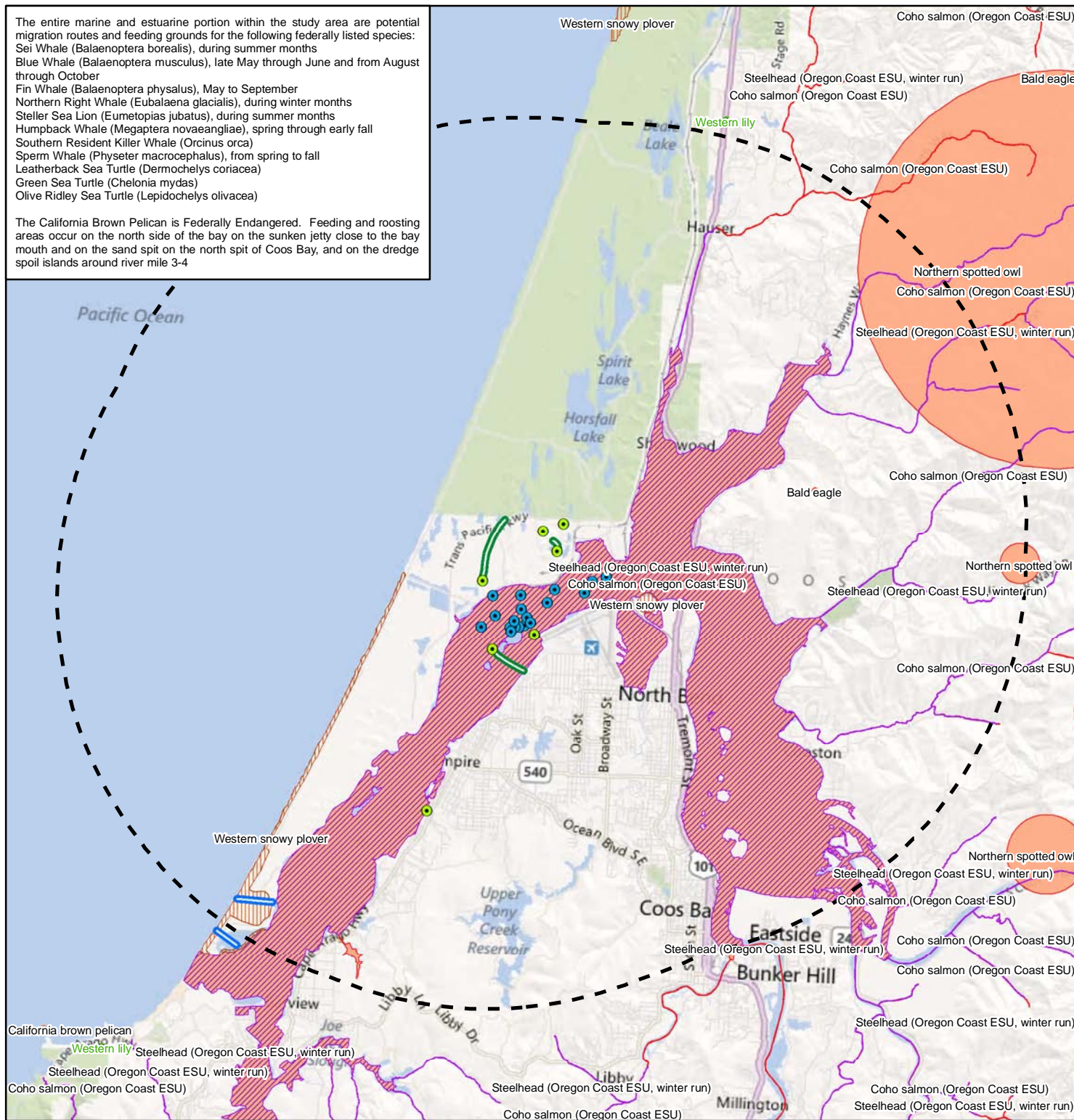




The entire marine and estuarine portion within the study area are potential migration routes and feeding grounds for the following federally listed species:

- Sei Whale (*Balaenoptera borealis*), during summer months
- Blue Whale (*Balaenoptera musculus*), late May through June and from August through October
- Fin Whale (*Balaenoptera physalus*), May to September
- Northern Right Whale (*Eubalaena glacialis*), during winter months
- Steller Sea Lion (*Eumetopias jubatus*), during summer months
- Humpback Whale (*Megaptera novaeangliae*), spring through early fall
- Southern Resident Killer Whale (*Orcinus orca*)
- Sperm Whale (*Physeter macrocephalus*), from spring to fall
- Leatherback Sea Turtle (*Dermochelys coriacea*)
- Green Sea Turtle (*Chelonia mydas*)
- Olive Ridley Sea Turtle (*Lepidochelys olivacea*)

The California Brown Pelican is Federally Endangered. Feeding and roosting areas occur on the north side of the bay on the sunken jetty close to the bay mouth and on the sand spit on the north spit of Coos Bay, and on the dredge spoil islands around river mile 3-4



# Exhibit G Federal Status Threatened or Endangered Species South Dunes Power Plant

7/24/2012

## Federal Status

### Bird Occurrences

- Bald Eagle, threatened
- Brown Pelican, endangered

### Flight-Path

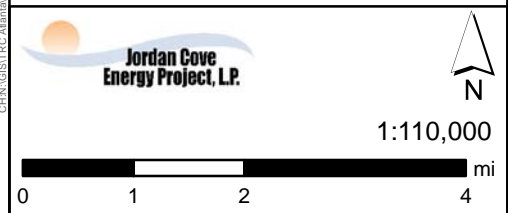
- Bald eagle
- Brown pelican
- Western Snowy Plover, threatened

### Plants

- Endangered

### Animals

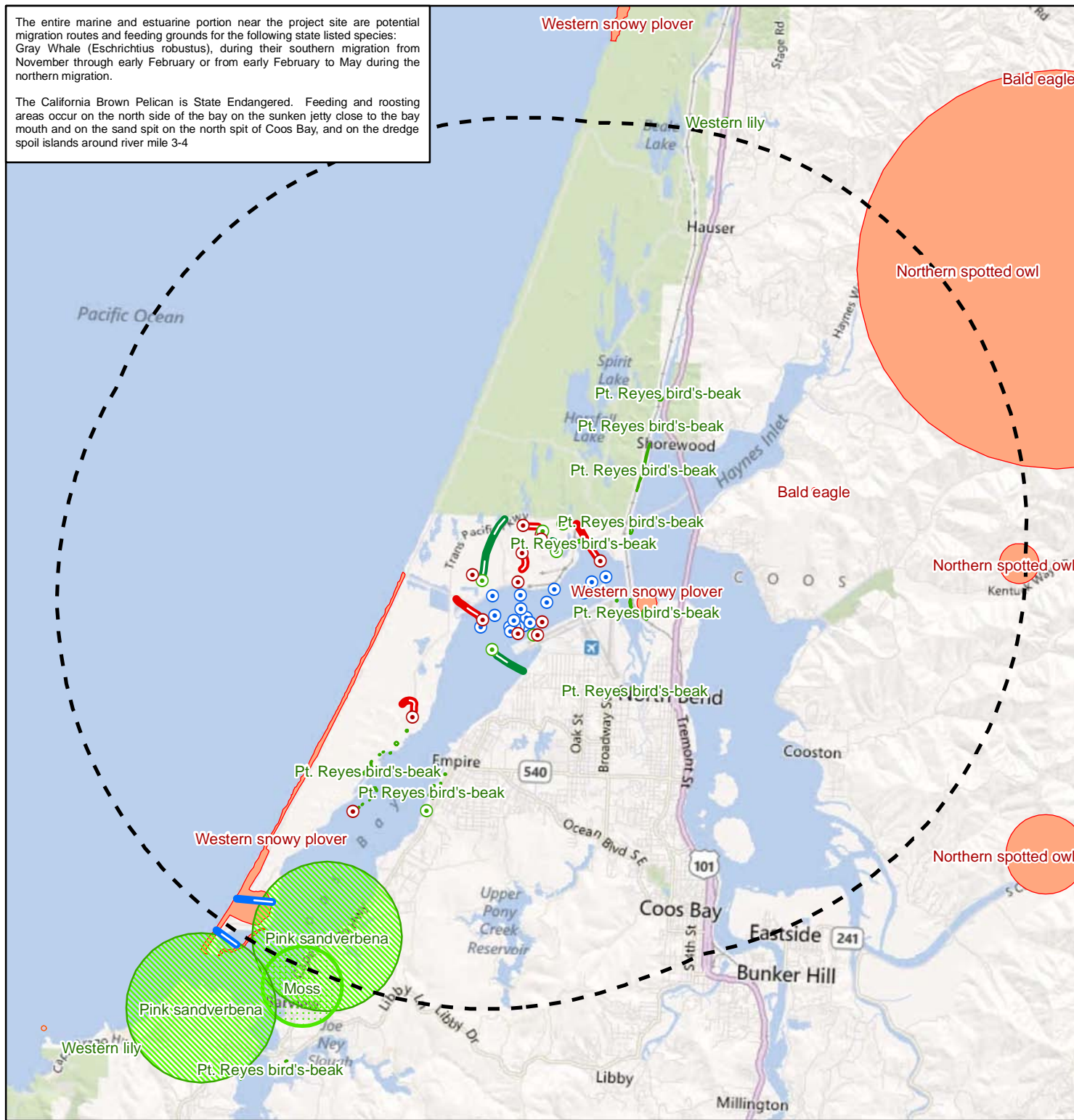
- Candidate
- Candidate/Species of Concern
- Endangered
- Threatened
- Partial Status:Threatened
- 5 mile Study Area





The entire marine and estuarine portion near the project site are potential migration routes and feeding grounds for the following state listed species: Gray Whale (*Eschrichtius robustus*), during their southern migration from November through early February or from early February to May during the northern migration.

The California Brown Pelican is State Endangered. Feeding and roosting areas occur on the north side of the bay on the sunken jetty close to the bay mouth and on the sand spit on the north spit of Coos Bay, and on the dredge spoil islands around river mile 3-4



## Exhibit G

### State Status Threatened or Endangered Species

#### South Dunes Power Plant

7/24/2012

#### State Status

##### bird occurrences

- Bald Eagle, threatened
- Brown Pelican, endangered
- Peregrine Falcon, endangered

##### flight-path

- Bald eagle
- Brown pelican
- Peregrine falcon

##### plants

- Candidate
- Endangered
- Threatened

##### animals

- Endangered
- Threatened

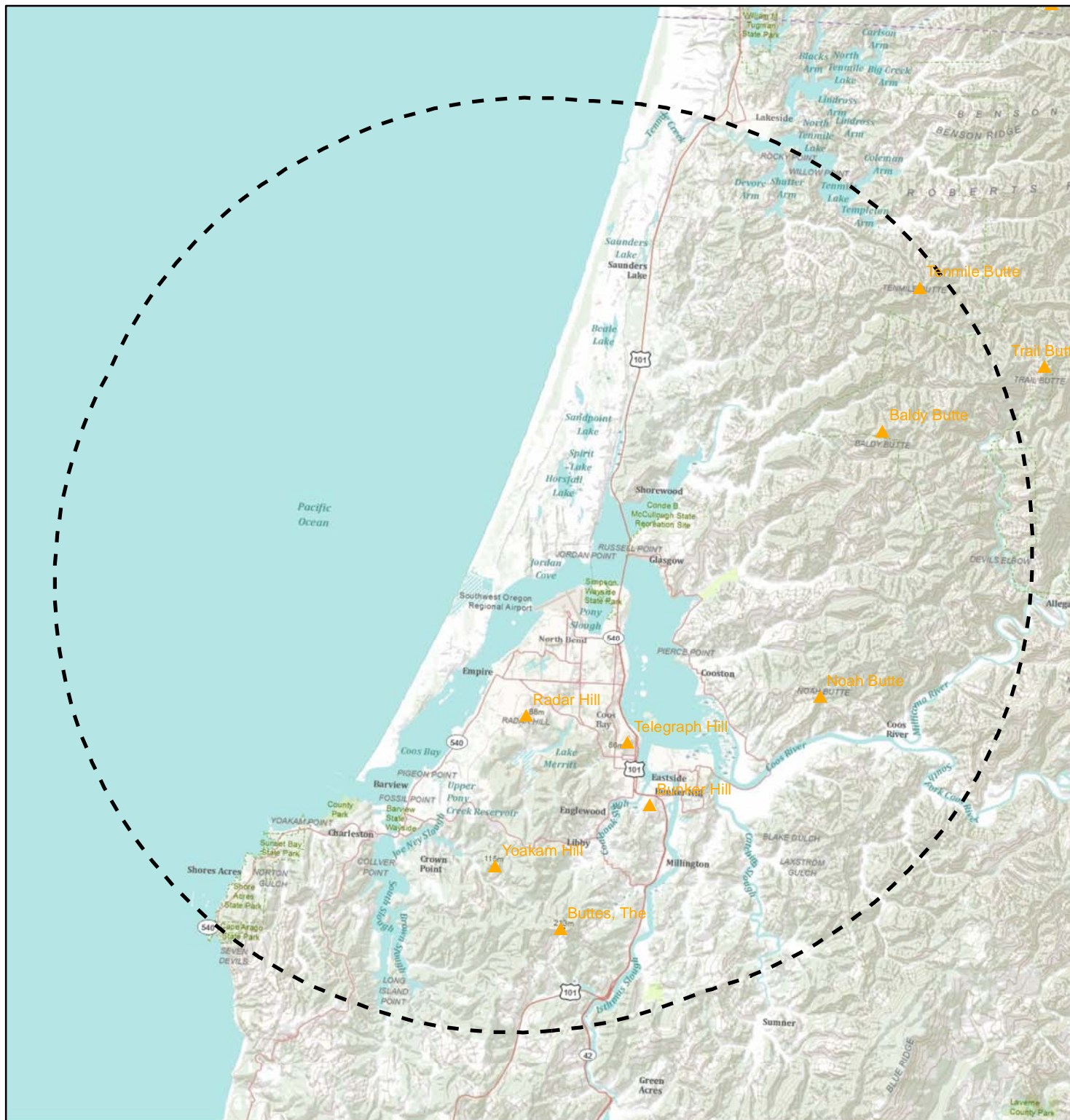
5 mile Study Area

Jordan Cove Energy Project, L.P.

1:110,000

0 1 2 4 mi

## 7/24/2012



▲ Mountain Peaks  
 10 mile Study Area



1:200,000  
mi  
7

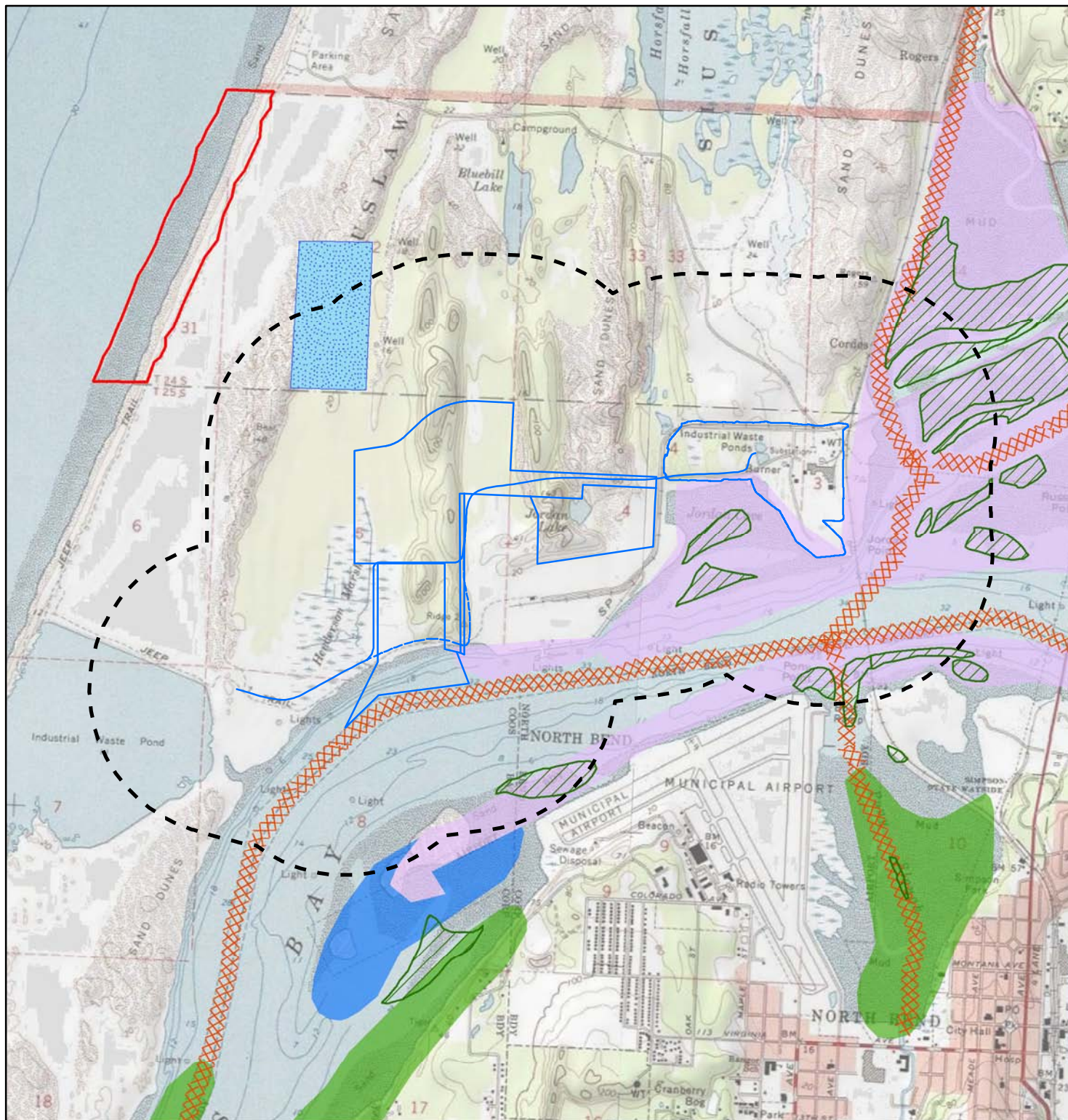


# Exhibit G

## Land Use, Fish, and Wildlife Habitat

### South Dunes Power Plant

7/24/2012

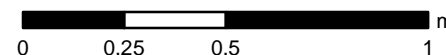


- Site Boundary
  - 0.5 mile Study Area
  - Snowy Plover, seasonal closure
  - Weyerhaeuser Mitigation Wetlands
  - Submerged Aquatic Vegetation
  - Chinook, Coho, Steelhead
- shellfish**
- Oyster
  - Razor clam
  - Shrimp

The entire wetted area is designated critical habitat for Green Sturgeon by the US Fish and Wildlife Service



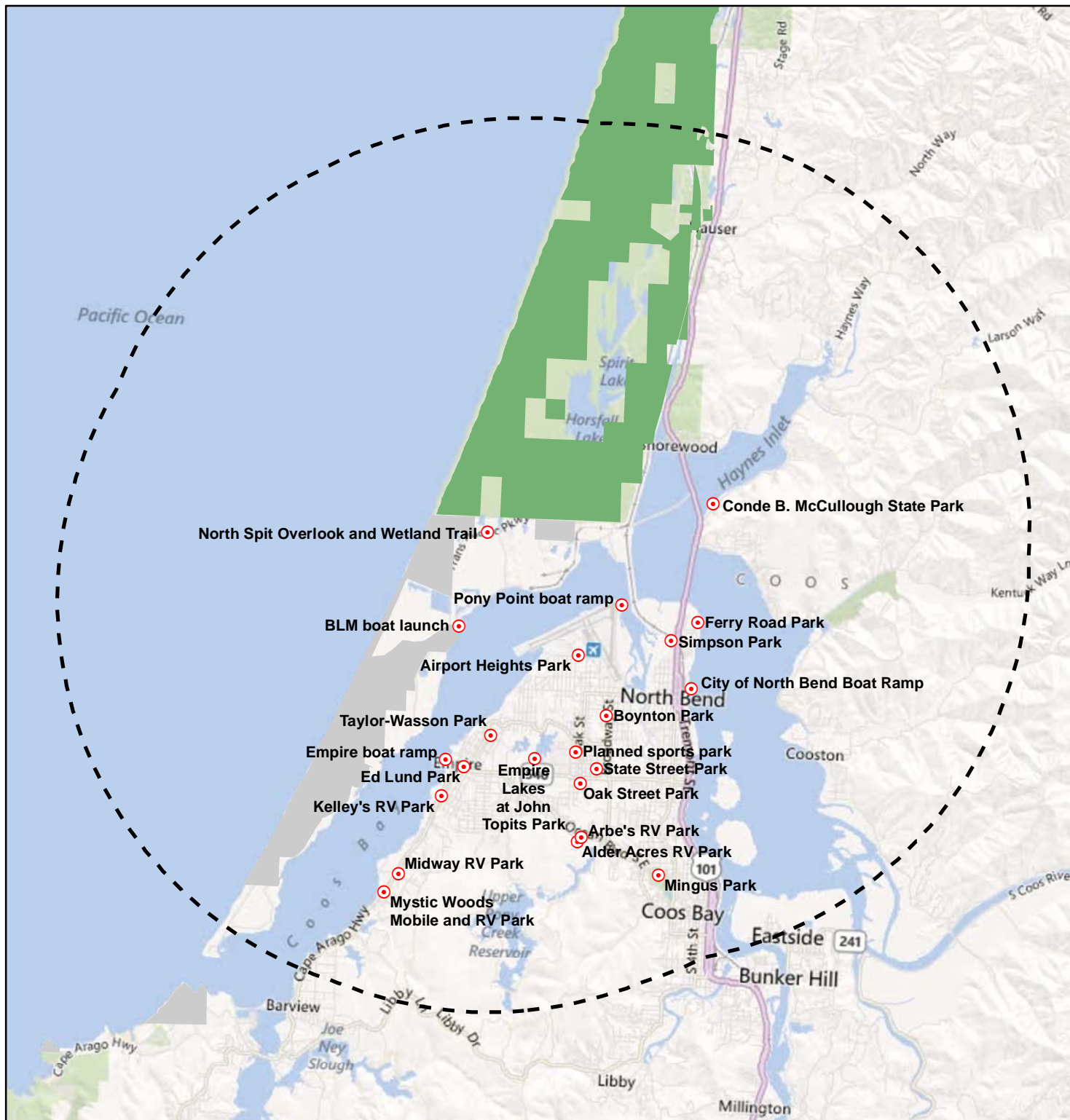
1:30,000





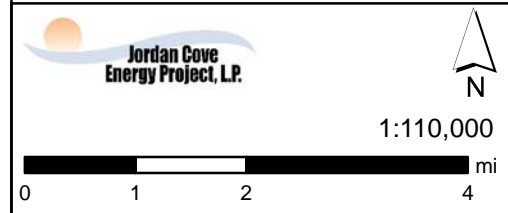
# Exhibit G Recreational Opportunities South Dunes Power Plant

7/24/2012



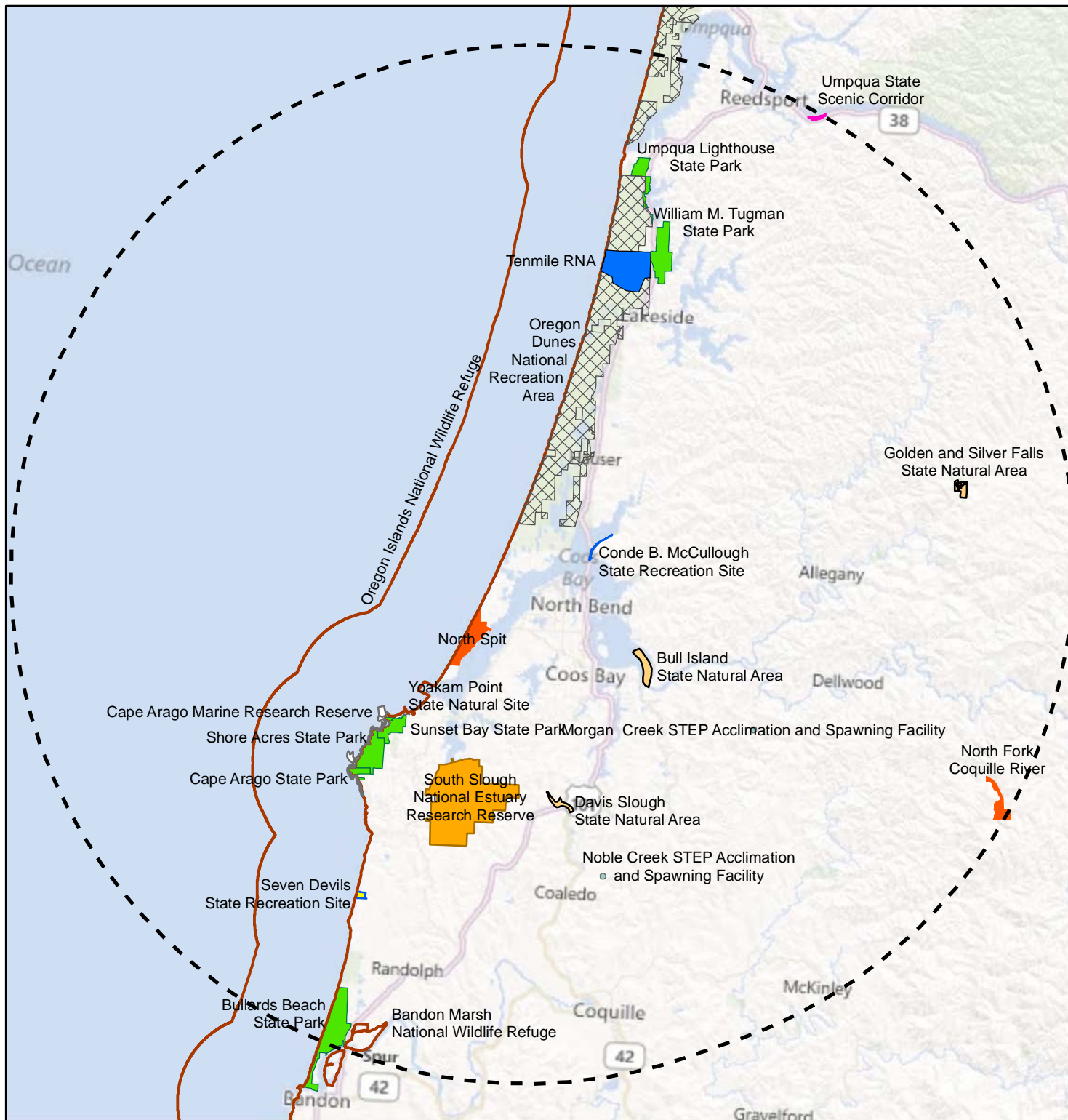
- Recreation points
- Siuslaw National Forest
- Oregon Dunes NRA
- Coos Bay Shorelands Special Recreation Management Area
- 5 mile Study Area

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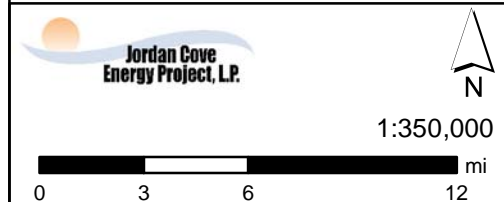
# **Exhibit G** **OAR Protected Areas** *South Dunes Power Plant*

7/24/2012



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- 20 mile Study Area
- Area of Critical Environmental Concern
- Fish Hatchery Facility
- Marine Research Reserve
- National Estuary Research Reserve
- National Recreation Area
- National Wildlife Refuge
- Research Natural Area
- State Natural Area
- State Natural Site
- State Park
- State Recreation Site
- State Scenic Corridor



**Jordan Cove Energy Project, L.P.**






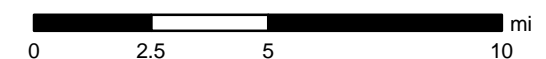
## Exhibit G

### Study Area Topography

#### South Dunes Power Plant

 Study Areas

1:260,000





## **Exhibit H**

**If the proposed facility is a non-generating energy facility for which the applicant must demonstrate need under OAR 345-023-0005, identification of the rule in Division 23 of this chapter under which the applicant intends to demonstrate need and a summary statement of the need and justification for the proposed facility.**

The South Dunes Power Plant is a generating energy facility; therefore, this section is not applicable.

## **Exhibit I**

**A statement indicating whether the applicant intends to satisfy the Council's land use standard, OAR 345-022-0030, by obtaining local land use approval under ORS 469.504(1)(a) or by seeking a Council determination under ORS 469.504(1)(b).**

The applicant intends to satisfy the land use standard by obtaining local land use approval (Path A).



## Exhibit J

**Identification of significant potential environmental impacts of construction and operation of the proposed facility on the study areas, including those impacts affecting air quality, surface and ground water quality and availability, wildlife and wildlife habitat, threatened and endangered plant and animal species, historic, cultural and archaeological resources, scenic and aesthetic areas, recreation, and land use.**

### Air Quality

The Oregon Department of Environmental Quality (DEQ) – Air Quality Division – administers the Title V Air Permit program, including the federally delegated New Source Review Requirements of the Clean Air Act and the Prevention of Significant Deterioration (PSD) program. The Title IV Acid Rain Monitoring Program is administered by the U.S. Environmental Protection Agency (EPA). An Acid Rain Permit Application will be submitted to the EPA. However, the final Acid Rain Permit included with DEQ's Title V Air Permit, Table J-1, provides preliminary estimates of uncontrolled emissions for NO<sub>x</sub>, CO, SO<sub>2</sub>, PM<sub>10</sub>, VOC, CO<sub>2</sub> from the 420 megawatts (MW) SDPP and LNG Plant sites. These estimates may change, depending on the type of turbine selected and type of pollution control equipment used at the power plant. JCEP intends to apply for one air permit for both plants.

Table J-1. Preliminary Emissions Estimates (uncontrolled)

Pollutant	Estimated Emissions (tons per year)	Estimated Emissions LNG Plant (TPY)
	Power Block	
NO <sub>x</sub>	<del>147</del> 155	0
CO	<del>3,025</del> 3,164	0
SO <sub>2</sub>	<del>25</del> 52	0
PM <sub>10</sub>	<del>230</del> 369	0
VOC	390	253
CO <sub>2</sub>	<del>1,732,000</del> 1,992,000	0

#### Notes:

1. The NO<sub>x</sub> estimates include effect of SCR catalyst.
2. The sulfur in the fuel is assumed to be 1 gr/100 SCF.
3. The emissions correspond to power facility net output of 420 MW.

The necessary information will be submitted to DEQ to:

- Determine compliance with the New Source Performance Standards for the combustion systems;
- Evaluate Best Available Control Technology (BACT) for the pollution control equipment proposed to control regulated pollutants that would be emitted in significant quantities; and,
- Ensure that all air quality requirements are met (State and Federal Ambient Air quality Standards, PSD increments, and Air quality-Related Values).

The SDPP will be constructed and operated in compliance with the air permit issued by DEQ. Therefore, no significant environmental impacts to air quality are anticipated as a result of construction and operation of the SDPP or associated components.

### **Water Resources – Potential Impacts to Surface and Groundwater Quality and Use**

Storm water runoff will occur during both construction and operation. Runoff will be managed according to the requirements of the DEQ National Pollutant Discharge Elimination System (NPDES) 1200-C and 1200-Z Permit requirements. Storm water that sheet flows over the site and does not come into contact with any hydrocarbon sources will be directed to natural drainage. Storm water or process waters that come into contact, or have the potential to come into contact with hydrocarbons, will be diverted to an oil/water separator before discharge to the Port's existing industrial wastewater pipeline.

Wastewaters from the operation of the SDPP will include sanitary wastewater, heat recovery steam generator blowdown, neutralized demineralizer water treatment wastes, filter backwash, and combustion turbine water wash wastes. Sanitary waste water will be treated in an onsite septic/leach field system. HRSG blowdown, neutralized demineralizer wastes, and filter backwash will be collected and tested to determine if treatment is required before disposal. Once the composition of the waste is determined and appropriate treatment methods applied, the water will be discharged to the Port's wastewater pipeline.

All water for the SDPP will be obtained from the Coos Bay North Bend Water Board.

### **Wildlife and Wildlife Habitat**

The proposed SDPP site is the former location of a linerboard mill that was demolished in 2006. Only the concrete pad foundation of the former linerboard mill remains. As such, the majority of the SDPP site is devoid of vegetation and lacks suitable wildlife habitat, or contains areas that were maintained during the operational life of the mill and are now limited to herbaceous vegetation.

However, the parts of the former linerboard mill site property that will not be affected by the SDPP contain a number of plant communities with potential wildlife habitat. The western third and the eastern side of the linerboard mill site property are forested with the tree canopy dominated by shore pine, Douglas fir, Sitka spruce, and red alder. The forested area also contains hydrophytic forest communities interspersed in the upland forest. Potential effects on wildlife would be the loss of habitat, temporary displacement during construction, or potential introduction of non-native invasive species. Each of these potential effects can be mitigated or avoided with the implementation of appropriate best management practices.

The central part of the SDPP site, as well as areas outside of the site, is comprised of an upland grass community, comprised primarily of grass and herbaceous species (tall fescue, hairy cat's ear, brome, sweet vernalgrass, vetch, Queen Anne's Lace, Kentucky bluegrass, bedstraw, and poison hemlock). Two wastewater treatment ponds occur adjacent to the former linerboard site. These ponds provide some aquatic floating and emergent plants and are frequented by a small number of waterfowl species. These ponds are part of a site remediation plan between Weyerhaeuser and the State of Oregon and are scheduled to be closed (filled) before the land ownership changes; hence, these will be filled prior to construction of the SDPP. There is also a community of salt-tolerant herbaceous species in brackish water areas connected to Coos Bay and subject to tidal influence. None of these areas will be affected by the SDPP.

### **Endangered, Threatened, and Sensitive Plant and Animal Species**

The SDPP site, as a previously disturbed industrial site, has extremely low potential for the occurrence of endangered, threatened, and sensitive plant and animal species. Surveys previously conducted on the site and adjoining areas have confirmed the absence of endangered, threatened, and sensitive plant and animal species. Only one of the five federal and/or state threatened or endangered species (Point Reyes bird's beak) was observed in the area, and it occurred outside the SDPP site area on land adjacent to the western side of Jordan Cove. Wildlife species reported to occur within the vicinity of the SDPP site include California brown pelican, bald eagle, American Peregrine falcon, western snowy plover, marbled murrelet, northern spotted owl, streaked horned lark, northern sea lion, killer whale, and fisher. None of these species breeds on the site.

During the evaluation of potential effects of the JCEP LNG plant on endangered, threatened, and sensitive plant and animal species, the Oregon Department of Fish and Wildlife (ODFW) expressed a concern that a construction site could be an attractant to predator species (such as raccoons, crows, and ravens) of the western snowy plover. Best management practices and conservation measures were developed with the ODFW and the U.S. Fish and Wildlife Service, and these would be applicable to the SDPP, so that potential adverse effects are minimized.

### **Historic, Cultural, and Archaeological Resources**

Previous archaeological investigations at Coos Bay and on the upper North Spit have identified a potential historic ranch site with a Native American shell midden along the shoreline of Jordan Cove, but not in an area of the SDPP site where the power plant and associated facilities will be constructed. The buried site consists of a small shell midden with abundant fish bone and limited lithic materials, as well as a historic bottle glass component buried at least 75 cm deep along the shoreline. This site was identified in 2006 as part of the Pacific Connector Gas Pipeline cultural resource surveys, and it is not clear if the site extends under the nearby portion of an old access road to Jordan Cove Road. The only potentially adverse effect of the SDPP on this site could result from the corridor that will connect the SDPP to the LNG plant, which is not within EFSC jurisdiction. Additional surveys will be conducted in this area once the corridor is further designed.

The linerboard mill site, location of the SDPP site, is comprised of concrete slabs and foundations for the demolished mill. As such, there are no historic, cultural, and archaeological resources that could be affected by the SDPP. Areas outside of the remaining impervious slab and foundation of the linerboard mill site have been disturbed by past activities, such as dredged material disposal and wind and shoreline erosion.

### **Scenic/Aesthetic – Potential Impacts to Visual Resources**

The SDPP site will be located on a previous linerboard mill site in an industrial area, adjacent to the existing Roseburg Forest Products Company wood chip export facility. While the linerboard mill has been torn down, the scenic vista as viewed from across the bay would include the Southwest Oregon Regional Airport, Highway 101 bridge (McCollough Bridge), a rail bridge across the bay, and the Roseburg Forest Products wood chip export terminal. To the north of the industrial facilities and serving as a backdrop are the sand dunes of the Horsfall National Recreation Area that is used extensively by dune buggy riders. The SDPP will be consistent visually with the other industrial elements of the viewshed and will contrast, as do the other industrial elements, with the sand dunes of the recreation area, at least when viewed from across the bay. It is anticipated that the SDPP will be less visually intrusive than the linerboard mill when it was in operation.

### **Recreation – Potential Impacts to Any Adjacent Recreation Areas**

The SDPP site is an abandoned and demolished linerboard mill site that was privately owned with restricted access and offered little to no recreation potential to the general public. There was and still is a small recreation area that was available to the plant workers. Since the mill has been demolished and the site is still privately owned with no access for the general public, there is still no recreational potential afforded by the site.

The SDPP site is directly to the south of a National Recreation Area, and road access to both is from the Trans Pacific Parkway. The present site activities have no potentially adverse effects on the recreation area, as there is limited to no traffic to the site and the entrance to the National Recreation Area is not directly adjacent to the entrance to the mill site. During construction, there may potentially be some conflicts between construction worker traffic and recreational vehicles, specifically during the dune buggy season. Based on consultations with the Oregon Department of Transportation, traffic control measures will be implemented to alleviate traffic congestion during the recreation season and during shift changes at the peak construction periods.

### **Land Use**

The SDPP would be constructed on an industrial area, and as such, is consistent with the current land use of the site, which has been industrial with the former linerboard mill. Its proximity to another industrial site, the Roseburg Forest Products Company wood chip export facility and its potential for access to the Coos Bay Navigation Channel are indicative that the site would remain industrial, in terms of future development.

# **Exhibit K**

## **Information about significant potential adverse impacts of construction and operation of the proposed facility on the ability of communities in the study area to provide the services listed in OAR 345-022-0110.**

This exhibit discusses the impact of the construction and operation of the South Dunes Power Plant on sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.

### **Sewage treatment**

During construction, all sanitary waste will be handled with portable facilities that will be maintained on a periodic basis with the periods to be determined following initial usage and adjusted according to the workforce on the SDPP site at a given time. Sanitary wastes collected during periodic maintenance will be hauled off site to a permitted disposal facility. During operation, the sanitary waste needs of the personnel working at the SDPP will be handled through an onsite septic system to be constructed and operated under state and local permits and requirements. Any periodic maintenance of the septic system will be handled by permitted contractors, and wastes disposed at permitted facilities.

### **Water**

Water will be provided by the Coos Bay North Bend Water Board through their municipal system, which has the capacity to provide approximately 4,000 gpm.

The North Bend Water Board operates the Dunes well field which was originally developed to supply water to the linerboard mill. Currently this system supplies approximately 500,000 gallons per day to the remaining treatment systems on the linerboard mill site. This water flows from the remaining treatment systems from the linerboard mill through the industrial wastewater pipeline and out the diffusers in the ocean outfall.

### **Storm water drainage**

Storm water that sheet flows over the site and does not come into contact with any hydrocarbon sources will be directed to natural drainage. Storm water that comes into contact, or has the potential to come into contact with hydrocarbons, will be diverted to an oil/water separator before discharge to the Port's existing industrial wastewater pipeline.

### **Solid waste**

Solid waste generated during construction will be collected, and hazardous materials will be segregated from non-hazardous materials and kept in separate storage areas until removed from the Project site by a licensed hauler to a landfill permitted to accept the waste. The use of

hazardous materials will be kept to a minimum and wastes will be recycled to the extent practical.

### **Housing**

It is estimated that an average of 500 workers would be at the SDPP site during the 24 month construction. Somewhere between 40% and 60% of the construction workers would be hired locally, thus creating no housing issue for those workers. As work progresses, it is estimated that the average worker would be on site for about 12 months. In that situation, it is unlikely that workers would seek permanent dwelling accommodations but would take up many of the temporary housing opportunities available within a commuting distance of the SDPP site.

Coos County population grew by a negligible amount (0.4%) between 2000 and 2010, but it is still about 1,000 residents below its 1980 population. A survey conducted in 2009 indicated that of the existing housing stock in Coos County, a vacancy rate of 9.4% existed, or about 1,650 non-seasonal vacancies in housing units available for workers. In addition, there are about 2,600 available motel and other temporary housing units within reasonable driving distance (35 miles) of the SDPP site.

Many workers from out of the local area are expected to bring campers or trailers and use the many campgrounds and trailer parks for their housing during construction.

In summary, there is adequate housing stock in the Coos Bay/North Bend area to accommodate the work force during construction of the SDPP. Operation of a gas fired power plant involves relatively few people, approximately 30 people per shift, 3 shifts per day, amounting to a total permanent workforce of about 90 people. Housing in the Coos Bay/North Bend area should be able to accommodate this workforce without significant or adverse impacts.

### **Traffic safety**

Access to the SDPP site is via the Trans Pacific Parkway, which provides access to each of the industries on the north shore of the bay, as well as to the National Recreation Area. Trans Pacific Parkway intersects with Highway 101. This intersection is not signalized and during peak hours could pose a potential traffic congestion point, especially during the height of the recreation season on the North Spit. This potential problem area was also recognized during the analysis of the proposed LNG plant, and JCEP is working with the Oregon Department of Transportation and Coos County to develop methods to mitigate the potential traffic congestion situation.

During construction of the SDPP and LNG plant, the US Highway 101/Trans Pacific Parkway interchange will be signalized. There will be no need for additional police services to assist in the direction of traffic at the SDPP site entrance on Trans Pacific Parkway or at the intersection of Transpacific Parkway and Highway 101.

### **Police and fire protection**

Depending on the schedule and timing of the construction of the SDPP with the LNG plant, the applicant will be establishing an emergency response station along the North Spit that will be equipped to handle situations that could occur during the construction of the SDPP. Since the LNG plant will not be in operation during this period, the personnel and equipment resources could be temporarily re-allocated to the SDPP, until the LNG plant is in operation. Once the LNG plant is in operation, the primary mission of the personnel in this station will be to provide first responder needs to both the LNG plant and the SDPP and it is unlikely that any additional resources will be required that would degrade the level of service provided to Coos County, North Bend, or Coos Bay.

### **Health care**

An analysis of the available health care resources in Coos Bay and North Bend was conducted as part of the analysis of the proposed LNG plant and its potential effect on the available resources during both the construction and operation phases. The analysis indicated that the available health care resources can handle the routine medical emergencies that commonly occur during the construction and operation of a project on the scale of the LNG plant without taxing the available resources or lowering the level of care that is currently available to Coos Bay and North Bend. Since both the construction and operation of the SDPP involve fewer personnel than the LNG plant, it is anticipated that the situation would be the same for the SDPP. More complicated cases would be dealt with through medical evacuation to resources in Portland or other larger cities nearer to Coos Bay and North Bend.

The Bay Area Hospital in Coos Bay is an accredited medical facility, now completing a major expansion. It is capable of handling all routine and all but the most severe emergency medical needs of personnel during construction and operation of the SDPP.

### **Schools**

The nearest school to the SDPP site is Oregon Virtual Academy, about 1.5 miles south of the site in North Bend. At that distance, it is unlikely that the construction and operation of the SDPP would have any effect on the school.



Given the temporary nature of the SDPP construction project, it is unlikely that many of the non-local construction work force would take up residence with their school-age children, adding to the number of school attendees in the Coos Bay/North Bend area. In any case, the school districts in the area have adequate space to accommodate the children of construction workers.

It is not known what percentage of permanent SDPP personnel would come from the local area, but in any case the local schools have adequate resources to serve their school-age children.

## **Exhibit L**

**Information about anticipated water use during construction and operation of the proposed facility, including:**

**(A) A description of each source of water and the applicant's estimate of the amount of water the facility will need from each source;**

The sole water source for construction and operation of the South Dunes Power Plant will be potable supply from the Coos Bay North Bend Water Board. Construction uses will be mainly equipment or system flushing, chemical cleaning, steam blows, and dust control over the 24 month construction period. Steam system condenser cooling, typically a large water use system, will instead use air-cooled condensers, which will substantially minimize plant water use. Normal operational uses will be potable/service water, power augmentation (SPRINT) system, NOx emissions control (injection) system, and steam cycle makeup; an occasional use will be combustion turbine compressor cleaning. Average daily operational uses are estimated at 807,840 gallons per day; maximum daily use at ~~925,920 gpd~~ 1.03 million gallons per day.

**(B) If a new water right is required, the approximate location of the points of diversion and the estimated quantity of water to be taken at each point;**

The applicant will not require new water rights (permits) during construction or operation of the SDPP. Water supply will be by contract with the Coos Bay North Bend Water Board.

**(C) For operation, the source of cooling water and the estimated consumptive use of cooling water, based on annual average conditions.**

Dry, air-cooled condenser cooling will not require a continuous supply of cooling water. Periodic supplements may be required during maintenance.

## Exhibit M

**If the proposed facility would emit carbon dioxide, an estimate of the gross rate of carbon dioxide emissions, a table listing all the factors that form the basis for calculating the estimate, and a statement of the means by which the applicant intends to comply with the applicable carbon dioxide emissions standard under OAR 345-024-560, OAR 345-024-600, or OAR 345-024-630.**

It is estimated that the South Dunes Power Plant would emit a maximum of approximately ~~1.73~~ 1.99 million tons of carbon dioxide (CO<sub>2</sub>) per year, using a scenario of the full year operation of the facility with duct firing at an ambient temperature of ~~99~~ 55 degrees Fahrenheit. This CO<sub>2</sub> emission rate corresponds with the highest estimated heat input for the plant being considered under this Notice of Intent. This emission estimate is based on equation G-4 contained in the Code of Federal Regulations, Title 40 Part 75 (Acid Rain Program), Appendix G. This formula, shown below, would be used according to this federal regulation to report these emissions once the plant is operational.

$$\text{CO}_2 \text{ in tons} = [1040 * H * (1/385) * 44] / 2000$$

Where: H is the heat input in million British Thermal Units per hour (MMBtu/hr) high heating value (HHV), and the remaining factors are constants provided in Title 40 Part 75 Appendix G. For two blocks on natural gas, the heat input rate based on fuel HHV is approximately ~~2,814~~ 3,358 MMBtu/hr for the combustion turbines and approximately ~~495~~ 449 MMBtu/hr for the duct burners. This results in a total of approximately ~~3,309~~ 3,806 MMBtu/hr (HHV) for natural gas operation. Using the above formula yields approximately ~~197~~ 226 tons CO<sub>2</sub>/hr. Assuming plant operation for 8,760 hours per year, this gives a total of ~~1.73~~ 1.99 million tons CO<sub>2</sub>/year for two blocks.

The final plant configuration has not yet been determined, and if a plant with a lower MW capacity is chosen the CO<sub>2</sub> emissions would be less. In addition, the applicant does not plan to continuously fire the duct burners on an average day; therefore, CO<sub>2</sub> emissions would be less than the maximum stated here.

The project intends to comply with the applicable CO<sub>2</sub> emissions standard under OAR 345-024-560, OAR 345-024-600, or OAR 345-024-630 by use of the monetary path.

**Table M-1. CO<sub>2</sub> Emissions Estimate**

Item	Units	Data (2 Units)
Duct Burners		On
Evaporative Coolers		Off
Ambient Air Temperature	°F	<del>90</del> <u>55</u>
Net Plant Output	kW	<del>341,000</del> <u>420,000</u>
Capacity Factor	%	100
Annual Hours of Operation	Hours	8,760
Annual Generation	10 <sup>6</sup> – kWh/yr	<del>2,724</del> <u>3,679</u>
Statutory Life of Plant	Years	30
Total Net Generation for Statutory Life of Plant	10 <sup>6</sup> – kWh	<del>81,731</del> <u>110,376</u>
Heat Input	10 <sup>6</sup> – BTU/hr (HHV)	<del>3,309</del> <u>3,806</u>
Hourly CO <sub>2</sub> = [1040 * H * (1/385) * 44] / 2000	Tons/hr	<del>197</del> <u>226</u>
Annual CO <sub>2</sub>	Tons/yr	<del>1,732,000</del> <u>1,992,000</u>

## Exhibit N

Identification, by legal citation, of all state statutes and administrative rules and local government ordinances containing standards or criteria that the proposed facility must meet for the Council to issue a site certificate, other than statutes, rules and ordinances identified in Exhibit E, and identification of the agencies administering those statutes, administrative rules and ordinances. The applicant shall analyze and describe any problems the applicant foresees in satisfying the requirements of any such statute, rule or ordinance.

### Fish and Wildlife Species

Oregon Threatened and Endangered Species	
<b>Legal Citations:</b> ORS Chapters 496.012 and 506.109 <i>et seq.</i> ORS 564.105(2) ORS 564.105(3) ORS 496.172(2)	<b>Responsible Agency:</b> <i>State:</i> Oregon Department of Fish and Wildlife (ODFW) Habitat Conservation Division 3406 Cherry Avenue NE Salem, OR 97301-4924 (503) 947-6200  Oregon Department of Agriculture Natural Resources Division 635 Capitol Street NE Salem, OR 97301-2532 (503) 986-4716
<b>Description and Analysis:</b> No permit required. The applicant has already completed the appropriate studies to identify the presence or absence of special-status species in the area of the SDPP site.	

<b>ODFW Habitat Mitigation Policy</b>	
<b>Legal Citations:</b> OAR 345-022-0060. OAR 635-415-0025	<b>Responsible Agency:</b> <i>State:</i> Oregon Department of Fish and Wildlife Wildlife Division 3406 Cherry Avenue NE Salem, OR 97301-4924 (503) 947-6200
<b>Description and Analysis:</b> <p>The SDPP will be constructed on the former Weyerhaeuser linerboard mill site, a previously disturbed industrial site that has no suitable wildlife habitat. Nonetheless, SDPP will provide the ODFW with a wildlife habitat category map of the site and will consult with ODFW regarding any impacts to wildlife habitat that cannot be avoided consistent with the ODFW Habitat Mitigation Policy.</p>	

## Cultural Resources

<b>Historic, Cultural or Archaeological Resources Site Assessment</b>	
<b>Legal Citations:</b> OAR 345-022-0090 ORS 358.905(1)(a) ORS 358.905(1)(c) OAR 345-015-0310 ORS 358.920 ORS 192.502(4) ORS 192.501(11)	<b>Responsible Agency:</b> <i>State:</i> Oregon Parks and Recreation Department State Historic Preservation Office (SHPO) 725 Summer Street NE, Suite C Salem, OR 97301 (503) 986-0671
<b>Description and Analysis:</b> <p>The SDPP will be constructed on the former Weyerhaeuser Linerboard Mill site, a previously disturbed industrial site that has no eligible undisturbed historic, cultural or archaeological resources. Cultural Resource surveys were conducted on this site previously, and consultation was completed with the SHPO.</p>	

## Health and Safety

Domestic Water Supply Regulatory Compliance	
<b>Legal Citations:</b> ORS 448.131 OAR 333-061-0050 Coos County ordinances	<b>Responsible Agency:</b> <i>State:</i> Department of Human Resources Drinking Water Program 800 NE Oregon Street, Suite 611 Portland, OR 97232-2162 (503) 986-0671  <i>Local:</i> Coos County Public Health 60 E Second Avenue Coquille, OR 97423 (541) 396-1905
<b>Description and Analysis:</b> The SDPP will comply with all applicable drinking water standards.	

Hazardous Materials Regulatory Compliance	
<b>Legal Citations:</b> ORS Chapters 453, 476, and 479 OAR Chapter 837, Division 90 (Hazardous Materials)	<b>Responsible Agency:</b> <i>State:</i> Office of the State Fire Marshal 4760 Portland Road NE Salem, OR 97305-1760 (503) 378-3473
<b>Description and Analysis:</b> The SDPP will comply with all regulations relating to hazardous materials.	

DEQ Noise Standard Compliance	
<b>Legal Citations:</b> ORS Chapter 467 – Noise Control OAR Chapter 340, Division 35 – Noise Control Regulations OAR 333-061-0050	<b>Responsible Agency:</b> <i>State:</i> Department of Environmental Quality 2020 SW Fourth Avenue Portland, OR 97201 (503) 229-5570
<b>Description and Analysis:</b> Operation of the SDPP will comply with applicable noise standards.	

## Exhibit O

**A schedule stating when the applicant expects to submit an application for a site certificate.**

The applicant intends to submit a preliminary application for a site certificate during the ~~4<sup>th</sup>~~ 1<sup>st</sup> quarter of 201~~2~~3.



## **Exhibit P**

**Evidence of consultation with the State Commission on Indian Services to identify each appropriate tribe to consult with regarding the proposed facility's possible effects on Indian historic and cultural resources.**

On October 12 and 13, 2011, Roy Hemmingway, consultant to the applicant, spoke with Karen M. Quigley, Executive Director of the Legislative Commission on Indian Services, for the purpose of identifying the appropriate tribes to consult with in regard to SDPP's possible effects on Indian historical and cultural resources. The tribes identified by Ms. Quigley are:

1. Confederated Tribes of Siletz Indians,
2. Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, and
3. Coquille Indian Tribe.

## **Glossary of Acronyms and Abbreviations**

AC	Alternating current
ACC	Air-cooled condenser
ACDP	Air contaminant discharge permit
AG	Above ground
BACT	Best available control technology
BOG	Boil off gas
BPA	Bonneville Power Administration
Btu	British thermal unit
CFR	Code of Federal Regulations
CO	Carbon monoxide
CO <sub>2</sub>	Carbon dioxide
CTG	Combustion turbine generator
DEQ	Oregon Department of Environmental Quality
EFSC	Oregon Energy Facility Siting Council
EPA	U.S. Environmental Protection Agency
FERC	Federal Energy Regulatory Commission
gpm	Gallons per minute
HHV	High heating value
HP	High pressure
HRSG	Heat recovery steam generator
JCEP	Jordan Cove Energy Project
KV or kV	Kilovolt
KW or kW	Kilowatt
KWh or kwh	kilowatt-hour
LLC	Limited liability company
LNG	Liquefied natural gas
LP	Limited partnership or low pressure
MMBTU	Million British Thermal Units
MW or mW	Megawatt
NHPA	National Historic Preservation Act
NOI	Notice of Intent
NO <sub>x</sub>	Nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
OAR	Oregon Administrative Rules
ODFW	Oregon Department of Fish and Wildlife
ORS	Oregon Revised Statutes
ppb	Parts per billion
ppm	Parts per million
PCGP	Pacific Connector Gas Pipeline
PM <sub>2.5</sub>	Particulate matter (diameter 2.5 microns or less)
PM <sub>10</sub>	Particulate matter (diameter 10 microns or less)

Port	Oregon International Port of Coos Bay
POTW	Publicly owned treatment works
PSD	Prevention of significant deterioration
PUD	Peoples Utility District
ROW	Right of way
SDPP	South Dunes Power Plant
SHPO	State Historic Preservation Office
site	South Dunes Power Plant site
SO <sub>2</sub>	Sulfur dioxide
STG	Steam turbine generator
UG	Underground
USC	United States Code
VOC	Volatile organic compounds
WPCF	Water pollution control facility

**Appendix A-2**  
**Limited Partnership Agreement**  
(complete copy)

**Appendix A-2**  
**Limited Partnership Agreement**  
(complete copy)

**JORDAN COVE ENERGY PROJECT L.P.**

**LIMITED PARTNERSHIP AGREEMENT**

AMONG

**JORDAN COVE ENERGY PROJECT L.L.C.**

- AND -

**FORT CHICAGO LNG II U.S. L.P.**

- AND –

**ENERGY PROJECTS DEVELOPMENT L.L.C.**

- AND -

**EACH PERSON WHO IS ADMITTED TO THE  
PARTNERSHIP AS A LIMITED PARTNER IN ACCORDANCE  
WITH THE TERMS HEREOF**

July 12, 2005

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## LIMITED PARTNERSHIP AGREEMENT

THIS AGREEMENT made as of the 12<sup>th</sup> day of July, 2005 among JORDAN COVE ENERGY PROJECT L.L.C., a limited liability company incorporated under the laws of the State of Delaware, as General Partner, FORT CHICAGO LNG II U.S. L.P., a limited partnership created under the laws of the State of Delaware, as Limited Partner, ENERGY PROJECTS DEVELOPMENT L.L.C., a limited liability company created under the laws of the state of Colorado, as Limited Partner and each Person who is admitted to the Partnership as a Limited Partner in accordance with the terms hereof.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT IN CONSIDERATION of the covenants and agreements contained in this Agreement, the Partners agree with each other as follows:

### **ARTICLE 1** **INTERPRETATION**

#### **1.1 Definitions**

In this Agreement, except where otherwise specifically provided, the following words have the following meanings:

**"Act"** means the *Delaware Revised Uniform Limited Partnership Act*, as amended or replaced from time to time;

**"Affiliate"** when used to indicate a relationship with a specified Person, means another Person that directly, or indirectly through one or more intermediaries or otherwise, Controls, or is Controlled by, or is under common Control with, such specified Person. A corporation shall be deemed to be an Affiliate of another corporation if one of them is the Subsidiary of the other or if both are Subsidiaries of the same Person or if each of them is directly or indirectly Controlled by the same Person;

**"Agreement"** means this Limited Partnership Agreement made as of the 12<sup>th</sup> day of July, 2005 among Jordan Cove Energy Project L.L.C., as General Partner of the Partnership, Fort Chicago LNG II U.S. L.P. as Limited Partner of the Partnership, Energy Projects Development L.L.C., as Limited Partner of the Partnership and those parties referred to as Limited Partners herein, as from time to time amended, supplemented or restated;

**"Auditor"** means PricewaterhouseCoopers LLP or such other member in good standing of the American Institute of Certified Public Accountants who is appointed from time to time as auditor of the Partnership by the General Partner;

**"Book Depreciation"** means for each Fiscal Year (or other period for which Book Depreciation must be computed), the depreciation, amortization or other cost recovery deduction allowable for federal income tax purposes with respect to an asset, except that,

if the Book Value of an asset differs from its adjusted tax basis at the beginning of the year, Book Depreciation will be an amount which bears the same ratio to Book Value at the beginning of the year as the federal income tax depreciation, amortization, or other cost recovery deduction for the year bears to the beginning adjusted tax basis; provided, however, that if the adjusted tax basis of the asset at the beginning of the year is zero, Book Depreciation will be determined by an Extraordinary Resolution using any reasonable method;

**"Book Value"** with respect to any asset of the Partnership means the asset's adjusted tax basis for federal income tax purposes, except as follows:

- (a) The initial Book Value of any asset contributed to the Partnership by a Partner shall be the fair market value of the asset as of the date of contribution;
- (b) The Book Value of each asset shall be its respective fair market value, as of (i) the issuance of an interest in the Partnership to a new or existing Partner in exchange for a Capital Contribution, (ii) the distribution by the Partnership to a Partner in liquidation of the Partners' interest in the Partnership, and (iii) the liquidation of the Partnership within the meaning of Treasury Regulation Section 1.704-1(b)(2)(ii)(g). The determination of the fair market value of property when required shall be made by the General Partner unless an independent appraiser is selected pursuant to an Extraordinary Resolution;
- (c) The Book Value of each asset distributed to any Partner will be the fair market value of the asset as of the date of distribution;
- (d) The Book Value of each asset will be increased or decreased to reflect any adjustment to the adjusted basis of the asset under Code Section 734(b) or 743(b), but only to the extent that the adjustment is taken into account in determining Capital Accounts under Treasury Regulation Section 1.704-1(b)(2)(iv)(m), provided that the Book Value will not be adjusted under this clause (d) to the extent that an adjustment under clause(b) above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment under this clause; and
- (e) Book Value will be adjusted by Book Depreciation, and gain or loss on a disposition of any asset shall be determined by reference to such asset's Book Value as adjusted herein;

**"Capital Contribution"** means with respect to any Partner, the amount of money and the initial Book Value of any property (other than money) contributed to the Partnership by the Partner;

**"Certificate"** means the certificate of limited partnership for the Partnership filed under the Act and all amendments thereto and renewals, replacements or restatements thereof;

**"Class A Unit Preferred Distribution"** has the meaning set forth in Schedule D;

**"Class B Unit Preferred Distribution"** has the meaning set forth in Schedule E;

**"Class A Units"** means Class A limited partnership units of the Partnership as authorized in Article 3;

**"Class B Units"** means Class B limited partnership units of the Partnership as authorized in Article 3;

**"Class C Units"** means units of any series of Class C limited partnership units of the Partnership as authorized in Article 3;

**"Class C Unit, Series 1"** means the first series of Class C Units, designated "Class C Unit, Series 1, as authorized in Article 3;

**"Code"** means the *Internal Revenue Code* (United States of America) and the regulations thereunder, as amended from time to time;

**"Commercial Operations Date"** means the first date upon which the Facilities first commence operations on a commercial basis (following testing and start-up operations) with respect to which there is a reasonable expectation of the General Partner that customers will be billed and revenue generated on an on-going basis;

**"Confidential Information"** has the meaning set forth in Section 13.2;

**"Contribution Agreement"** means that contribution agreement to be entered into by the Partnership and Energy Projects on the date hereof substantially in the form of Schedule A;

**"Controlled"**: a Person is "Controlled" by another Person or two or more other Persons acting jointly or in concert if:

- (a) in the case of a body corporate, securities entitled to vote in the election of directors of such body corporate carrying more than 50% of the votes for the election of directors are held, directly or indirectly, by or for the benefit of the other Person or Persons, and the votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of such body corporate; or
- (b) in the case of a Person which is not a body corporate, more than 50% of the voting or equity interests of such entity are held, directly or indirectly, by or for the benefit of the other Person or Persons;

and "Controls", "Controlling" and "under common Control with" shall be interpreted accordingly;

**"Customers"** has the meaning set forth in Section 13.1(a)(ii);

**"Departing Partner"** has the meaning set forth in Section 7.6;

**"Distributable Cash"** means with respect to a particular period, the amount by which the Partnership's cash on hand at the end of such period (including any amounts borrowed by the General Partner on behalf of the Partnership and net proceeds received by the Partnership from the issuance of Units and any other securities of the Partnership) exceeds: (i) the amount of Tax Distributions made or to be in accordance with Section 5.4(a) with respect to such period; (ii) unpaid administration expenses of the Partnership for that and any previous period; (iii) amounts required for the business and operations of the Partnership during such period including anticipated repayments of amounts borrowed, payments of interest and fees related to amounts borrowed or available credit and debt reserve requirements of lenders; and (iv) any cash reserve which the board of directors of the General Partner in its discretion determines is necessary to satisfy the Partnership's current and anticipated obligations;

**"Energy Projects"** means Energy Projects Development L.L.C.;

**"Extraordinary Resolution"** means:

- (a) prior to the Commercial Operations Date and on such date and thereafter with respect to the matters contemplated in Sections 9.17(c), 9.17(d) (with respect to Extraordinary Resolutions requiring a greater than 75% approval), 9.17(e), 9.17(h), 9.17(m) and 9.17(n);
  - (i) a resolution approved by greater than 75% of the votes cast in person or by proxy by the Limited Partners who voted in respect of that resolution; or
  - (ii) a written resolution in one or more counterparts signed by Limited Partners holding in the aggregate greater than 75% of the votes entitled to vote on that resolution; and
- (b) on or after the Commercial Operations Date except with respect to the matters contemplated in Sections 9.17(c), 9.17(d) (with respect to Extraordinary Resolutions requiring a greater than 75% approval), 9.17(e), 9.17(h), 9.17(m) and 9.17(n);
  - (i) a resolution approved by not less than 55% of the votes cast in person or by proxy by the Limited Partners who voted in respect of that resolution; or
  - (ii) a written resolution in one or more counterparts signed by Limited Partners holding in the aggregate not less than 55% of the votes entitled to vote on that resolution;

**"Facilities"** means those facilities from time to time owned or leased by the Partnership and used in the operation of the Jordan Cove Energy Project;

**"Fiscal Year"** has the meaning set forth in Section 2.5;

**"Fort Chicago"** means Fort Chicago LNG II U.S. L.P.

**"General Partner"** means the general partner of the Partnership, currently Jordan Cove Energy Project L.L.C. or any other Person who may become the general partner of the Partnership in place of or in substitution for Jordan Cove Energy Project L.L.C., from time to time, in each case until such general partner ceases to be the general partner of the Partnership under the terms of this Agreement;

**"Indemnatee"** has the meaning set forth in Section 7.6;

**"Interest Rate"** has the meaning set forth in Section 4.11;

**"Jordan Cove Energy Project" or "Project"** means that project to be undertaken by the Partnership including the development, design, construction, ownership and/or leasing (or combination thereof) and operation of a liquid natural gas terminal, liquid natural gas storage tanks, a regassification facility, an integrated power facility, gas pipelines and related facilities near North Bend, Oregon;

**"Limited Liability Company Agreement"** means that limited liability company agreement of the General Partner;

**"Limited Partner"** means any Person who is or shall become a limited partner of the Partnership;

**"L.L.C. Interests"** means membership interests in the General Partner;

**"Operating Agreement"** means that Development and Construction Agreement to be entered into by the General Partner, on behalf of itself and the Partnership and Energy Projects on the date hereof substantially in the form of Schedule B;

**"Ordinary Resolution"** means:

- (a) a resolution approved by more than 50% of the votes cast in person or by proxy by the Limited Partners who voted in respect of that resolution; or
- (b) a written resolution in one or more counterparts signed by Limited Partners holding in the aggregate more than 50% of the votes entitled to vote on that resolution;

**"Partners"** means the General Partner and the Limited Partners and **"Partner"** means any one of them;

**"Partnership"** means Jordan Cove Energy Project L.P. formed under the laws of the State of Delaware as a limited partnership by the filing of the Certificate under the Act on July 12, 2005;

**"Person"** means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal



representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;

**"Project Interest"** means, in respect of any Limited Partner, such Limited Partner's Units and such Limited Partner's L.L.C. Interests;

**"Reference Rate"** has the meaning set forth in Section 4.11;

**"Register"** means the register indicating the names and addresses of the Limited Partners and the number of Units held by them, to be kept by the General Partner;

**"Requisitioning Partners"** has the meaning set forth in Section 9.1(b);

**"Restricted Area"** has the meaning set forth in Section 13.1(a)(i);

**"Sale"**, **"Sell"** or **"Sold"** have the meaning set forth in Section 3.11;

**"Section 704(b) Amendments"** has the meaning set forth in Section 5.8;

**"Subscription Form"** means a subscription agreement and power of attorney in such form as approved from time to time by the General Partner;

**"Subsidiary"** means any Person which another Person Controls;

**"Transfer Form"** means a transfer and power of attorney in the form or substantially in the form set forth in Schedule C or such other form as approved from time to time by the General Partner;

**"Unit"** means a limited partnership unit of the Partnership and includes a Class A Unit, a Class B Unit, and/or a Class C Unit, as the context requires;

**"Unit Certificate"** means a certificate for Units issued in accordance with Section 3.19 in such form or forms as approved by the General Partner from time to time; and

**"Unitholder"** means the holder of a Unit as indicated on the Register.

In addition to the foregoing, certain capitalized terms which are used in this Agreement and which are defined in the Schedules hereto, shall have the meanings set forth therein.

## **1.2 Headings**

In this Agreement, the headings are for convenience of reference only, do not form a part of this Agreement and are not to be considered in the interpretation of this Agreement.

## **1.3 Interpretation**

In this Agreement:

- (a) words importing the masculine gender include the feminine and neuter genders, corporations, partnerships and other Persons, and words in the singular include the plural, and vice versa, wherever the context requires;
- (b) all references to designated Articles, Sections and other subdivisions are to be designated Articles, Sections and other subdivisions of this Agreement;
- (c) all accounting terms not otherwise defined will have the meanings assigned to them by, and all computations to be made will be made in accordance with, generally accepted accounting principles in the United States of America from time to time;
- (d) any reference to a statute will include and will be deemed to be a reference to the regulations made pursuant to it, and to all amendments made to the statute and regulations in force from time to time, and to any statute or regulation that may be passed which has the effect of supplementing or superseding the statute referred to or the relevant regulation;
- (e) any reference to a Person will include and will be deemed to be a reference to any Person that is a successor to that Person;
- (f) any reference to a business day will be deemed to be a reference to any day which is not a Saturday, Sunday or a day which is generally observed as a holiday in the United States of America; and
- (g) "hereof", "hereto", "herein", and "hereunder" mean and refer to this Agreement and not to any particular Article, Section or other subdivision.

## **1.4 Currency**

All references to currency herein are references to lawful money of the United States of America.

## **ARTICLE 2**

### **RELATIONSHIP BETWEEN PARTNERS**

## **2.1 Formation and Name of Partnership**

The General Partner and the Limited Partners agree to and do hereby form a limited partnership in accordance with the laws of the State of Delaware and the provisions of this Agreement to carry on business in common with a view to profit under the firm name and style of "**Jordan Cove Energy Project L.P.**" or any other name or names as the General Partner may determine from time to time. The General Partner shall have the right to change the name of the Partnership and to file an amendment to the Certificate recording the change of name of the Partnership. The Partnership shall be effective as a limited partnership from the date on which the Certificate is registered under the Act.

## **2.2 Business of the Partnership**

- (a) The business of the Partnership shall consist of activities relating directly or indirectly to the development, construction, ownership and operation of the Jordan Cove Energy Project. The Partnership may also engage in such other necessary or related activities as the General Partner deems advisable in order to carry on the business of the Partnership as aforesaid.
- (b) The Partnership shall not carry on any business other than as described in this Section 2.2.

## **2.3 Business in Other Jurisdictions**

- (a) The Partnership shall not carry on business in any jurisdiction unless the General Partner has taken all steps which may be required by the laws of that jurisdiction for the Limited Partners to benefit from limited liability substantially to the same extent that such Limited Partners enjoy limited liability under the Act. The Partnership shall not carry on business in any jurisdiction in which the laws do not recognize the liability of the Limited Partners to be limited unless, in the opinion of the General Partner, the risks associated with the possible absence of limited liability in such jurisdiction are not significant considering the relevant circumstances.
- (b) The Partnership shall carry on business in such a manner as to ensure, to the greatest extent commercially reasonable, the limited liability of the Limited Partners, and the General Partner shall register the Partnership in other jurisdictions where the General Partner considers it appropriate to do so.

## **2.4 Office of the Partnership**

The principal place of business of the Partnership shall be 125 Central Avenue, Suite 380, Coos Bay, Oregon 97420, or such other address in the U.S. as the General Partner may designate in writing from time to time to the Limited Partners provided that the Partnership shall at all times maintain a principal office in Oregon.

## **2.5 Fiscal Year**

Subject to the General Partner determining otherwise, the first fiscal period of the Partnership shall end on December 31, 2005 and thereafter each fiscal period shall commence on January 1 in each year and shall end on the earlier of December 31 in that year or on the date of dissolution or other termination of the Partnership. Each such fiscal period is herein referred to as a "**Fiscal Year**".

## **2.6 Status of Partners**

- (a) The General Partner represents, warrants, covenants and agrees with each Limited Partner that:

- (i) it is a limited liability company formed under the laws of the State of Delaware and is validly subsisting under such laws;
  - (ii) it has the capacity and the necessary corporate authority to act as the general partner of the Partnership and to enter into and perform its obligations under this Agreement, and such obligations do not conflict with nor do they result in a breach of the Limited Liability Company Agreement or any of its constituent documents or any agreement by which or to which it or any of its property is or may become bound or subject;
  - (iii) it will hold and continue to hold at least one Class C Unit, Series 1 while it is the general partner of the Partnership;
  - (iv) it will act in good faith in the best interests of the Partnership, subject to the provisions of this Agreement;
  - (v) it holds and shall maintain the registrations necessary for the conduct of its business and has and shall continue to have all licenses and permits necessary to carry on its business as the General Partner of the Partnership in all jurisdictions where the activities of the Partnership require such licensing or other form of registration of the General Partner;
  - (vi) it will devote all of its time for the conduct and prudent management of the business and affairs of the Partnership; and
  - (vii) it is and shall remain a "U.S. person" within the meaning of the Code.
- (b) Each of the Limited Partners severally represents, warrants, covenants and agrees with each other Partner that:
- (i) it is validly subsisting under the laws of the jurisdiction of its incorporation or creation;
  - (ii) it has the capacity and competence and the necessary corporate or other authority to enter into this Agreement;
  - (iii) it has and shall maintain the capacity and corporate, partnership or other necessary authority to be a Partner of the Partnership and to perform its obligations under this Agreement, and such obligations do not and will not conflict with or result in a breach of any of its constituent documents, or any agreement by which or to which it or any of its property is or may become bound or subject;
  - (iv) it shall provide the General Partner with such evidence regarding its ability to subscribe for Units without having received a prospectus therefor and without registration of such Units under applicable securities legislation as the General Partner may reasonably request;

- (v) it is not relying on the experience, creditworthiness or continued involvement of any Person other than the General Partner in entering into this Agreement;
- (vi) it is an "accredited investor" within the meaning of the United States *Securities Act of 1933*, as amended, and is acquiring and will hold the Units for its own account for investment purposes and not with a view to any public resale or distribution thereof;
- (vii) it has received a copy of this Agreement, all schedules thereto and all other documents to be executed and delivered in connection therewith, and is fully familiar with the contents thereof;
- (viii) it has made such investigations of the business carried on or proposed to be carried on by the Partnership as it has considered appropriate, has obtained such information with respect thereto as it has considered necessary, and has been, and will continue to be, solely responsible for making its own independent appraisal and assessment of the merits and risks of entering into this Agreement without relying on any other Person in respect thereof;
- (ix) it acknowledges that an investment in the Partnership is speculative and involves a high degree of risk; and
- (x) it acknowledges that Units in the Partnership have not been and will not be registered under the United States *Securities Act of 1933*, as amended, or under the securities or "blue sky" laws of any state, that Units may not be transferred except as provided in this Agreement, and that no such transfer may be made unless the Units are registered under the United States *Securities Act of 1933*, as amended, and any applicable state securities or "blue sky" laws or an exemption from such registration is available.

## **2.7 Survival of Representations, Warranties, Covenants and Agreements**

The representations, warranties, covenants and agreements made pursuant to Section 2.6 above shall survive execution of this Agreement and each Partner covenants and agrees to ensure that each representation, warranty, covenant and agreement made pursuant to Section 2.6 remains true so long as such Partner remains a Partner.

## **2.8 Limitation on Authority of Limited Partners**

A Limited Partner in its capacity as a Limited Partner may not:

- (a) except for its rights to vote as provided in this Agreement, take part in the administration, control, management or operation of the business of the Partnership or exercise any power in connection therewith or transact business on behalf of the Partnership;

- (b) execute any document which binds or purports to bind any other Partner or the Partnership;
- (c) hold itself out as having the power or authority to bind any other Partner or the Partnership;
- (d) have any authority or power to act for or undertake any obligation or responsibility on behalf of any other Partner or the Partnership;
- (e) except as specifically provided for herein, bring any action for partition or sale or otherwise in connection with the Partnership, any interest in any property of the Partnership, whether real or personal, tangible or intangible, or file or register or permit to be filed, registered or remain undischarged any lien or charge in respect of any property of the Partnership; or
- (f) except as specifically provided for herein, compel or seek a partition, judicial or otherwise, of any of the assets of the Partnership distributed or to be distributed to the Partners in kind in accordance with this Agreement.

Notwithstanding the foregoing, the General Partner, in respect of its ownership of Units, shall not be subject to the restrictions that otherwise apply to Limited Partners.

## **2.9 Power of Attorney**

Each Limited Partner hereby irrevocably nominates, constitutes and appoints the General Partner, with full power of substitution, as its agent and true and lawful attorney to act on its behalf with full power and authority in its name, place and stead to execute and record or file as and where required:

- (a) counterparts of this Agreement and any amendment to this Agreement, made in accordance with the terms of this Agreement, and any other instruments or documents required to continue and keep in good standing the Partnership as a limited partnership under the Act, or otherwise to comply with the laws of any jurisdiction in which the Partnership may carry on business or own or lease property or any jurisdiction where the General Partner considers it prudent to be registered in order to maintain the limited liability of the Limited Partners and to comply with the applicable laws of such jurisdiction (including such amendments to the Register as may be necessary to reflect the admission to the Partnership of subscribers for or transferees of Units as contemplated by this Agreement);
- (b) all instruments and any amendments to or renewals, replacements or restatements of the Certificate necessary to reflect any amendment to this Agreement;
- (c) any instrument required or desired in connection with the dissolution and termination of the Partnership in accordance with the provisions of this Agreement, including any elections, determinations or designations under the Code and under any similar legislation;

- (d) the documents necessary to be filed with the appropriate governmental body or authority in connection with the business, property, assets and undertaking of the Partnership;
- (e) such documents as may be necessary to give effect to the business of the Partnership as described in Section 2.2;
- (f) the documents on its behalf and in its name as may be necessary to give effect to the sale or assignment of a Unit made in accordance with the terms of this Agreement (including a sale of Units pursuant to Section 4.8 or Schedule G) or to give effect to the admission of a subscriber for or transferee of Units to the Partnership;
- (g) any return, election, determination, designation, information return or similar document or instrument as may be required at any time by any government or like authority or under the Code or under any other taxation legislation or regulations of the United States of America or of Canada or of any state, province, territory, county or other jurisdiction which relates to the affairs of the Partnership or the interest of any Person in the Partnership;
- (h) without restricting the generality of any of the foregoing, but subject to obtaining the prior approval of the Limited Partners by Extraordinary Resolution, to execute and deliver on such Limited Partner's behalf and in its name or join such Limited Partner as a party to any and all documents and instruments which the General Partner considers necessary to secure or encumber (in accordance with or in conjunction with the powers of the General Partner set forth herein) any interests of whatsoever kind or nature such Limited Partner may have or claim to have in Units or in property or assets of the Partnership (including without limitation such interests as may, following the dissolution or winding up of the Partnership, be acquired, generated or come into existence in respect of the business or operations which at or prior to the time of dissolution or winding up of the Partnership had been carried on by or for the Partnership, whether acquired, generated or brought into existence by means of the activities of a receiver, receiver and manager, trustee in bankruptcy, custodian or similar official of or pertaining to the Partnership or its business or operations or otherwise) and to make covenants, agreements and provisions pertaining thereto in order to obtain financing for the construction and operation of the Facilities, including, without restricting the generality of the foregoing, deeds (including deeds under seal), trust deeds, supplemental trust deeds, agreements, debentures, mortgages, hypothecations and security agreements but without thereby creating any recourse to or claim against any other property or assets of any Limited Partner and without restricting the generality of any of the foregoing, to execute and deliver on such Limited Partner's behalf and in its name, register, file, record or deliver caveats, security notices, financing statements and other notices, and any renewals, amendments or replacements thereof pertaining to any of the foregoing; and

- (i) all other instruments and documents on its behalf and in its name or in the name of the Partnership as may be deemed necessary by the General Partner to carry out fully this Agreement in accordance with its terms.

To evidence the foregoing, each Subscription Form and Transfer Form shall contain a power of attorney incorporating by reference, ratifying and confirming some or all of the powers set forth above.

The power of attorney granted herein is irrevocable, is a power coupled with an interest, shall continue despite the mental incompetence of the Limited Partner, shall survive the death or disability of a Limited Partner and shall survive the transfer or assignment by the Limited Partner, to the extent of the obligations of a Limited Partner hereunder, of the whole or any part of the interest of the Limited Partner in the Partnership, extends to the heirs, executors, administrators, other legal representatives and successors, transferees and assigns of the Limited Partner, and may be exercised by the General Partner on behalf of each Limited Partner in executing any instrument by a facsimile signature or by listing all the Limited Partners and executing such instrument with a single signature as attorney and agent for all of them. Each Limited Partner agrees to be bound by any representations or actions made or taken by the General Partner pursuant to this power of attorney and hereby waives any and all defenses which may be available to contest, negate or disaffirm the action of the General Partner taken in good faith under this power of attorney. Each Limited Partner declares that these powers of attorney may be exercised during any legal incapacity or mental infirmity on its, his or her part. The General Partner may require, in connection with the subscription for, or any transfer of, Units, that the Subscription Form or Transfer Form be accompanied by a certificate of legal advice signed by a lawyer who is not the attorney or the attorney's spouse or that the execution of the Subscription Form or Transfer Form be witnessed as required by applicable law.

This power of attorney shall continue in respect of the General Partner so long as it is the General Partner of the Partnership, and shall terminate thereafter, but shall continue in respect of a new General Partner as if the new General Partner were the original attorney.

A transferee of a Unit shall, upon becoming a Limited Partner, be conclusively deemed to have acknowledged and agreed to be bound by the provisions of this Agreement as a Limited Partner and shall be conclusively deemed to have provided the General Partner with the power of attorney described in this Section 2.9.

## **2.10 Limited Liability of Limited Partners**

The liability of each of the Limited Partners to the Partnership under the Act shall be limited to (a) any unpaid capital contributions that such Limited Partner agreed to make to the Partnership pursuant to this Agreement, to the extent provided in Section 17-502(a) and (b) of the Act; (b) the amount of any distribution that such Limited Partner is required to return to the Partnership pursuant to Section 17-607(b) of the Act; and (c) the unpaid balance of any other payments that such Limited Partner expressly is required, pursuant to this Agreement, to make to the Partnership.



## **2.11 Indemnity of Limited Partners**

The General Partner will indemnify and hold harmless each Limited Partner (including former Limited Partners) for all costs, expenses, damages or liabilities suffered or incurred by the Limited Partner if the limited liability of such Limited Partner is lost for or by reason of the negligence or willful misconduct of the General Partner in performing its duties and obligations hereunder.

## **2.12 Compliance with Laws**

Each Limited Partner will, on the request of the General Partner from time to time, immediately execute any documents considered by the General Partner to be necessary to comply with any applicable law or regulation of any jurisdiction, for the continuation, operation or good standing of the Partnership.

## **2.13 Other Activities of General Partner**

The General Partner shall not carry on any business other than its activities as General Partner of the Partnership.

## **2.14 General Partner May Hold Units**

The General Partner may subscribe for and acquire Units or purchase Units by private contract or in the market and shall be shown on the Register as a Limited Partner in respect of the number of Units held by the General Partner from time to time.

## **2.15 General Partner as a Limited Partner**

If the General Partner holds any Units, it shall be deemed in its capacity as the holder of such Units to be a Limited Partner with the same rights and powers as each other Limited Partner.

## **2.16 Private Issuer Restrictions**

- (a) The number of Persons who may beneficially own (within the meaning of the *Securities Act* (Alberta)), directly or indirectly, Units of the Partnership (counting two or more joint registered owners as one beneficial owner), is limited to not more than 50, exclusive of Persons: (i) who are in the employment of the Partnership, the General Partner or the employment of an Affiliate of the General Partner; or (ii) who were formerly in the employment of the Partnership, the General Partner or an Affiliate of the General Partner and while in that employment were, and have continued after that employment to be, beneficial owners of Units of the Partnership; and
- (b) Any invitation to the public to subscribe for securities of the Partnership, including Units, is prohibited.

## **2.17 Limitation of Interest**

The interest of a Partner in the Partnership consists of the rights of Partners as contained herein. Except as otherwise provided at law in regard to the General Partner, the interest of a Partner in the Partnership does not represent or include an undivided interest or other direct personal interest in the property or assets of the Partnership or the property or assets used or employed in the business or operations of the Partnership except for such interests in such property or assets as may be distributed to Partners as a result of dissolution or winding-up of the Partnership.

## **2.18 Security Interest**

Any security interest, charge, assignment, pledge, mortgage, hypothecation or other encumbrance against or in connection with the property or assets of the Partnership granted or effected by the General Partner in the name of the Partnership or the General Partner or otherwise pursuant to its rights and powers as herein set forth, shall attach to, bind, charge or otherwise encumber all interests in such property or assets (including any interests that any Partner may have or claim to have in such property or assets) and any such security interest, charge, assignment, pledge, mortgage, hypothecation or other encumbrance shall attach to, bind, charge or otherwise encumber all interests in such property or assets (including any interests that any Partner may have or claim to have in such property or assets) notwithstanding or following the dissolution or winding up of the Partnership.

# **ARTICLE 3**

## **UNITS**

### **3.1 Authorized Units**

- (a) The Partnership is authorized to issue (i) one class of units, to be designated as "Class A Units", limited to 750,000 in number, (ii) one class of units, to be designated as "Class B Units", limited to 250,000 in number, (iii) one class of units, to be designated as "Class C Units", issuable in series, in an unlimited number, and (iv) the first series of Class C Units, to be limited in number to one Unit, and to be designated as "Class C Unit, Series 1", such units having attached thereto the rights, privileges, restrictions and conditions set forth or contemplated in this Section 3.1.
- (b) The Class A Units shall have attached thereto the following rights, privileges, restrictions and conditions: (i) the right to one vote at all meetings of Limited Partners, except meetings at which only holders of a specified class or series of Units are entitled to vote; (ii) those rights to receive distributions made by the Partnership set out in Schedule D; and (iii) those rights to receive the remaining property and assets of the Partnership upon dissolution set out in Schedule D.
- (c) The Class B Units shall have attached thereto the following rights, privileges, restrictions and conditions: (i) the right to one vote at all meetings of Limited Partners, except meetings at which only holders of a specified class or series of

Units are entitled to vote; (ii) those rights to receive distributions made by the Partnership set out in Schedule E; and (iii) those rights to receive the remaining property and assets of the Partnership upon dissolution set out in Schedule E.

- (d) Subject to complying with the terms of this Agreement, specifically including without limitation Section 9.17, the Class C Units shall have attached thereto the following rights, privileges, restrictions and conditions: (i) the Class C Units may at any time and from time to time be issued in one or more series, each series to consist of such number of units as may, before the issue thereof, be determined hereunder or by the General Partner; (ii) subject to the provisions of the Act, the General Partner may fix from time to time before the issue thereof the designation, rights, privileges, restrictions and conditions attaching to each series of the Class C Units; and (iii) the class provisions attaching to the Class C Units may be amended only with the prior approval of the holders of the Class C Units by Extraordinary Resolution. Upon the designation by the General Partner of the rights, privileges, restrictions and conditions of any series of Class C Units, the General Partner shall file an amendment to the Certificate in accordance with Section 3.14 evidencing such designation and setting out such rights, privileges, restrictions and conditions.
- (e) The Class C Unit, Series 1 shall, in addition to the rights, privileges, restrictions and conditions attached the Class C Units as a class, have attached thereto the rights, privileges, restrictions and conditions set out in Schedule F.

### **3.2 Terms of Offering(s)**

Subject to complying with the terms of this Agreement specifically including without limitation Section 9.17, the General Partner may, in its discretion, determine the terms and conditions of the offering and sale of Units or rights to acquire Units from time to time and may do all things in that regard including, without limitation, preparing and filing prospectuses, offering memoranda, private placement documents and other offering or sale documents, issuing the Units, paying the expenses of issue and entering into agreements with any Person providing for a commission or fee.

### **3.3 Subscription for Units**

Subscriptions for Units may be made for a fraction of a Unit, such fraction being expressed to a maximum of four decimal points. Each subscribing Person (who may be underwriters who have agreed to underwrite the offering) shall, unless the General Partner otherwise agrees, complete and execute the applicable Subscription Form setting forth, among other things, the total subscription price agreed to be contributed by such Person.

### **3.4 Admittance as Limited Partner**

Upon acceptance by the General Partner of any subscription for Units, all Partners will be deemed to consent to the admission of the subscriber as a Limited Partner, the General Partner will execute this Agreement on behalf of the subscriber and will cause the Register and the Certificate to be amended, and such other documents as may be required by the Act or under

legislation similar to the Act in other states or counties to be filed or amended, specifying the prescribed information and will cause the foregoing information in respect of the new Limited Partner to be included in Partnership books and records.

### **3.5 Payment of Expenses**

The Partnership will pay, to the extent contemplated by any prospectus or other offering document, all costs, disbursements and other fees and expenses incurred in connection with the offering of Units or rights to acquire Units pursuant to such prospectus or other offering document, the organization of the Partnership and the registration of the Partnership under the Act and under similar legislation of other jurisdictions.

### **3.6 Effective Date**

The rights and obligations of a subscriber for, or a transferee of, Units, as a Limited Partner under this Agreement, commence and are enforceable by and upon the Limited Partner as between the Limited Partner and the other Partners from the date on which the Register has been amended; a subscriber or a transferee will not become a Limited Partner until the Register is amended.

### **3.7 Register of Limited Partners**

The General Partner shall maintain at its principal office a Register listing all names and addresses of Limited Partners and the number of Units held by them.

### **3.8 Changes in Membership of Partnership**

Subject to Section 3.15, no change of name or address of a Limited Partner, no transfer of a Unit and no admission of a substituted Limited Partner in the Partnership shall be effective for the purposes of this Agreement until all reasonable requirements as determined by the General Partner with respect thereto have been met, including the requirements set out in this Article, and until such change, transfer, substitution or addition is duly reflected in an amendment to the Register as may be required by the Act. The names and addresses of the Limited Partners as reflected from time to time in the Register, as from time to time amended, shall be conclusive as to such facts for all purposes of the Partnership.

### **3.9 Notice of Change of Name or Address of Limited Partner**

No name or address of a Limited Partner shall be changed and no transfer of a Unit or substitution or addition of a Limited Partner in the Partnership shall be recorded on the Register, except pursuant to a notice in writing received by the General Partner.

### **3.10 Inspection of Register**

A Limited Partner, or an agent of a Limited Partner duly authorized in writing, has the right, upon not less than 10 days' notice in writing to the General Partner, to inspect and make copies from the Register at the cost of the Limited Partner during normal business hours.

### 3.11 Transfer of Units

- (a) Notwithstanding anything else herein contained, except as otherwise provided herein or in Schedule G, no Project Interest or any component thereof (Units or L.L.C. Interests of the General Partner) or any rights in respect thereof shall at any time be transferred, sold, assigned, mortgaged, pledged, encumbered, hypothecated, made subject to any security interest, be declared to be held in trust or otherwise dealt with (any such action, declaration or dealing shall herein be referred to by the terms "**Sale**", "**Sell**" or "**Sold**") by a Limited Partner or by any means become the property of or become subject to a property interest of another Person and any such prohibited act or actions if occurring in contravention of this Agreement shall be void as between or among the Partners and the Partnership, the L.L.C. Interest holders of the General Partner and the General Partner and as between or among any Partner or the Partnership and as between and among any L.L.C. Interest holder of the General Partner and the General Partner and any Person claiming any interest in any Project Interest or any component thereof (Units or L.L.C. Interests of the General Partner) as a result of such act or actions. Limited Partners may however convey or assign the proceeds of any distributions which may be received in respect of the Units under arrangements which, except as otherwise provided herein, convey no security or other interests or rights in respect of the Units as such.
- (b) Subject to the provisions of Section 2.6(b), this Article 3 and Schedule G, and compliance with applicable securities laws and the payment by the transferee of an administration fee, if any, of up to \$100, Units may be transferred by a Limited Partner or its agent duly authorized in writing to any Person, but such Person shall not be recorded on the Register as the holder of Units nor, if such Person is not a Limited Partner, be entitled to become a Limited Partner, unless such Person has delivered to the General Partner a Transfer Form completed and executed in a manner reasonably acceptable to the General Partner.
- (c) The General Partner has the right to deny the transfer of Units in respect of which there has been default hereunder including, without limitation, a default in payment of the subscription price until all amounts required to be paid on account of the subscription price, including any interest thereon, have been paid in full. Subject to Section 3.15, no transferee will become a Limited Partner until all filings and recordings required by the Act and this Agreement have been duly made. Where the transferee complies with the provisions aforesaid and is entitled to become a Limited Partner pursuant to the provisions hereof, subject to Section 3.8 and Schedule G, the General Partner shall be authorized to admit the transferee to the Partnership as a Limited Partner and the Limited Partners hereby consent to the admission of, and will admit, the transferee to the Partnership as a Limited Partner, without further act of the Limited Partners (other than as may be required by law).

### **3.12 Transfer Form**

The Transfer Form shall be in the form of Schedule C or such other form approved by the General Partner and shall be signed by the transferor and by the transferee and shall be accompanied by the Unit Certificate(s), if any, issued by the Partnership representing the Units to be transferred.

### **3.13 Additional Documentation on Transfer**

If a transferor of Units is a firm or a corporation, or purports to assign such Units in any representative capacity, or if an assignment results from the death, mental incapacity or bankruptcy of a Limited Partner or is otherwise involuntary, the transferor or its legal representative shall furnish to the General Partner such documents, certificates, assurances, court orders and other instruments as the General Partner, as applicable, may reasonably require to effect the said transfer and assignment.

### **3.14 Amendment of Certificate and Register**

The General Partner, on behalf of the Partnership, shall from time to time promptly effect filings, recordings, registrations and amendments to the Register and the Certificate and to such other documents and at such places as in the opinion of counsel to the Partnership are necessary or advisable to reflect changes in the membership of the Partnership, transfers of Units, the creation of Class C Units and dissolution of the Partnership as herein provided and to constitute a transferee as a Limited Partner.

### **3.15 Non-Recognition of Trusts or Beneficial Interests**

Except as provided herein, as required by law or as recognized by the General Partner in its sole discretion, no Person will be recognized by the Partnership or a Limited Partner as holding any Unit in trust, or on behalf of another Person beneficially entitled thereto, and the Partnership and Limited Partners will not be bound or compelled in any way to recognize (even when having actual notice) any equitable, contingent, future or partial interest in any Unit or any other rights in respect of any Unit except an absolute right to the entirety of the Unit in the Limited Partner shown on the Certificate as holder of such Unit.

### **3.16 Incapacity, Death, Insolvency or Bankruptcy**

Where a Person becomes entitled to Units on the incapacity, death, insolvency, or bankruptcy of a Limited Partner, or otherwise by operation of law, in addition to the requirements of Section 2.6(b), this Article 3 and Schedule G such entitlement will not be recognized or entered into the Register until such Person:

- (a) has produced evidence satisfactory to the General Partner of such entitlement;
- (b) has agreed in writing to be bound by the terms of this Agreement and to assume the obligations of a Limited Partner under this Agreement; and

- (c) has delivered such other evidence, approvals and consents in respect to such entitlement as the General Partner may require and as may be required by law or by this Agreement.

### **3.17 Transfers of Fractional Units**

Subject to the terms and conditions hereof, transfers of a fraction of a Unit may be made and will be recognized or entered into the Register.

### **3.18 No Transfer upon Dissolution**

No transfer of Units may be made or will be recognized or entered into the Register after the filing of the notice of dissolution prescribed by the Act pursuant to Section 11.4(e).

### **3.19 Unit Certificates**

The General Partner shall issue to each Limited Partner, upon request, one or more Unit Certificates indicating that the holder thereof is the owner of the number of Units set out thereon. Every Unit Certificate must be signed (personally or by mechanical reproduction) by at least one officer or director of the General Partner, and the validity of a Unit Certificate will not be affected by the circumstance that a person whose signature is so reproduced is deceased or no longer holds the office which he or she held when the reproduction of his or her signature in that office was authorized. A Unit Certificate may be sent through the mail by registered prepaid mail or delivered to a dealer acting on behalf of the Limited Partner and neither the General Partner nor the Partnership will be liable for any loss by a Limited Partner that results from the loss of a Unit Certificate by reason that it is so sent. If any Unit Certificate is lost, mutilated, stolen or destroyed, the General Partner shall, upon request by a Limited Partner, issue a replacement Unit Certificate to the Limited Partner upon receipt of evidence satisfactory to the General Partner of such loss, mutilation or destruction, and upon receiving such indemnification (including an indemnity bond provided at the expense of the Limited Partner) as it deems appropriate in the circumstances. The General Partner upon request by the transferee shall issue a new Unit Certificate for any Units transferred. In the case of a transfer of less than all of the Units represented by a Unit Certificate, the General Partner, upon request by the transferor, shall issue a new Unit Certificate for the balance of the Units retained by the transferor.

## **ARTICLE 4**

### **CAPITAL CONTRIBUTIONS AND ACCOUNTS**

#### **4.1 Capital**

The capital of the Partnership consists of the aggregate of all sums of money, other property or services contributed by the Partners as Capital Contributions and not withdrawn or returned to them.

## 4.2 General Partner Contribution

The General Partner has contributed the sum of \$1.00 as a Capital Contribution to the Partnership in exchange for one Class C Unit, Series 1. The General Partner shall not transfer any Units held by it to any Person other than a new General Partner pursuant to Section 7.19.

## 4.3 Limited Partner Contributions

- (a) Initially, the Limited Partners have contributed the following by way of Capital Contribution to the Partnership in consideration for the Units listed below:

<b>Limited Partner</b>	<b>Initial Capital Contribution</b>	<b>No. of Units</b>
Jordan Cove Energy Project L.L.C	\$1.00	1 Class C Unit, Series 1
Fort Chicago	\$75.00	750,000 Class A Units
Energy Projects	(See Section 4.3(d))	250,000 Class B Units

- (b) Subject to the terms and conditions set out in Schedule H and subject to Section 4.3(c), Fort Chicago agrees to make those additional capital contributions contemplated in Schedule H and such additional contributions shall not result in the issuance of further Units over and above those contemplated above.
- (c) Notwithstanding Section 4.3(b) and Schedule H, but subject to the further provisions of this Section 4.3, Fort Chicago may, in its discretion, elect by notice in writing to the General Partner to substitute for all or any part of the Capital Contributions contemplated in Schedule H, one or more loans to the Partnership. Such loans shall:
- (i) have principal and interest payments which are equivalent to the Class A Unit Preferred Distribution which would have been applicable to the substituted Capital Contribution;
  - (ii) be secured by such security for the outstanding amount as Fort Chicago may reasonably request subject to the requirements of third party lenders and the requirements of any ratings agency for the loans to be considered as equity for ratings purposes. No such security may have the effect of changing the relative priority of the Class A Units and Class B Units assuming such loans had been Capital Contributions for Class A Units;
  - (iii) be subordinated to all commercial debt of the Partnership under such terms as required by third party lenders and as required by any ratings agency to be considered as equity for ratings purposes; and



- (iv) have such additional terms and conditions as may be agreed by Fort Chicago and Energy Projects, acting reasonably.
- (d) In return for the 250,000 Class B Units to be issued to Energy Projects, Energy Projects shall contribute to the Partnership those assets and rights contemplated in the Contribution Agreement including, without limitation, all existing right, title and interest of Energy Projects in and to the Jordan Cove Energy Project, the concept thereof, the option and other rights to real property acquired for the Jordan Cove Energy Project and all intellectual property and other rights and interests associated with the Jordan Cove Energy Project.
- (e) After making the Capital Contributions described in Sections 4.3(a) and (d), the capital account of the holder of the Class A Units shall be US \$75 and the capital account of the holder of the Class B Units shall be US \$250,000.

#### **4.4 Capital Contributions**

- (a) In addition to the Capital Contributions contemplated in Section 4.3 and those contemplated in Schedule H, Capital Contributions to the Partnership may be made by the Limited Partners from time to time as may be determined by the General Partner and agreed to by the contributing Limited Partner. Capital Contributions may be made, but are not required to be made, in respect of a subscription for Units or right to acquire Units. The capital contribution of each Limited Partner is the total amount of money or property paid or value of services provided by such Limited Partner or a predecessor Partner to the Partnership in respect of Units or rights to acquire Units held by such Limited Partner.
- (b) It is the intention of the parties that future capital requirements of the Partnership beyond those contemplated in Section 4.3 and those contemplated in Schedule H be satisfied from cash flow and/or normal commercial lending arrangements without resort to the Partners. In the event that the General Partner, in accordance with the Limited Liability Company Agreement, determines that the Partnership requires capital over and above that contemplated in the previous sentence either by way of additional Capital Contribution or loan, the Limited Partners will have the option, without obligation, to make such advances pro rata to their holdings of voting Units in return for, in the case of Capital Contributions, Class C Units issued by the Partnership to the contributing Limited Partners in a series and with terms determined by the General Partner as provided in this Agreement.

#### **4.5 Separate Capital Accounts**

The General Partner will maintain a separate capital account for each Partner and will, on receipt of an amount in respect of a Capital Contribution, credit the account of the applicable Partner with such Capital Contribution and will debit the account with the amount of any Capital Contribution actually returned from time to time by the Partnership to the Partner.

The interest of a Partner will not terminate by reason of there being a negative or nil balance in the Partner's capital account. No Limited Partner shall be responsible for any losses

of any other Limited Partner, nor share in the allocation of income or loss attributable to the Units of any other Limited Partner.

If any Limited Partner shall have a deficit balance in its capital account, such Limited Partner shall have no obligation to make any contribution to the capital of the Partnership with respect to such deficit, and such deficit shall not be considered a debt owed to the Partnership or any other person or entity for any purpose whatsoever, provided however, a Limited Partner, in its sole discretion, may agree at any time to make a contribution to the Partnership up to the amount of any such deficit.

#### **4.6 No Interest on Capital Account**

Except as otherwise provided herein, the Partnership will not pay interest on any credit balance of the capital account or Capital Contribution of a Partner. Except as provided in this Agreement or the Act or similar applicable legislation in the United States of America, no Limited Partner is required to pay interest to the Partnership on any Capital Contribution returned to the Limited Partner or on any negative balance in its capital account.

#### **4.7 Unpaid Capital Contributions and Loans Not Advanced**

If any portion of a Capital Contribution by way of Unit subscription or requested in accordance with Section 4.4(b) and agreed to be made by the Limited Partner or loan advance requested in accordance with Section 4.4 (b) and agreed to be made by the Limited Partner is unpaid when due and owing, the General Partner will give 15 days' notice or such other notice as required by applicable law to the applicable Unitholder to pay such amount as remains unpaid on account of the Capital Contribution or loan advance and if such amount is not paid within such notice period, the unpaid portion of the Capital Contribution or loan advance (and in respect of all other unpaid Capital Contributions and loan advances) will be immediately due and owing and the General Partner may commence foreclosure proceedings in compliance with applicable laws in respect of the Units registered in the name of the holder or the General Partner may sell such Units in accordance with this Article 4 and applicable laws. Notwithstanding Article 10 hereof, notice given under this Section 4.7 shall be given by registered mail and shall be deemed to be received and shall be effective on the third business day following deposit of such notice in the mail.

#### **4.8 Sale of Units**

Subject to compliance with applicable laws, the General Partner may, on behalf of the Partnership, sell on such terms and conditions as the General Partner deems appropriate, any Units of a Unitholder which is in default in the payment of Capital Contributions or loan advances as aforesaid and in respect of which 15 days have elapsed since such payment was first due and apply the proceeds of sale:

- (a) first, toward the costs of sale (including commissions, if any);
- (b) second, toward payment of interest on the unpaid portion of the Capital Contribution or loan advance; and

- (c) third, toward payment of the unpaid portion of the Capital Contribution or loan advance.

Any surplus will be payable to the Limited Partner.

#### **4.9 Failure to Give Notice**

Any failure to give, or delay in giving, notice of default to the Unitholder will not affect the liability of such holder for payment of the Capital Contribution or loan advance as aforesaid in default.

#### **4.10 Restriction on Transfer**

If a holder of a Unit is in default in payment of a Capital Contribution or loan advance as aforesaid or is otherwise in default hereunder, the Units registered in the name of such holder may not thereafter be transferred by such holder (except pursuant to Sections 4.7 and 4.8 or Articles 5, 6, 7 or 8 of Schedule G) until the portion of the Capital Contribution which is due and owing and any interest accrued in respect thereof has been paid in full.

#### **4.11 Interest on Capital Contribution or Loan Advance in Default**

A Limited Partner liable for a Capital Contribution or loan advance as contemplated in Section 4.4, which is not paid when due and owing is liable in addition to pay interest on so much of the Capital Contribution or loan advance as from time to time remains unpaid, accruing from the due date to the date of payment at an annual rate of interest (the "**Interest Rate**") equal to the rate announced from time to time by the Partnership's principal banker as its reference rate for determining the interest rates charged by it on the United States of America dollar commercial loans to its most creditworthy customers prevailing from time to time (the "**Reference Rate**") while the amount is unpaid, plus 6%, calculated and compounded monthly. All payments on account of a Capital Contribution or loan advance which is due and owing or interest thereon, however directed, will be applied first towards the costs of the General Partner in collecting such amounts or selling the Units, secondly towards interest and thirdly towards satisfaction of the unpaid portion of the Capital Contribution or loan advance. If the Partnership does not have a principal bank, it shall be deemed to be Citibank, New York.

#### **4.12 Set-Off**

The Partnership may set-off against and withhold from any amount that would otherwise be distributed to a Limited Partner, any amount that may be due and owing to the Partnership on account of any unpaid portion of a Capital Contribution or loan advance as aforesaid of such Limited Partner and interest accrued thereon.

#### **4.13 Liability for Deficiency**

The sale of a Unit pursuant to Section 4.8 and the application of the proceeds as therein provided will not, if a deficiency remains after the sale, extinguish the liability of the former Limited Partner for any amount that may remain unsatisfied or for the interest which will continue to accrue thereon.

#### **4.14 L.L.C. Interests**

In the event of a Sale of Units pursuant to this Article 4, such Sale shall include the sale of a pro rata number of the selling parties' L.L.C. Interests at a nominal price of \$1.00 for each one percent of L.L.C. Interest.

### **ARTICLE 5**

### **PARTICIPATION IN PROFITS AND LOSSES**

#### **5.1 Allocation of Net Income and Losses for Accounting Purposes**

The net income or loss for accounting purposes for a given Fiscal Year of the Partnership will be allocated to each Limited Partner in the same proportion as net income or loss is allocated for tax purposes to each Limited Partner as provided in Sections 5.2 and 5.3.

All income allocated to a Limited Partner will be added to the capital account maintained for the Limited Partner and any losses allocated to the Limited Partner or any amounts distributed to the Limited Partner will be deducted from such capital account.

#### **5.2 Allocation of Net Losses for Tax Purposes**

The net loss for tax purposes of the Partnership for any given Fiscal Year and all other items of loss or deductions of the Partnership which may be allocated to partners of a partnership for tax purposes shall be allocated in the following order:

- (a) First, to the holders of Class A Units in proportion to their respective cash Capital Contributions until the holders of Class A Units have received aggregate allocations of loss and deductions under this Section 5.2(a) equal to their aggregate cash Capital Contributions.
- (b) Second, to the holders of Class A Units in proportion to their respective Class A Units until such holders have received aggregate allocations of loss and deductions under this Section 5.2(b) equal to their aggregate Class A Unit Preferred Returns received by such Limited Partners under Section 2.1(a) of Schedule D.
- (c) Third, to the holders of Class B Units in proportion to their respective Capital Contribution amount under Section 4.3 of \$250,000 and any cash Capital Contributions that the holders of Class B Units may make to the Partnership until the holders of Class B Units have received aggregate allocations of loss and deductions under this Section 5.2(c) equal to their aggregate Capital Contributions.
- (d) Fourth, to the holders of Class B Units in proportion to their respective Class B Units until such holders have received aggregate allocations of loss and deductions under this Section 5.2(d) equal to their aggregate Class B Unit

Preferred Distributions received by such Limited Partners under Section 2.1(a) of Schedule E.

- (e) Fifth, seventy-five percent (75%) to the holders of Class A Units and twenty-five percent (25%) to the holders of Class B Units.

### **5.3 Allocation of Net Income for Tax Purposes**

The net income for tax purposes of the Partnership for any given Fiscal Year shall be allocated on an annual basis to each Limited Partner that holds Units that are entitled to receive distributions from the Partnership at the end of each such Fiscal Year in the following order:

- (a) First, to the holders of Class A Units and Class B Units in proportion to the Class A Unit Preferred Returns received by the holders of Class A Units and the Class B Unit Preferred Distributions received by the holders of Class B Units until the holders of Class A Units have received aggregate allocations of income under this Section 5.3(a) equal to the aggregate Class A Unit Preferred Returns received under Section 2.1(a) of Schedule D and the holders of Class B Units have received aggregate allocations of income under this Section 5.3(a) equal to the aggregate Class B Unit Preferred Distributions received under Section 2.1(a) of Schedule E.
- (b) Second, seventy-five percent (75%) to the holders of Class A Units and twenty-five percent (25%) to the holders of Class B Units until such holders have received aggregate allocations of income under this Section 5.3(b) equal to the aggregate excess distributions made to such Limited Partners under Section 2.1(b) of Schedule D and Section 2.1(b) of Schedule E, respectively.
- (c) Third, to the holders of the Class A Units and Class B Units based on the amount of losses and other deductions allocated to such holders under Section 5.2 up to the amount of losses and deductions allocated to such holders under Section 5.2.
- (d) Fourth, seventy-five percent (75%) to the holders of Class A Units and twenty-five percent (25%) to the holders of Class B Units.

### **5.4 Tax Distributions and Distributable Cash**

- (a) If and to the extent that the Partnership expects to report or does report to Unitholders items of income or gain on Form K-1 with respect to their Units in connection with the Partnership's US partnership return on Form 1065 for any Fiscal Year in excess of items of deduction or loss, without regard to the source thereof, minimum distributions (the "Tax Distributions") shall be made to the Unitholders in an amount equal to the amount of federal and state income tax that would be payable by an individual with respect to such net taxable income or gain (based on the highest combined federal and state marginal income tax rate then applicable to any individual in the United States, regardless of the actual tax rate applicable to a Unitholder to whom said net income or gain is allocated). The amount of such distributions shall be based upon the amount of net taxable

income and gain allocated to the holders of Class A Units, Class B Units and the Class C Unit, and shall be distributed within each class in proportion to the number of Units of that class held by each Unitholder relative to the total number of Units of that class outstanding. The Tax Distributions required by this Section 5.4(a) shall be made by wire transfer not later than the first due date, without regard to extensions, on which a federal income tax return reflecting such income would be required to be filed. Tax Distributions also shall be made earlier on those dates upon which federal estimated tax payments are required for individuals (such distributions for federal estimated tax payments to be based upon reasonable estimates). Any Tax Distributions to a Unitholder pursuant to this Section 5.4(a) shall be taken into account and be a part of the distributions the Unitholder is entitled to receive pursuant to Schedules D, E, and F. Any federal, state or local income tax withholding shall be treated as a Tax Distribution to the Unitholder for whose benefit the withholding has been made.

- (b) In respect of each Fiscal Year, the General Partner shall distribute to Limited Partners included in the Register on the last day of the applicable Fiscal Year that hold Units that are entitled to receive distributions of Distributable Cash from the Partnership, in accordance with the respective rights of such Units, the Distributable Cash determined in respect of that Fiscal Year. Such Distributable Cash will only be distributed to the extent that the Partnership has cash available for such payment. The payment date for Distributable Cash to be distributed in respect of a Fiscal Year shall be determined by the General Partner provided that such payment date shall not be later than 60 days after the end of such Fiscal Year.

## **5.5 Monthly or Quarterly Distributions and Allocations**

The General Partner may, in its sole discretion, choose to make distributions of Distributable Cash on a monthly or quarterly basis based on the Distributable Cash determined in respect of each calendar month or quarter. In the event that the General Partner chooses to make distributions on a monthly or quarterly basis, the provisions of this Agreement (including the provisions of this Article 5) shall be deemed to be amended so that any references to distributions of Distributable Cash and allocations of income or loss or other amounts being made on an annual basis shall become references to distributions and allocations on a monthly or quarterly basis, as the case may be.

## **5.6 Repayments**

If, as determined by the General Partner, it appears that any Limited Partner has received an amount under this Article 5 which is in excess of that Partner's entitlement, the Limited Partner will, forthwith upon notice from the General Partner, reimburse the Partnership to the extent of the excess, and failing immediate reimbursement, the General Partner may withhold the amount of the excess (with interest at the Interest Rate from time to time calculated and compounded monthly) from further distributions otherwise due the Limited Partner.

## 5.7 Allocation When Transfers Occur

If any Unit is transferred during any Fiscal Year in compliance with the provisions of this Agreement, net income, net losses, each item thereof and all other items attributable to such interest for such Fiscal Year for accounting and U.S. tax purposes shall be divided and allocated between the transferor Partner and the transferee Partner by taking into account their varying interests during the Fiscal Year in accordance with Section 706(d) of the Code, based on the portion of the year for which the transferor Partner and the transferee Partner were Partners in respect of the Units so transferred.

## 5.8 Permitted Amendments Pursuant to United States Treasury Regulations

The Partners intend that the allocation provisions set forth in this Article 5 have economic effect equivalence as described in Regulation Section 1.704-1(b)(2)(ii)(i). Notwithstanding the prior sentence, upon the written request of Fort Chicago, this Agreement shall be amended for United States federal and state income tax purposes only to include and comply with: (1) the alternate test for economic effect set forth in Regulation Section 1.704-1(b)(2)(ii)(d), (2) the rules set forth in Regulation Section 1.704-2 and (3) related provisions (the "**Section 704(b) Amendments**"). The Section 704(b) Amendments shall, to the maximum extent permitted under Code Section 704(b), provide for allocations of profits, gains, expenses, losses, deductions and other items and for distributions in a manner consistent with the allocations of such items and distributions under this Article 5. The Section 704(b) Amendments shall include, but not be limited to: (a) the alternate test for economic effect under Regulation Section 1.704-1(b)(2)(ii)(d) (including a "qualified income offset" provision, a provision prohibiting allocations to a partner that would cause or increase a deficit balance in such partner's capital account and a provision that upon liquidation of the partnership, distributions shall be made in accordance with the positive capital accounts of the partners), (b) the requirements of Regulation Section 1.704-2 (including a minimum gain chargeback and partner nonrecourse debt minimum gain chargeback), (c) provisions allocating depreciation deductions, nonrecourse deductions and excess nonrecourse liabilities in a manner consistent with the allocations set forth in this Article 5, and taking into account each of such allocation provisions in the order and priority set forth in this Article 5, (d) the provisions of Regulation Sections 1.704-1(b)(2)(iv)(f) and (g) relating to the revaluation of assets and other adjustments, and (e) a corrective allocation provision requiring that if any reallocation of losses or deductions among the Partners under the alternate economic effect test or other regulatory provisions under Code Section 704(b) is made, subsequent allocations of income and gain shall be made as necessary to offset such reallocation of losses or deductions. Notwithstanding anything else herein contained, the General Partner shall have full power and authority to amend this Agreement as contemplated by this Section 5.8, without the approval of the Limited Partners, and to execute, swear to, acknowledge, deliver, file and record whatever documents which may be required in connection therewith to implement the Section 704(b) Amendments, provided, however, that the holders of the Class A Units or the holders of the Class B Units may require that the Partnership retain a law firm reasonably acceptable to the holders of the Class A Units and the holders of the Class B Units to assist the General Partner in preparing the Section 704(b) Amendments so that such amendments correspond, as nearly as possible under Code Section 704(b), with Article 5 as if this Section 5.8 were not part of this Agreement. Such law firm shall be entitled to engage an independent accounting firm in the event that its determinations include accounting questions. If any holder

of Class A Units or Class B Units raises any concerns regarding the Section 704(b) Amendment, such law firms' determination shall be binding on the parties hereto. The fees and expenses of the law firm and any accounting firm engaged shall be for the account of the Partnership.

## **ARTICLE 6**

### **WITHDRAWAL OF CAPITAL CONTRIBUTIONS**

#### **6.1 Withdrawal**

No Limited Partner has the right to withdraw any of its Capital Contributions or other amount or to receive any cash or other distribution from the Partnership except as provided for in this Agreement and except as permitted by law.

## **ARTICLE 7**

### **POWERS, DUTIES AND OBLIGATIONS OF GENERAL PARTNER**

#### **7.1 Powers, Duties and Obligations**

- (a) The General Partner has:
  - (i) unlimited liability for the debts, liabilities and obligations of the Partnership;
  - (ii) subject to the terms of this Agreement, and to any applicable limitations set forth in the Act and applicable similar legislation, the full and exclusive right, power and authority to manage, control, administer and operate the business and affairs and to make decisions regarding the undertaking and business of the Partnership; and
  - (iii) the full and exclusive right, power and authority to do any act, take any proceeding, make any decision and execute and deliver any instrument, deed, agreement or document necessary for or incidental to carrying out the business of the Partnership.

An action taken by the General Partner on behalf of the Partnership is deemed to be the act of the Partnership and binds the Partnership.

- (b) Notwithstanding any other agreement the Partnership or the General Partner may enter into, all material transactions or agreements entered into by the Partnership must be approved by the board of directors of the General Partner in accordance with the Limited Liability Company Agreement.



## **7.2 Specific Powers and Duties**

Subject to the terms of this Agreement, and without limiting the generality of Section 7.1, the General Partner will have full power and authority for and on behalf of and in the name of the Partnership to:

- (a) negotiate, execute and perform all agreements which require execution by or on behalf of the Partnership involving matters or transactions with respect to the Partnership's activities (and such agreements may limit the liability of the Partnership to the assets of the Partnership, with the other party to have no recourse to the assets of the General Partner, even if the same results in the terms of the agreement being less favourable to the Partnership);
- (b) open and manage bank accounts in the name of the Partnership and lend funds of the Partnership to any Person on such terms as the General Partner considers appropriate and otherwise spend the capital of the Partnership in the exercise of any right or power exercisable by the General Partner hereunder;
- (c) borrow funds or otherwise obtain credit in the name of the Partnership from time to time, including providing in the name of the Partnership from time to time guarantees, indemnities, credit support or other forms of financial assistance in respect of the indebtedness, liabilities or obligations of the Partnership;
- (d) mortgage, charge, assign, hypothecate, pledge or otherwise create a security interest in all or any property of the Partnership now owned or hereafter acquired, to secure any present and future indebtedness, liabilities or obligations and related expenses of the Partnership including, without limitation, any guarantees, indemnities, credit support or other forms of financial assistance provided to or for the benefit of any Person in respect of the indebtedness, liabilities or obligations of the Partnership;
- (e) see to the sound management of the Partnership, and to manage, control and develop all the activities of the Partnership and take all measures necessary or appropriate for the business of the Partnership or ancillary thereto;
- (f) acquire securities of entities engaged primarily in activities which are permitted activities for the Partnership as provided in Section 2.2;
- (g) maintain, improve, expand, extend, upgrade or change the assets of the Partnership from time to time subject to the limitations provided under Section 2.2;
- (h) incur all costs and expenses in connection with the Partnership;
- (i) employ, retain, engage or dismiss from employment, personnel, agents, representatives or professionals with the powers and duties upon the terms and for the compensation as in the discretion of the General Partner may be necessary or advisable in the carrying on of the activities of the Partnership;

- (j) engage agents or subcontract administrative functions to assist the General Partner in carrying out its management obligations to the Partnership including, without limitation: (i) designate one or more operators from time to time to manage the design, development, construction, operation, maintenance and/or administration of the Facilities; and (ii) the entering into of the Operating Agreement;
- (k) invest cash assets of the Partnership that are not immediately required for the activities of the Partnership in investments which the General Partner considers appropriate;
- (l) act as attorney in fact or agent of the Partnership in disbursing and collecting moneys for the Partnership, paying debts and fulfilling the liabilities and obligations of the Partnership and handling and settling any claims of the Partnership;
- (m) commence or defend any action or proceeding in connection with the Partnership;
- (n) file any return, election, determination, designation, information return or similar document or instrument as may be required at any time by any government or like authority or under the Code or under any other taxation legislation or regulations of the United States of America or of Canada or of any state, province, territory, county or other jurisdiction which relates to the affairs of the Partnership or the interest of any Person in the Partnership;
- (o) retain legal counsel, experts, advisors or consultants as the General Partner considers appropriate and rely upon the advice of such Persons;
- (p) do anything that is in furtherance of or incidental to the activities of the Partnership or that is provided for in this Agreement;
- (q) execute, acknowledge and deliver the documents necessary to effectuate any or all of the foregoing or otherwise in connection with the activities of the Partnership;
- (r) obtain any insurance coverage;
- (s) appoint a registrar and transfer agent, if necessary;
- (t) acquire or, subject to Section 9.17(i), dispose of the assets of the Partnership;
- (u) after the Commercial Operations Date and subject to Section 9.17(g), designate one or more series of Class C Units as contemplated in Section 3.1, issue further Class C Units and determine the terms and conditions of the offering of Units from time to time and to do all things in this regard in accordance with Section 3.2, provided that no Class C Units may be issued which have the effect of altering the relative economic and legal positions of either of Fort Chicago, as the Class A Unitholder, or Energy Projects, as the Class B Unitholder, to the other as they exist at the time immediately prior to such issuance without the prior written consent of the party whose relative position would be affected; and

- (v) generally carry out the objects, purposes and business of the Partnership.

No Persons dealing with the Partnership will be required to enquire into the authority of the General Partner to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf of or in the name of the Partnership.

### **7.3 Loans from General Partner**

The General Partner or its Affiliates may advance or loan to the Partnership funds which may be necessary for the payment of operating expenses of the Partnership. The rate of interest and any other expenses relative to such advances or borrowings shall not exceed that which the Partnership could reasonably expect to obtain from a United States of America chartered bank with respect to similar borrowings.

### **7.4 Exercise of Duties**

The General Partner covenants that it will exercise the powers and discharge its duties under this Agreement honestly, in good faith, and in the best interests of the Partnership, and that it will exercise the degree of care, diligence and skill that a reasonably prudent Person would exercise in comparable circumstances. Furthermore, the General Partner covenants that it will maintain the confidentiality of financial and other information and data which it may obtain through or on behalf of the Partnership, the disclosure of which may adversely affect the interests of the Partnership or a Limited Partner, except to the extent that disclosure is permitted as provided herein, is required by law or is in the best interests of the Partnership.

### **7.5 Limitation of Liability**

The General Partner is not personally liable for the return of any Capital Contribution made by a Limited Partner to the Partnership. Moreover, notwithstanding anything else contained in this Agreement, but subject to Sections 2.11 and 7.10, neither the General Partner nor any Affiliates thereof nor their respective officers, directors, shareholders, employees or agents are liable, responsible for or accountable in damages or otherwise to the Partnership or a Limited Partner for an action taken or failure to act on behalf of the Partnership within the scope of the authority conferred on the General Partner by this Agreement or by law provided the General Partner has acted in good faith, in a manner which the General Partner believed to be in the best interests of the Partnership.

### **7.6 Indemnity of General Partner**

- (a) To the fullest extent permitted by law but subject to the limitations expressly provided in this Agreement, each General Partner, any former General Partner (a "**Departing Partner**"), any Person who is or was an Affiliate of the General Partner or any Departing Partner, any Person who is or was an officer, director, employee, partner, agent or trustee of the General Partner or any Departing Partner or any such Affiliate, or any Person who is or was serving at the request of the General Partner or any Departing Partner or any such Affiliate as a director, manager, officer, employee, partner, agent or trustee of another Person

(collectively, an "**Indemnatee**") shall be indemnified and held harmless by the Partnership from and against any and all losses, claims, damages, liabilities (joint or several), expenses (including, without limitation, legal fees and expenses), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, in which any Indemnatee may be involved, or is threatened to be involved, as a party or otherwise, by reason of its status as: (i) the General Partner, a Departing Partner or any of their Affiliates; (ii) an officer, director, manager, employee, partner, agent or trustee of the General Partner, any Departing Partner or any of their Affiliates; or (iii) a Person serving at the request of the General Partner, any Departing Partner or any of their Affiliates as a director, manager, officer, employee, agent or trustee of another Person; provided, that in each case the Indemnatee acted in good faith, in a manner which such Indemnatee believed to be in the best interests of the Partnership and, with respect to any criminal proceeding, had no reasonable cause to believe its conduct was unlawful. The foregoing indemnification may indemnify an Indemnatee for negligence. The termination of any action, suit or proceeding by judgment, order, settlement or conviction shall not create a presumption that the Indemnatee acted in a manner contrary to that specified above. Any indemnification pursuant to this Section 7.6 shall be made only out of the assets of the Partnership.

- (b) To the fullest extent permitted by law, expenses (including, without limitation, legal fees and expenses) incurred by an Indemnatee in defending any claim, demand, action, suit or proceeding shall, from time to time, be advanced by the Partnership prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Partnership of an undertaking by or on behalf of the Indemnatee to repay such amount if it shall be determined that the Indemnatee is not entitled to be indemnified as authorized in this Section 7.6.
- (c) The indemnification provided by this Section 7.6 shall be in addition to any other rights to which an Indemnatee may be entitled under any agreement, pursuant to any vote of the Partners, as a matter of law or otherwise, both as to actions in the Indemnatee's capacity as: (i) the General Partner, a Departing Partner or an Affiliate thereof; (ii) an officer, director, manager, employee, partner, agent or trustee of the General Partner, any Departing Partner or an Affiliate thereof; or (iii) a Person serving at the request of the General Partner, any Departing Partner or any of their Affiliates as a director, manager, officer, employee, agent or trustee of another Person, and shall continue as to an Indemnatee who has ceased to serve in such capacity and as to actions in any other capacity.
- (d) The Partnership may purchase and maintain (or reimburse the General Partner or its Affiliates for the cost of) insurance, on behalf of the General Partner and such other Persons as the General Partner shall determine, against any liability that may be asserted against or expense that may be incurred by such Person in connection with the Partnership's activities, whether or not the Partnership would have the power to indemnify such Person against such liabilities under the provisions of this Agreement.

## **7.7 Liability of Indemnitees**

- (a) Notwithstanding anything to the contrary set forth in this Agreement, no Indemnatee shall be liable for monetary damages to the Partnership or the Limited Partners for losses sustained or liabilities incurred as a result of any act or omission if such Indemnatee acted in good faith, in a manner which the Indemnatee believed to be in the best interests of the Partnership.
- (b) The General Partner may exercise any of the powers or authority granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its agents (as contemplated in Section 7.2(j)), and the General Partner shall not be responsible for any misconduct or negligence on the part of any such agent appointed by the General Partner in good faith.

## **7.8 Resolution of Conflicts of Interest**

Unless otherwise expressly provided in this Agreement, whenever a potential conflict of interest exists or arises between the General Partner or any of its Affiliates, on the one hand, and the Partnership or any Limited Partner, on the other hand, any resolution or course of action in respect of such conflict of interest shall be permitted and deemed approved by all Limited Partners, and shall not constitute a breach of this Agreement, or of any standard of care or duty stated or implied by law, if the resolution or course of action is fair and reasonable to the Partnership and such resolution is approved by the board of managers of the General Partner in accordance with the Limited Liability Company Agreement. The General Partner shall be authorized in connection with its resolution of any conflict of interest to consider: (i) the relative interests of any party to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests; (ii) any customary or accepted industry practices; (iii) any applicable generally accepted accounting practices or principles; and (iv) such additional factors as the General Partner determines in its sole discretion to be relevant, reasonable or appropriate under the circumstances. Nothing contained in this Agreement, however, is intended to nor shall it be construed to require the General Partner to consider the interests of any Person other than the Partnership. In the absence of bad faith by the General Partner, the resolution, action or terms so made, taken or provided by the General Partner with respect to such matter shall be deemed to be fair and reasonable, shall be deemed to be in, or not opposed to, the best interests of the Partnership, and shall not constitute a breach of this Agreement or a breach of any standard of care or duty imposed herein or stated or implied under the Act or by law.

## **7.9 Other Matters Concerning the General Partner**

- (a) The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.
- (b) The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisers

selected by it, and any act taken or omitted in reliance upon the opinion (including, without limitation, an opinion of counsel) of such Persons as to matters that the General Partner reasonably believes to be within such Person's professional or expert competence shall be presumed to have been done or omitted in good faith and in accordance with such opinion.

- (c) The General Partner shall have the right, in respect of any of its power, authority or obligations hereunder, to act through any of its duly authorized officers.

#### **7.10 Indemnity of Partnership**

Subject to Section 2.11, the General Partner hereby indemnifies and holds harmless the Partnership and each Limited Partner from and against all costs, expenses, damages or liabilities suffered or incurred by the Partnership or such Limited Partners by reason of an act of willful misconduct or gross negligence by the General Partner or of any act or omission not believed by the General Partner in good faith to be within the scope of the authority conferred on the General Partner by this Agreement.

#### **7.11 Restrictions upon the General Partner**

The General Partner's power and authority does not extend to any powers, actions or authority not enumerated in Sections 7.1 and 7.2 unless and until an Ordinary Resolution or Extraordinary Resolution (as applicable) is passed by the Partners. Further, the General Partner will not:

- (a) commingle the funds of the Partnership with the funds of the General Partner or any of its Affiliates or with the funds of any other Person;
- (b) dissolve the affairs of the Partnership except in accordance with the provisions of Article 11 hereof;
- (c) except in accordance with this Agreement, effect a sale of all or substantially all of the assets of the Partnership to any Person unless such sale or transfer is to a Subsidiary of the Partnership which, in the opinion of counsel to the Partnership, is or will be classified as a partnership for purposes of the Code; or
- (d) withdraw as General Partner except in accordance with the provisions of Section 7.14 hereof.

#### **7.12 Employment of an Affiliate**

Subject to Section 9.17(m), the General Partner may employ or retain Affiliates of the General Partner or the Limited Partners on behalf of the Partnership to provide goods or services to the Partnership provided that, if the Partnership is to reimburse the General Partner for the costs and expenses of such goods or services, the costs of such goods or services must be reasonable and competitive with the costs of similar goods and services provided by independent third parties.

### **7.13 Removal of General Partner**

- (a) Upon the passing of any resolution of the directors or shareholders of the General Partner requiring or relating to the bankruptcy, dissolution, liquidation or winding-up or the making of any assignment for the benefit of creditors of the General Partner, or upon the appointment of a receiver of the assets and undertaking of the General Partner, or upon filing an answer or other pleading admitting or failing to contest the material allegations of a petition filed in such a proceeding, the General Partner shall cease to be qualified to act as General Partner hereunder and shall be deemed to have been removed thereupon as the General Partner of the Partnership effective upon the appointment of a new general partner and the acceptance of such appointment. A new general partner shall, in such instances, be appointed by the Limited Partners by an Extraordinary Resolution after receipt of written notice of such event (which written notice shall be provided by the General Partner forthwith upon the occurrence of such event).
- (b) The General Partner may also be removed if the General Partner has committed a material breach of the Partnership Agreement, which subsists for a period of 60 days after notice, and if such removal is approved by the Limited Partners by an Extraordinary Resolution excluding for this purpose Units held by the General Partner for its own account. Any such action by the Limited Partners for removal of the General Partner under this Section 7.13(b) must also provide for the election and succession of a new general partner. Such removal shall be effective immediately following the admission of the successor general partner to the Partnership.

### **7.14 Voluntary Withdrawal of General Partner**

The General Partner has agreed not to voluntarily withdraw as general partner, provided that the General Partner may withdraw if such withdrawal is approved by an Extraordinary Resolution excluding for this purpose Units held by the General Partner for its own account, after which time the General Partner may withdraw as such by giving 90 days' notice.

### **7.15 Condition Precedent**

As a condition precedent to the resignation or removal of the General Partner, the Partnership shall pay all amounts payable by the Partnership to the General Partner pursuant to this Agreement accrued to the date of resignation or removal subject to any claims or liabilities of the General Partner to the Partnership.

### **7.16 Transfer to New General Partner**

On the admission of a new general partner to the Partnership on the resignation or removal of the General Partner, the resigning or retiring General Partner will do all things and take all steps to transfer the administration, management, control and operation of the business of the Partnership and the books, records and accounts of the Partnership to the new general partner and will execute and deliver all deeds, certificates, declarations and other documents necessary or desirable to effect such transfer in a timely fashion.

### **7.17 Transfer of Title to New General Partner**

On the resignation or removal of the General Partner and the admission of a new general partner, the resigning or retiring General Partner will, at the cost of the Partnership, transfer title to any of the Partnership's property held in the name of the General Partner to such new general partner and will execute and deliver all deeds, certificates, declarations and other documents necessary or desirable to effect such transfer in a timely fashion.

### **7.18 Release by Partnership**

On the resignation or removal of the General Partner, the Partnership will release and hold harmless the General Partner resigning or being removed, from any costs, expenses, damages or liabilities suffered or incurred by the General Partner as a result of or arising out of events which occur in relation to the Partnership after such resignation or removal other than any of the General Partner's obligations to the Partnership under Section 7.10.

### **7.19 New General Partner**

A new general partner will become a party to this Agreement by signing a counterpart hereof and will agree to be bound by all of the provisions hereof and to assume the obligations, duties and liabilities of the General Partner hereunder as from the date the new general partner becomes a party to this Agreement. The new general partner, if a corporation or a limited liability company, must qualify to do business in the State of Delaware pursuant to applicable law. The General Partner shall transfer all of the Units owned by it to the new General Partner who must hold, at all times while it is the General Partner of the Partnership, at least one Unit.

### **7.20 Expenses of the Partnership**

The Partnership will reimburse the General Partner for all direct and indirect operating, general and administrative and other costs and expenses incurred by the General Partner on behalf of the Partnership or in the performance of its duties hereunder (all of which costs and expenses shall be the Partnership's responsibility). For greater certainty, such costs and expenses for which the General Partner is to be reimbursed include the Partnership's direct and indirect operating, general and administrative and other costs and expenses, including legal and audit fees, Unitholder information costs, consulting and advisory fees incurred in connection with the Partnership's business or the evaluation of investment opportunities by the Partnership, fees paid to third parties for services rendered to the General Partner or the Partnership, expenses associated with the issuance of Units and costs incurred by the directors of the General Partner in evaluating matters relating to the Partnership. The Partnership will be responsible for the payment of any goods and services tax, if any, with respect to the costs and expenses to be reimbursed by the Partnership pursuant to this Section 7.20.



## **ARTICLE 8**

### **FINANCIAL INFORMATION**

#### **8.1 Books and Records**

The General Partner shall keep or cause to be kept at the principal office of the Partnership appropriate books and records with respect to the Partnership's business. Any books and records maintained by or on behalf of the Partnership in the regular course of its business, including, without limitation, books of account and records of Partnership proceedings, may be kept on, or be in the form of, computer disks, hard disks, magnetic tape, or any other information storage device, provided that the books and records so maintained are convertible into clearly legible written form within a reasonable period of time. The books of the Partnership shall be maintained, for financial reporting purposes, on an accrual basis in accordance with generally accepted accounting principles.

#### **8.2 Reports**

- (a) As soon as practicable, but in no event later than 90 days after the end of each Fiscal Year, the General Partner shall cause to be mailed to each holder of a Unit as indicated on the Register as of a date selected by the General Partner in its sole discretion, an annual report containing audited consolidated financial statements prepared in accordance with generally accepted accounting principles, such statements to be reported upon by the Auditor. The Limited Partners, by Extraordinary Resolution, may waive the requirement to provide audited financial reports for any year before the year including the Commercial Operations Date.
- (b) As soon as practicable, but in no event later than 45 days after the end of each calendar quarter (except the last calendar quarter of each year), the General Partner shall cause to be mailed to each holder of a Unit as indicated on the Register as of a date selected by the General Partner in its sole discretion, a report containing unaudited consolidated financial statements of the Partnership and such other information as may be required by applicable securities laws, or the rules of any stock exchange on which any of the Units are listed for trading, or as the General Partner determines to be necessary or appropriate.

#### **8.3 Right to Inspect Partnership Books and Records**

- (a) In addition to other rights provided by this Agreement or by applicable law, and except as limited by Section 8.3(b), each Limited Partner shall have the right, for a purpose reasonably related to such Limited Partner's interest as a limited partner in the Partnership, upon reasonable demand and upon not less than 10 days' notice in writing to the General Partner, and at such Limited Partner's own expense, to have furnished to it:
  - (i) a current list of the name and last known address of each Limited Partner and the General Partner;

- (ii) copies of this Agreement, the Certificate, the Operating Agreement, the Limited Liability Company Agreement and amendments thereto; and
  - (iii) such other information regarding the affairs of the Partnership as is just and reasonable.
- (b) Notwithstanding Section 8.3(a), the General Partner may keep confidential from the Limited Partners for such period of time as the General Partner deems reasonable, any information that the General Partner reasonably believes to be in the nature of trade secrets or other information the disclosure of which the General Partner in good faith believes is not in the best interests of the Partnership or could damage the Partnership or that the Partnership is required by law or by agreements with third parties to keep confidential.

#### **8.4 Accounting Policies**

The General Partner is authorized to establish from time to time accounting policies with respect to the financial statements of the Partnership and to change from time to time any policy that has been so established so long as such policies are consistent with the provisions of this Agreement and with generally accepted accounting principles in the United States of America. Any inconsistencies in accounting policies with respect to financial statements between this Agreement and generally accepted accounting principles, will be resolved in favour of such generally accepted accounting principles.

#### **8.5 Appointment of Auditor**

The General Partner shall, on behalf of the Partnership, select the Auditor on behalf of the Partnership to review and report to the Partners upon the financial statements of the Partnership for and as at the end of each Fiscal Year and to advise upon and make determinations with regard to financial questions relating to the Partnership or required by this Agreement to be determined by the Auditor.

#### **8.6 Tax Matters**

- (a) **General Tax Information.** The General Partner will use reasonable efforts to send or cause to be sent to each Person who is a Limited Partner during the previous Fiscal Year, or at the date of dissolution of the Partnership, within 90 days after the end of each Fiscal Year or within 45 days of dissolution, as the case may be, or within such other shorter period of time as may be required by applicable law, all information, in suitable form, relating to the Partnership necessary for such Person to prepare their or their Affiliates' income tax returns. The General Partner shall file, on behalf of itself and the Limited Partners, annual Partnership information returns and any other information returns required to be filed under the Code and any other applicable tax legislation in respect of the Partnership and the Limited Partners.
- (b) **Preparation of U.S. Tax Returns.** The General Partner shall arrange for the preparation and timely filing of all returns of Partnership income, gains,

deductions, losses and other items required of the Partnership for U.S. Federal and state income tax purposes and shall furnish, as soon as reasonably practicable but no later than August 15th of each Fiscal Year (or such earlier date as may be required by law), the tax information reasonably required by the General Partner and the other Partners for U.S. Federal and state income tax reporting purposes.

- (c) **U.S. Tax Elections.** Except as otherwise provided herein, the General Partner shall determine whether to make any available elections pursuant to the Code; provided, however, that the General Partner shall (i) elect for the Partnership to be taxed as a partnership for U.S. federal income tax purposes by filing, if required, Form 8832, and (ii) upon the reasonable request of any Partner, make the election under Section 754 of the Code in accordance with applicable regulations thereunder. The General Partner shall have the right to seek to revoke any such election (including, without limitation, the election under Section 754 of the Code) upon the General Partner's determination that such revocation is in the best interests of the Partners.
- (d) **U.S. Tax Matters Partner.**
  - (i) **General.** The General Partner shall be the "tax matters partner" of the Partnership for U.S. Federal income tax purposes. Pursuant to Section 6223(c) of the Code, upon receipt of notice from the IRS of the beginning of an administrative proceeding with respect to the Partnership, the tax matters partner shall notify each other Partner. The other Partners shall provide such information to the Partnership as the General Partner shall reasonably request.
  - (ii) **Powers.** The tax matters partner is authorized, but not required:
    - (A) to enter into any settlement with the IRS with respect to any administrative or judicial proceedings for the adjustment of Partnership items required to be taken into account by a Partner for income tax purposes (such administrative proceedings being referred to as a "tax audit" and such judicial proceedings being referred to as "judicial review"), and in the settlement agreement the tax matters partner may expressly state that such agreement shall bind all Partners, except that such settlement agreement shall not bind any Partner (a) who (within the time prescribed pursuant to the Code and Regulations) files a statement with the IRS providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such Partner or (b) who is a "notice partner" (as defined in Section 6231 of the Code) or a member of a "notice group" (as defined in Section 6223(b)(2) of the Code);
    - (B) in the event that a notice of a final administrative adjustment at the Partnership level of any item required to be taken into account by a

partner for tax purposes (a "final adjustment") is mailed or otherwise given to the tax matters partner, to seek judicial review of such final adjustment, including the filing of a petition for readjustment with the U.S. Tax Court or the United States Claims Court, or the filing of a complaint for refund with the District Court of the United States for the district in which the Partnership's principal place of business is located;

- (C) to intervene in any action brought by any other Partner for judicial review of a final adjustment;
- (D) to file a request for an administrative adjustment with the IRS at any time and, if any part of such request is not allowed by the IRS, to file an appropriate pleading (petition, complaint or other document) for judicial review with respect to such request;
- (E) to enter into an agreement with the IRS to extend the period for assessing any tax which is attributable to any item required to be taken into account by a Partner for tax purposes, or an item affected by such item; and
- (F) to take any other action on behalf of the Partners of the Partnership in connection with any tax audit or judicial review proceeding to the extent permitted by applicable law or regulations.

The taking of any action and the incurring of any expense by the tax matters partner in connection with any such proceeding, except to the extent required by law, is a matter in the sole and absolute discretion of the tax matters partner, and the provisions relating to indemnification of the General Partner set forth in Section 7.6 of this Agreement shall be fully applicable to the tax matters partner in its capacity as such.

- (iii) **Reimbursement.** The tax matters partner shall receive no compensation for its services. All third-party costs and expenses incurred by the tax matters partner in performing its duties as such (including legal and accounting fees) shall be borne by the Partnership. Nothing herein shall be construed to restrict the Partnership from engaging an accounting firm and a law firm to assist the tax matters partner in discharging his duties hereunder, so long as the compensation paid by the Partnership for such services is reasonable.

- (e) **Organizational Expenses for U.S. Tax Purposes.** The Partnership shall elect to deduct expenses, if any, incurred by it in organizing the Partnership ratably over a 180 month period as provided in Section 709 of the Code.

**ARTICLE 9**  
**MEETINGS OF LIMITED PARTNERS**

**9.1 Requisitions of Meetings**

- (a) The General Partner may call a general meeting of Limited Partners entitled to vote at such time and place as it deems appropriate in its absolute discretion for the purpose of considering any matter set forth in the notice of meeting provided, however, that the General Partner shall call an annual meeting of Limited Partners entitled to vote to be held not later than 15 months after holding the last preceding annual meeting.
- (b) In addition, where Limited Partners holding not less than 50% of the aggregate votes attached to the outstanding Units of any class entitled to vote in respect of Ordinary Resolutions (the "**Requisitioning Partners**") give notice signed by each of them to the General Partner, requesting a meeting of the Limited Partners and stating the purpose of such meeting, the General Partner shall, within 60 days of receipt of such notice, convene such meeting, and if it fails to do so, any Requisitioning Partner may convene such meeting by giving notice in accordance with this Agreement.
- (c) Every meeting of Limited Partners, however convened, will be conducted in accordance with this Agreement.

**9.2 Place of Meeting**

Every meeting of Limited Partners shall be held in the City of Coos Bay, Oregon or at such other place in Canada or in the United States of America as the General Partner (or Requisitioning Partners, if the General Partner fails to call such meeting in accordance with Section 9.1) may designate. Parties may attend meetings in person, by video or conference call, provided that each party can hear and speak to all other attendees. The General Partner shall provide conference call accessibility to all Parties.

**9.3 Notice of Meeting**

Notice of any meeting of Limited Partners will be given to each Limited Partner entitled to receive such notice not less than 21 days (but not more than 60 days) prior to such meeting, and will state:

- (a) the time, date and place of such meeting; and
- (b) in general terms, the nature of the business to be transacted at the meeting in sufficient detail to permit a Limited Partner to make a reasoned decision thereon.

Notice of an adjourned meeting of Limited Partners need not be given if the adjourned meeting is held within 14 days of the original meeting. Otherwise, but subject to Section 9.13, notice of adjourned meetings shall be given not less than 10 days in advance of the adjourned

meeting and otherwise in accordance with this section, except that the notice need not specify the nature of the business to be transacted if unchanged from the original meeting.

#### **9.4 Record Dates**

For the purpose of determining the Limited Partners who are entitled to vote or act at any meeting of Limited Partners or any adjournment thereof, or for the purpose of any other action, the General Partner may fix a date not more than 60 days prior to the date of any meeting of Limited Partners or other action as a record date for the determination of Limited Partners entitled to vote at such meeting or any adjournment thereof or to be treated as Limited Partners of record for purposes of such other action, and any Limited Partner who was a Limited Partner holding voting Units at the time so fixed shall be entitled to vote at such meeting or any adjournment thereof even though it, he or she has since that date disposed of its, his or her Units, and no Limited Partner becoming such after that date shall be a Limited Partner of record for purposes of such action. A Person shall be a Limited Partner of record at the relevant time if the Person's name appears in the Register as amended and supplemented at such time.

#### **9.5 Solicitation of Proxies**

If proxies are solicited from Limited Partners in connection with a meeting of Partners, the Person or Persons soliciting such proxies shall prepare an information circular or other applicable disclosure statement which shall contain, to the extent that it is relevant and applicable, the information prescribed for such information circulars or disclosure statements by the *Securities Exchange of 1934*, as amended, if applicable and in compliance with all other applicable federal or state laws.

#### **9.6 Proxies**

Any Limited Partner entitled to vote at a meeting of Limited Partners may vote by proxy if a form of proxy has been received by the General Partner or the chairman of the meeting for verification prior to the commencement of the meeting.

#### **9.7 Validity of Proxies**

A proxy purporting to be executed by or on behalf of a Limited Partner will be considered to be valid unless challenged at the time of or prior to its exercise. The Person challenging the proxy will have the burden of proving to the satisfaction of the chairman of the meeting that the proxy is invalid and any decision of the chairman concerning the validity of a proxy will be final. Proxies shall be valid only at the meeting with respect to which they were solicited, or any adjournment thereof, but in any event shall cease to be valid one year from their date. A proxy given on behalf of joint holders must be executed by all of them and may be revoked by any of them, and if more than one of several joint holders is present at a meeting and they do not agree which of them is to exercise any vote to which they are jointly entitled, they will for the purposes of voting be deemed not to be present. A proxy holder need not be a holder of a Unit.

## **9.8 Form of Proxy**

Every proxy will be substantially in the form as may be approved by the General Partner or as may be satisfactory to the chairman of the meeting at which it is sought to be exercised.

## **9.9 Revocation of Proxy**

A vote cast in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death, incapacity, insolvency or bankruptcy of the Limited Partner giving the proxy or the revocation of the proxy unless written notice of such death, incapacity, insolvency, bankruptcy or revocation shall have been received by the chairman of the meeting prior to the commencement of the meeting.

## **9.10 Corporations and other Entities**

A Limited Partner which is a corporation, limited liability company or other non-individual may appoint an officer, director, manager or other authorized person as its representative to attend, vote and act on its behalf at a meeting of Limited Partners.

## **9.11 Attendance of Others**

Any officer or director of the General Partner, legal counsel for the General Partner, a Limited Partner and the Partnership and representatives of the Auditor will be entitled to attend any meeting of Limited Partners. The General Partner has the right to authorize the presence of any Person at a meeting regardless of whether the Person is a Limited Partner. With the approval of the General Partner, that Person is entitled to address the meeting.

## **9.12 Chairman**

The General Partner may nominate a Person, including, without limitation, an officer, director or manager of the General Partner (who need not be a Limited Partner), to be chairman of a meeting of Limited Partners and the person nominated by the General Partner will be chairman of such meeting unless the Limited Partners elect another chairman by Ordinary Resolution.

## **9.13 Quorum**

A quorum at any meeting of Limited Partners will consist of one or more Limited Partners present in person or by proxy holding at least 51% of the aggregate votes attached to the outstanding Units entitled to be voted at the meeting. If, within half an hour after the time fixed for the holding of such meeting, a quorum for the meeting is not present, the meeting:

- (a) if called by or on the requisition of Limited Partners, will be terminated; and
- (b) if called by the General Partner, will be held at the same time and place on the day which is 14 days later (or if that date is not a business day, the first business day after that date). The General Partner will give three days' notice to all Limited Partners of the date of the reconvening of the adjourned meeting and at such

meeting the quorum will consist of the Limited Partners then present in person or represented by proxy.

#### **9.14 Voting**

Every question submitted to a meeting of Limited Partners:

- (a) which requires an Extraordinary Resolution under this Agreement will be decided by a poll; and
- (b) which does not require an Extraordinary Resolution will be decided by an Ordinary Resolution on a show of hands unless otherwise required by this Agreement or a poll is demanded by a Limited Partner, in which case a poll will be taken;

and in the case of an equality of votes, the chairman will not have a casting vote and the resolution will be deemed to be defeated. The chairman will be entitled to vote in respect of any Units held by him or for which he may be a proxyholder. On any vote at a meeting of Limited Partners, a declaration of the chairman concerning the result of the vote will be conclusive.

On a poll, each Person present at the meeting will have that number of votes provided for in this Agreement and in the rights, privileges, restrictions and conditions attaching to each Unit in respect of which it, he or she is shown on the Register as the Unitholder at the record date and for each Unit in respect of which it, he or she is the proxyholder. Each Limited Partner present at the meeting and entitled to vote thereat will have one vote on a show of hands. If Units are held jointly by two or more Persons and only one of them is present or represented by proxy at a meeting of Limited Partners, such Limited Partner may, in the absence of the other or others, vote with respect thereto, but if more than one of them is present or represented by proxy, they shall vote together on the whole Units held jointly.

The General Partner, as such for its own account, shall not be entitled to vote on any poll or on a show of hands at any meeting of Limited Partners. Any Limited Partner who is in default of payment of the subscription price for or Capital Contributions or loans in respect of its, his or her Units as contemplated in Section 4.4 shall not be entitled to vote in respect of any of its, his or her Units.

#### **9.15 Poll**

A poll requested or required will be taken at the meeting of Limited Partners or an adjournment of the meeting in such manner as the chairman directs.

#### **9.16 Powers of Limited Partners; Resolutions Binding**

The Limited Partners shall have only the powers set forth in this Agreement and any additional powers provided by law or in the rights, privileges, restrictions and conditions attaching to its, his or her Units. Subject to the foregoing sentence, any resolution passed in accordance with this Agreement will be binding on all the Partners and their respective heirs,



executors, administrators, successors and assigns, whether or not any such Partner was present in person or voted against any resolution so passed.

### **9.17 Powers Exercisable by Extraordinary Resolution**

The following powers shall only be exercisable by Extraordinary Resolution passed by the Limited Partners entitled to vote thereon:

- (a) approval of the withdrawal of the General Partner as provided in Section 7.14(a);
- (b) dissolving the Partnership, except as otherwise provided for under Section 11.1;
- (c) waiving any default on the part of the General Partner on such terms as the Limited Partners may determine;
- (d) amending, modifying, altering or repealing any Extraordinary Resolution previously passed by such Limited Partners;
- (e) amending this Agreement pursuant to Section 12.1;
- (f) an approval referred to in Section 2.9(h);
- (g) issuing further Class C Units or determining the terms and conditions of the offering of such Units;
- (h) appointing a General Partner;
- (i) subject to Schedule G, Section 5.3, effecting a sale of all or any material portion of the assets of the Partnership;
- (j) admitting any Person as a Partner in the Partnership other than pursuant to a transfer permitted herein;
- (k) approving any merger or reorganization of the Partnership;
- (l) filing for bankruptcy, assigning the Partnership's assets for the benefit of creditors, or any similar act of insolvency;
- (m) approving any payments to or the making or entering into any contract or agreement with any Affiliate of any Partner;
- (n) providing a guaranty for, or pledging any Partnership assets as security for, any indebtedness or obligation of any Person other than the Partnership; or
- (o) any other act under this Agreement that expressly requires an Extraordinary Resolution.

provided that for the purpose of the approval required for matters referred to in Sections 9.17(a), (c) and (d) (if the General Partner was not permitted to vote on the original Extraordinary

Resolution), Units owned by the General Partner for its own account shall not be permitted to vote on any resolutions and shall be deemed to not be outstanding.

#### **9.18 Minutes**

The General Partner will cause minutes to be kept of all proceedings and resolutions at every meeting and will cause all such minutes and all resolutions of the Limited Partners consented to in writing to be made and entered into books to be kept for that purpose. Any minutes of a meeting signed by the chairman of the meeting will be deemed evidence of the matters stated in them and such meeting will be deemed to have been duly convened and held and all resolutions and proceedings shown in them will be deemed to have been duly passed and taken.

#### **9.19 Additional Rules and Procedures**

To the extent that the rules and procedures for the conduct of a meeting of the Limited Partners are not prescribed in this Agreement, the rules and procedures will be determined by the General Partner.

### **ARTICLE 10** **NOTICES**

#### **10.1 Address**

Any notice or other written communication which must be given or sent under this Agreement shall be given by first-class mail or personal delivery to the postal address of the General Partner and the Limited Partners set forth for each such Partner on the signature page of this Agreement, or any other new address following a change of address in conformity with Section 10.2, and the General Partner will maintain such addresses, as may be changed hereunder, in the Partnership's Register .

#### **10.2 Change of Address**

A Limited Partner may, at any time, change its address for the purpose of service by written notice to the General Partner. The General Partner may change its address for the purpose of service by written notice to all the Limited Partners.

#### **10.3 Accidental Failure**

An accidental omission in the giving of, or failure to give, a notice required by this Agreement will not invalidate or affect in any way the legality of any meeting or other proceeding in respect of which such notice was or was intended to be given if the failure did not prejudice any party's rights hereunder.

#### **10.4 Disruption in Mail**

In the event of any disruption, strike or interruption in the applicable postal service after mailing and before receipt or deemed receipt of a document, it will be deemed to have been received on the sixth business day following full resumption of the postal service.

#### **10.5 Receipt of Notice**

Subject to Section 10.4, notices given by first-class mail shall be deemed to have been received on the third business day following the deposit of such notice in the mail and notices given by delivery shall be deemed to have been received on the date of their delivery.

#### **10.6 Undelivered Notices**

If the General Partner sends a notice or document to a Unitholder in accordance with Section 10.1 and the notice or document is returned on three consecutive occasions because the Unitholder cannot be found, the General Partner is not required to send any further notices or documents to the Unitholder until the Unitholder informs the General Partner in writing of the Unitholder's new address.

### **ARTICLE 11** **DISSOLUTION AND LIQUIDATION**

#### **11.1 Events of Dissolution**

The Partnership shall follow the procedure for dissolution established in Section 11.4 upon the occurrence of any of the following events or dates:

- (a) the election of the General Partner to dissolve the Partnership, if approved by the passage of an Extraordinary Resolution;
- (b) the sale, exchange or other disposition of all or substantially all of the property of the Partnership, if approved as provided herein;
- (c) the removal or resignation of the General Partner unless the General Partner is replaced as provided herein or in the resolution removing the General Partner; or
- (d) December 31, 2076.

#### **11.2 No Dissolution**

The Partnership shall not come to an end by reason of the death, bankruptcy, assignment of property for the benefit of creditors, insolvency, mental incompetency or other disability of any Limited Partner or upon transfer of any Units or upon the issue or conversion of Units.

### **11.3 Continuation After Event of Dissolution**

Upon the occurrence of an event described in Section 11.1(c), if within 90 days thereafter, holders of Units entitled to vote thereon, by an Ordinary Resolution so elect, the Limited Partners shall reconstitute the Partnership and continue its business on the same terms and conditions set forth in this Agreement by forming a new limited partnership on terms identical to those set forth in this Agreement and having as a general partner a Person approved by the holders pursuant to an Extraordinary Resolution. Upon any such election by Extraordinary Resolution, all Partners shall be bound thereby and shall be deemed to have approved thereof. Unless such an election is made within the applicable time period as set forth above, the Partnership shall conduct only activities necessary to wind up its affairs. If such an election is so made, then:

- (a) the reconstituted Partnership shall continue until the end of the term set forth in Section 11.1(d) unless earlier dissolved in accordance with this Article 11; and
- (b) all necessary steps shall be taken to cancel this Agreement and the Certificate and to enter into and, as necessary, to file a new partnership agreement and certificate of limited partnership, and the successor general partner may for this purpose exercise the powers of attorney granted the General Partner pursuant to Section 2.10.

### **11.4 Procedure on Dissolution**

Upon the occurrence of any of the events set forth in Section 11.1, the General Partner (or in the event of an occurrence specified in Section 11.1(c), such other Person as may be appointed by Ordinary Resolution of the Limited Partners entitled to vote thereon) shall act as a receiver and liquidator of the assets of the Partnership and shall:

- (a) sell or otherwise dispose of such part of the Partnership's assets as the receiver shall consider appropriate;
- (b) pay or provide for the payment of the debts and liabilities of the Partnership and liquidation expenses;
- (c) if there are any assets of the Partnership remaining, distribute to the Unitholders indicated on the Certificate on the date of dissolution holding Units entitled to receive such distribution from the Partnership, subject to Sections 3.18 and 4.12, any Class A Unit Preferred Distributions, Class B Unit Preferred Distributions or Distributable Cash then unpaid to Unitholders in accordance with the provisions hereof as if the date of dissolution was the last day of the Fiscal Year;
- (d) if there are any assets of the Partnership remaining, distribute such remaining assets to the Unitholders indicated in the Register on the date of dissolution who are holding Units entitled to receive assets of the Partnership on the dissolution of the Partnership, subject to Sections 3.18 and 4.12, in accordance with the respective rights of such Units;

- (e) file the notice of dissolution prescribed by the Act and satisfy all applicable formalities in such circumstances as may be prescribed by the laws of other jurisdictions where the Partnership is registered. In addition, the General Partner shall give prior notice of the dissolution of the Partnership by mailing to each Limited Partner such notice at least 21 days prior to the filing of the declaration of dissolution prescribed by the Act; and
- (f) file any elections, determinations or designations under the Code or under any similar legislation which may be necessary or desirable.

## **11.5 Dissolution**

The Partnership shall be dissolved upon the completion of all matters set forth in Section 11.4.

## **11.6 No Right to Dissolve**

Except as provided for in Section 11.1, no Limited Partner shall have the right to ask for the dissolution of the Partnership, the winding-up of its affairs or the distribution of its assets.

## **11.7 Agreement Continues**

Notwithstanding the dissolution of the Partnership, this Agreement shall not terminate until the provisions of Section 11.4 and 11.5 shall have been satisfied.

# **ARTICLE 12** **AMENDMENT**

## **12.1 Amendment Procedures**

Except as provided in Section 12.3 or 5.8, all amendments to this Agreement shall be made in accordance with the following requirements. Amendments to this Agreement may be proposed solely by the General Partner or by Requisitioning Partners pursuant to Section 9.1(b). Each such proposal shall contain the text of the proposed amendment. If an amendment is proposed, the General Partner shall seek the approval of the Limited Partners entitled to vote thereon by an Extraordinary Resolution.

## **12.2 Amendment Requirements**

Notwithstanding the provisions of Sections 12.1 and 12.3, no amendment to this Agreement may: (i) give any Person any additional right to dissolve the Partnership; or (ii) modify the amendment provisions in this Article 12.

## **12.3 Amendment by General Partner**

Each Limited Partner agrees that the General Partner (pursuant to its powers of attorney from the Limited Partners or as expressly provided herein), without the approval of any Limited

Partner may amend any provision of this Agreement, and execute, swear to, acknowledge, deliver, file and record whatever documents may be required in connection therewith, to reflect:

- (a) a change in the name of the Partnership or the location of the principal place of business of the Partnership;
- (b) admission, substitution, withdrawal or removal of Limited Partners in accordance with this Agreement;
- (c) subject to Section 3.1, and except as otherwise provided in any series provisions of any series of Class C Units, a change that, in the sole discretion of the General Partner, is reasonable and necessary or appropriate to qualify or continue the qualification of the Partnership as a limited partnership in which the Limited Partners have limited liability under the applicable laws;
- (d) subject to Section 3.1, and except as otherwise provided in any series provisions of any series of Class C Units, a change that, in the sole discretion of the General Partner, is reasonable and necessary or appropriate to enable Partners to take advantage of, or not be detrimentally affected by, changes in the Code or other taxation laws; or
- (e) subject to Section 3.1, and except as otherwise provided in any series provisions of any series of Class C Units, a change that does not materially adversely affect the Limited Partners.

**ARTICLE 13**  
**NON-COMPETITION**  
**AND CONFIDENTIALITY**

**13.1 Non-Competition**

- (a) Each Partner hereby covenants and agrees with the Partnership and each of the other Partners that, commencing on the date hereof and ending 48 months after the date on which it ceases to hold any Project Interest, it will not, and it will not allow any of its Affiliates, without the prior written consent of the other Partners:
  - (i) directly or indirectly, whether on its own behalf, or as a consultant, partner, investor or lender of any person, firm, partnership, trust, corporation or other entity, sponsor, promote, be engaged or interested in or otherwise in any manner take part in any business or other commercial activity, howsoever carried on or conducted, which competes with the business or proposed business of the Partnership, whether directly or indirectly, anywhere within the geographic areas of: (i) in the case of Energy Projects and any Partner other than Fort Chicago, the west coast of North America; and (ii) in the case of Fort Chicago, the coast and all major waterways of the states of Oregon and Washington (collectively the

"**Restricted Area**"), and will not allow its name or any part thereof to be used in or employed by any such business;

- (ii) solicit or entice, or attempt to solicit or entice, any of the customers or suppliers of the Partnership and all persons who are not customers or suppliers but who have been canvassed or solicited by the Partnership (collectively the "**Customers**"), to become a customer or supplier of any person, firm, trust, corporation or other entity that competes with the Partnership anywhere within the Restricted Area; or
  - (iii) solicit or entice, or attempt to solicit or entice, any of the employees of the Partnership or the General Partner to enter into employment or service with any person, firm, trust, corporation or other entity that competes with the Partnership anywhere within the Restricted Area, or entertain any offers from or enter into discussions with or employ or hire any such employees.
- (b) Each Partner confirms that all restrictions in Section 13.1(a) herein are reasonable and necessary to protect the interests of the Partnership and the other Partners.
- (c) The parties acknowledge and confirm that:
  - (i) they have each been independently advised by counsel with respect to the provisions of this Agreement;
  - (ii) the parties have negotiated the provisions hereof on an equal footing based on equal bargaining power at the time of entering into of this Agreement;
  - (iii) no party was required or induced to enter into this Agreement; and
  - (iv) the provisions hereof are reasonable and do not go beyond what is necessary to protect the interests of the Partnership and the Partners.
- (d) Each Partner understands and agrees that the other Partners and the Partnership will suffer irreparable harm in the event that a Partner breaches any of its obligations under this Section and that monetary damages would be inadequate to compensate the Partnership or the other Partners for such breach. Accordingly, each Partner agrees that in the event of a breach or a threatened breach by it of any of the provisions of this Agreement, the Partnership or the other Partners will be entitled, in addition to any other rights, remedies or damages which may be available to the Partnership or the other Partners, at law or in equity, to obtain an interim and permanent injunction in order to prevent or restrain any such breach or threatened breach of this Agreement by a Partner, or by any or all of a Partner's partners, employers, employees, servants, agents, representatives, and any other persons directly or indirectly acting for, or on behalf of, or with, such Partner. Each Partner further agrees that the Partnership or the other Partners shall be entitled to injunctive relief without having to prove damages and shall be entitled to all of their costs and expenses incurred in order to obtain relief from any breach

of a Partner's obligations under this Section, including reasonable solicitor and client legal costs and disbursements.

- (e) Concurrently with the execution of this Agreement, Energy Projects shall cause Robert Braddock, Elliot Trepper, Geoffrey Mitchell, and J. Thomas Wilson, voting members of Energy Projects, to deliver to each of the Partnership and Fort Chicago individual covenants substantially in the form of this Section 13.1.
- (f) Notwithstanding anything else herein contained, this Section 13.1 shall terminate and become null and void in the event that: (i) each of Fort Chicago and Energy Projects sell their Project Interests, effective as of the date of the last of such sales; or (ii) the Project is no longer being pursued by any one of the Partnership, Energy Prospects, Fort Chicago or the individuals referred to in Section 13.1(e).

### 13.2 Confidentiality

- (a) In this Section 13.2, "**Confidential Information**" means any and all confidential and proprietary information, records, trade secrets and documentation of the Partnership relating to the permitting, design, engineering, construction, commissioning, management and operation of the Facilities hereinbefore or hereafter disclosed by the Partnership to any Partner or any Affiliate thereof.
- (b) Each Partner hereby acknowledges that prior to the date hereof it has had, and it will in the future have, access to and will be entrusted with Confidential Information. Each Partner covenants and agrees on its own behalf and on behalf of its Affiliates, that all Confidential Information disclosed to it (i) shall be kept in strict confidence by such Partner and its Affiliates, (ii) shall not be used, dealt with or exploited for any purpose or purposes other than the express purposes of the Partnership, and (iii) shall not be disclosed to any Person or Persons other than to the parties hereto unless otherwise required by law. Each Partner shall take all reasonable steps necessary to maintain the confidential nature of the Confidential Information.
- (c) The restrictions set forth in Section 13.2(b) above shall not apply to any part of the Confidential Information which (i) is at the time of disclosure or thereafter becomes a part of the public domain through no violation of this Agreement, (ii) as confirmed by the written records of the Partner, was in the lawful possession of such Partner prior to its disclosure hereunder, (iii) is hereafter lawfully acquired by the Partner through a third party which, to the best of the Partner's knowledge, is not under an obligation of confidence to the Partnership, General Partner or either of them and which third party was not in a contractual or fiduciary relationship with the Partnership, General Partner or either of them, (iv) is disclosed following receipt of the express written consent of the General Partner on behalf of the Partnership to such disclosure being made, or (v) subject to Subsection 13.2(e) below, any Partner or any Affiliate thereof is legally compelled to disclose.



- (d) Each Partner further acknowledges the competitive value and sensitive nature of the Confidential Information to the Partnership and its Affiliates, the disclosure of which to any competitor of the Partnership or its Affiliates or to the general public or to any Person would be highly detrimental to the best interests of the Partnership and its Affiliates. Each Partner agrees that the right to maintain the confidentiality of such Confidential Information, and the right to preserve the goodwill of the Partnership and its Affiliates, constitute proprietary rights which the Partnership and its affiliates are entitled to protect.
- (e) If a Partner or an Affiliate thereof becomes legally compelled to disclose any of the Confidential Information, the Partner or Affiliate which is legally compelled shall provide the General Partner of the Partnership with prompt written notice of same so that the General Partner may seek a protective order or other appropriate remedy. If such protective order or remedy is not obtained, the Partner or Affiliate shall furnish only that portion of the Confidential Information which is legally required and will exercise all reasonable commercial efforts to obtain reliable assurance that the Confidential Information will be accorded confidential treatment.
- (f) All Confidential Information including, without limitation, sketches, drawings, reports, notes, records, papers, documents, copies, reproductions, reprints, translation, data or information (whether of a technical, engineering, operational, economic or other nature) received from the Partnership and in the possession of a Partner or its Affiliates or of a director, officer or employee of a Partner or its Affiliates shall be and remain the sole property of the Partnership and each Partner shall hand same over (or cause same to be handed over) to the General Partner of the Partnership at any time upon demand after the Partner and all its Affiliates cease to be a Unit holder hereunder, provided that such Partner and all of its Affiliates may make and retain copies of any Confidential Information necessary or desirable to support its financial records.
- (g) Notwithstanding the restrictions set forth in this Section 13.2, any Partner may disclose Confidential Information, to the extent reasonably necessary, to prospective lending institutions of such Partner or to prospective transferees of such Partner's interests in the Partnership as a Partner thereof; provided however that such Person or Persons shall be informed at the time of such disclosure of its confidential nature and provided with the confidentiality terms of this Agreement, and that such Person or Persons shall first agree in writing to comply with and be bound by all the terms and conditions of this Section 13.2.

### **13.3 Disclosure**

The parties hereto hereby agree that all notices to third parties, including employees of the parties and all other public announcements concerning the transactions contemplated by this Agreement and/or the on-going business of the Partnership, shall require the prior approval of the General Partner, such approval not to be unreasonably withheld or delayed, unless such disclosure shall be required to meet timely disclosure obligations of any party under applicable

securities laws and stock exchange rules in circumstances where prior consultation with the other party is not practicable.

#### **13.4 Survival**

The provisions of Sections 13.1, 13.2 and 13.3 shall survive the termination of this Agreement and the withdrawal of a Partner and its Affiliates from the Partnership prior to termination of this Agreement for any reason whatsoever

### **ARTICLE 14** **MISCELLANEOUS**

#### **14.1 Binding Agreement**

Subject to the restrictions on assignment and transfer herein contained, this Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

#### **14.2 Time**

Time shall be of the essence hereof.

#### **14.3 Counterparts**

This Agreement, or any amendment to it, may be executed in multiple counterparts, each of which will be deemed an original agreement. This Agreement may also be executed and adopted in any Subscription Form, Transfer Form or similar instrument signed by a Limited Partner with the same effect as if such Limited Partner had executed a counterpart of this Agreement. All counterparts and adopting instruments shall be construed together and shall constitute one and the same agreement.

#### **14.4 Governing Law**

This Agreement and the Schedule hereto shall be governed and construed exclusively according to the laws of the State of Delaware and the laws of the United States of America applicable thereto and the parties hereto irrevocably attorn to the non-exclusive jurisdiction of the courts of the State of Delaware.

#### **14.5 Severability**

If any part of this Agreement is declared invalid or unenforceable, then such part shall be deemed to be severable from this Agreement and will not affect the remainder of this Agreement.

#### **14.6 Further Acts**

The parties will perform and cause to be performed such further and other acts and things and execute and deliver or cause to be executed and delivered such further and other documents

as counsel to the Partnership considers necessary or desirable to carry out the terms and intent of this Agreement.

#### **14.7 Entire Agreement**

This Agreement constitutes the entire agreement among the parties hereto with respect to the subject matter hereof.

#### **14.8 Limited Partner Not a General Partner**

If any provision of this Agreement has the effect of imposing upon any Limited Partner (other than the General Partner) any of the liabilities or obligations of a general partner under the Act, such provision shall be of no force and effect to the extent of such specific imposition.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date set out above.

**JORDAN COVE ENERGY PROJECT L.L.C.,** as  
General Partner

By:

\_\_\_\_\_  
Stephen H. White  
Manager

Notice address:

215 Central Avenue, Suite 380  
Coos Bay, Oregon 97420  
Telephone (541) 266-7510  
Facsimile (541) 266-7510

**FORT CHICAGO LNG II U.S. L.P.,** as Limited  
Partner and by its General Partner, **FORT  
CHICAGO ENERGY MANAGEMENT INC.**

By:

Stephen H. White  
President and Chief Executive Officer

Notice address:

Suite 2150, Stock Exchange Tower  
300 – 5<sup>th</sup> Avenue S.W.  
Calgary, Alberta T2P 3C4  
Telephone (403) 213-3639  
Facsimile (403) 213-3648

**ENERGY PROJECTS DEVELOPMENT L.L.C.,**  
as Limited Partner

By: \_\_\_\_\_  
Elliot L. Trepper,  
President

Notice address:

1274 Silvertip Lane  
Evergreen, Colorado 80439  
Telephone  
Facsimile

**Schedule A**  
**Contribution Agreement – Energy**  
**Projects Development L.L.C.**

**Schedule B**  
**Operating Agreement**

**Schedule C**  
**Transfer and Power of Attorney Form**

I, the undersigned, a Limited Partner of JORDAN COVE ENERGY PROJECT L.P. (the "Partnership") hereby transfer, assign and sell to:

\_\_\_\_\_  
(Name of Transferee)

\_\_\_\_\_  
(Address)

\_\_\_\_\_ limited partnership units ("Units") in the Partnership registered in my name and constitute the above-named transferee as a substitute Limited Partner to the extent of the said number of Units and I agree to execute and deliver to the General Partner any documents required to effect a valid transfer of the said Units or which are necessary or advisable, in the opinion of the General Partner, to preserve the status of the Partnership as a limited partnership. I agree that the power of attorney previously granted to the General Partner will be effective for the purpose of executing and filing all certificates, amendments and other instruments necessary to give effect to this transfer.

DATED at \_\_\_\_\_, Province/State/Territory of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of Limited Partner)

\_\_\_\_\_  
(Surname) (Given Name) (Please Print)

\_\_\_\_\_  
(Address – No Post Office Box)

\_\_\_\_\_  
(City, Province/State, Postal/Zip Code)

Notes:

The above-named transferee accepts this transfer and agrees to be bound, as a party to and as a Limited Partner in the Partnership, by the terms of the Agreement, as from time to time amended as if it had personally executed the Agreement, and hereby ratifies, for all legal purposes, execution of the Agreement on its behalf and all actions taken on its behalf pursuant thereto. The transferee declares that it (and any beneficial owner of the Units to be registered in its name), if a corporation or limited capacity company, is validly subsisting under the laws of the jurisdiction of its incorporation, has the capacity and competence and, if a corporation, it has the necessary corporate authority, to execute this transfer and to enter into the Agreement and that the representations, warranties, covenants and agreements in Section 2.6(b) are true and correct as of the date hereof.

In consideration of the General Partner accepting this transfer and conditional thereon:

- (a) the transferee agrees to be bound as a Limited Partner in the Partnership by the terms of the Agreement as from time to time amended and in effect and the transferee hereby expressly ratifies and confirms the power of attorney given to the General Partner in Section 2.9 therein; and

- (b) the transferee hereby irrevocably constitutes and appoints the General Partner, with full power of substitution, as his/her true and lawful attorney and agent, with full power and authority in his/her name, place and stead to execute and deliver, for and on his/her behalf the Agreement, the Certificate and any amendments thereto.

The power of attorney granted herein and in the Agreement is irrevocable, is a power coupled with an interest, shall continue despite the mental incompetence of the transferee, shall survive the death or disability of the transferee and shall survive the transfer or assignment by the transferee, to the extent of the obligations of the transferee under the Agreement, of the whole or any part of the interest of the transferee in the Partnership, extends to the heirs, executors, administrators, other legal representatives and successors, transferees and assigns of the transferee, and may be exercised by the General Partner on behalf of each Limited Partner in executing any instrument by a facsimile signature or by listing all the Limited Partners and executing such instrument with a single signature as attorney and agent for all of them. The transferee agrees to be bound by any representations or actions made or taken by the General Partner pursuant to such power of attorney and hereby waives any and all defenses which may be available to contest, negate or disaffirm the action of the General Partner taken in good faith under such power of attorney. The transferee declares that these powers of attorney may be exercised during any legal incapacity or mental infirmity on its part.

Unless otherwise indicated, capitalized terms used herein shall have the meaning ascribed thereto in the Limited Partnership Agreement (the "Agreement") dated as of \_\_\_\_\_, 2005 relating to the Partnership.

DATED at \_\_\_\_\_, Province/State/Territory of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of Transferee)

\_\_\_\_\_  
(Surname) (Given Name) (Please Print)

\_\_\_\_\_  
(Address—No Post Office Box)

\_\_\_\_\_  
(City, Province/State, Postal/Zip Code)



**Schedule D**  
**Certain Rights – Class A Units**

**ARTICLE 1**  
**DEFINITIONS**

**1.1 Definitions**

In this Schedule D, except where otherwise specifically provided, the following words have the following meanings:

**"Class A Unit Preferred Distribution"** means [See Section 1.2 of this Schedule D];

**"Class A Unit Preferred Return"** has the meaning set forth in Section 1.2 of this Schedule D;

**"Commencement Date"** means December 31 of the year in which the Commercial Operations Date occurs;

**"Liquidation Distribution"** has the meaning set forth in Section 3.1 of this Schedule D;

**"Payment Date"** means each date during the fifteen year period following the Commencement Date on which the General Partner determines to make a Class A Unit Preferred Distribution in accordance with Section 5.4(b) of the Agreement; and

**"Return Period"** has the meaning set forth in Section 1.2(c)(i) of this Schedule D.

In addition to the above, words used in this Schedule D which are defined in the Agreement shall have the meanings set forth therein.

**1.2 "Class A Unit Preferred Distribution"**

- (a) The Class A Unitholders will be paid the "Class A Unit Preferred Distribution", which will equal a return on equity provided for development (before construction) equal to a premium after-tax rate of return of 30%, (compounded annually) plus a return on equity provided for the construction financing at a premium after-tax rate of return of 10.25% (compounded annually) (collectively, the **"Class A Unit Preferred Return"**) plus a return of both development and permanent equity. As used in this Agreement, the after-tax return is calculated assuming that the Class A Unitholders pay U.S. federal and Oregon state income taxes at the highest marginal rates applicable to corporations, and only those income taxes (including any income taxes imposed after the date hereof) will be considered in calculating the after-tax returns.
- (b) Absent liquidation of the Partnership, upon which the Class A Unit Preferred Distribution will be paid upon liquidation, the Class A Unit Preferred Distribution will be paid to the Class A Unitholders over a 15-year period. Each year, the

Class A Unit Preferred Distribution will equal the amount required to pay the Class A Unitholders the premium after-tax rates of return on the outstanding portion of the equity investment, plus a return of the equity investment in an amount that will amortize the premium return and the equity investment over the 15-year period. The payments will be calculated to pay the premium return and the equity in 15 approximately equal annual payments.

- (c) Before the earlier of October 1, 2006 or the date on which construction of the Facilities first commences, the Parties, acting reasonably and in good faith, shall mutually agree on the calculation and further terms of the "Class A Unit Preferred Distribution" and all consequential amendments to the Agreement and this Schedule D as reasonably required to reflect the Parties agreement , having regard to the following general principles and parameters:

- (i) The payments of the Class A Unit Preferred Distribution will be calculated and paid similar to a mortgage amortization with equal payments over a 15-year period. However, the payments may be subject to recalculation from time to time during the 15-year term, as described below. Upon any recalculation, the recalculation will include payments that will result in a return of the investment over the remainder of the 15-year term, plus the premium after-tax rate of return on the outstanding investment. The 15-year period (the "**Return Period**") will begin as of the Commercial Operations Date, with the first payment due at the end of that Fiscal Year. The first payment will be prorated for the number of days from the Commercial Operations Date to the end of that year, plus the premium after-tax rate of return accrued during that period.
- (ii) Within 60 days following the Commercial Operations Date, the parties will calculate the total development equity, plus the cumulative and compounded return on that amount accrued up to of the Commercial Operations Date at the 30% rate, and the total permanent equity, plus the cumulative and compounded return on that amount accrued up to the Commercial Operations Date at the 10.25% rate. These amounts will be aggregated, and a weighted average return on the aggregate amount will be calculated (using 30% on the development equity and compounded return, and 10.25% on the permanent equity and compounded return). Then, using the then-effective tax rates, estimated depreciation rates, and other tax attributes of the Partnership that the Class A Unitholders will receive, the parties will estimate the amount required to return to the Class A Unitholders their investment and pay them an after-tax return equal to the weighted average return calculated above on the outstanding amounts over the 15-year return period.
- (iii) In making the calculation of after-tax return, the calculation will assume that the Class A Unitholders will pay Oregon state income taxes on the net income allocated to them at the highest marginal rates effective on income of Oregon corporations and US income taxes at the highest marginal rates

effective on income of US corporations. The amounts required to be distributed to the Class A Unit Unitholders will be grossed up to account for these applicable income taxes. For example, a portion of the Class A Unit Preferred Distribution payments are a return of investment and not subject to taxes, and other portions of the distributions will not be taxable due to the allocations of deductions and losses from the Partnership

- (iv) The 15-year distribution schedule will initially assume the application of the then-current tax rates, estimated deductions, and other tax attributes will remain in effect over the course of the 15-year return period, and the calculations will be made to levelize the Class A Unit Preferred Distributions over the term. The parties recognize that the portion of the distributions that will be taxable to the Class A Unitholders will be lower (or even zero) in the initial years of the return period and larger in the later years of the return period, but for the purposes of calculating the distribution schedule, the calculation will average the effects of these inputs over the term, to levelize the payments.
- (d) Appropriate adjustments will be made for changes in tax rates, differences in assumptions to actual, etc., and recalculated for the remainder of the 15-year return period.
- (e) Upon any sale or other liquidating event, the Class A Unit Preferred Distribution will be determined as of that date, with appropriate adjustments to distributions being made to give to the Class A Unitholders the Class A Unit Preferred Return and the remainder of any unpaid equity as of the date of that event, and the Class A Unitholders will reimburse the Partnership (or offset other distributions) to the extent that it has been paid more than the Class A Unit Preferred Distribution.
- (f) If on any Payment Date the Class A Unit Preferred Distribution payable on such date is not paid in full on all of the Class A Units then issued and outstanding, such distribution or the unpaid part of it shall accrue additional premium rates of return at the weighted average return rate from the scheduled date of payment until paid, and payment of any accrued and unpaid Class A Unit Preferred Distributions will be paid first and in priority to any other distributions (other than tax distributions) under this Agreement.

### **1.3 Arbitration**

If the parties are unable to reach agreement as to the calculation and payment of the Class A Unit Preferred Distribution contemplated in Section 1.2 of this Schedule D, then the General Partner shall, on the expiry of the period referred to therein, request that Deloitte & Touche, Certified Public Accountants, resolve any remaining non-agreed matters within 60 days after the same have been submitted to them. Such accountants shall be entitled to engage an independent law firm in the event that its determinations include legal questions. Such accountants' determination of all non-agreed matters shall be final and binding on the parties hereto. The fees

and expenses of the accountants and any law firm engaged shall be for the account of the Partnership.

## **ARTICLE 2**

### **DISTRIBUTION RIGHTS**

#### **2.1 Distribution Rights**

Subject to the prior rights and privileges attaching to any other class or series of Units of the Partnership, including the tax distributions required under the terms of Section 5.4(a) of the Agreement:

- (a) the holders of the Class A Units shall be entitled to receive, in priority to distributions payable in respect of the Class B Units, the Class C Unit, Series 1 and any Units ranking as to distributions of the Class A Unit Preferred Distribution junior to the Class A Units, and the Partnership shall pay, if, as and when declared by the Board of Managers of the General Partner, fixed cumulative preferential cash distributions each in the amount of the Class A Unit Preferred Distribution accrued as of each Payment Date payable on the Payment Dates but only if, and to the extent, the Board of Managers of the General Partner determines Distributable Cash is available to make the payment. If on any Payment Date the Class A Unit Preferred Distribution payable on such date is not paid in full on all of the Class A Units then issued and outstanding, such distribution or the unpaid part of it shall be paid on a subsequent date or dates to be determined by the Board of Managers of the General Partner on which the Partnership shall have sufficient Distributable Cash to make such distribution; and
- (b) the holders of the Class A Units shall be entitled to receive equally on a unit for unit basis with the holders of Class B Units and any Units ranking equally as to distributions of Distributable Cash made in excess of (i) the Class A Unit Preferred Distributions and (ii) the Class B Unit Preferred Distributions and the Partnership shall pay, if, as and when declared by the Board of Managers of the General Partner, out of the moneys of the Partnership properly applicable to the payment of distributions, distributions of such Distributable Cash. The General Partner shall make distributions under this Section 2.1(b) at least once per Fiscal Year to the extent Distributable Cash is available therefor.

## **ARTICLE 3**

### **DISSOLUTION RIGHTS**

#### **3.1 Dissolution Rights**

Subject to the prior rights and privileges attaching to any other class or series of units of the Partnership, including, without limitation, any declared and unpaid Class B Unit Preferred Distribution, in the event of the liquidation, dissolution or winding-up of the Partnership, whether voluntary or involuntary, or any other distribution of assets of the Partnership among its

Partners for the purpose of winding up its affairs (a "**Liquidation Distribution**"), the holders of Class A Units, after the payment of all debts and other liabilities of the Partnership, shall be entitled to receive:

- (a) in priority to the holders of Class B Units, the Class C Unit, Series 1 and any other Units ranking as to a Liquidation Distribution junior to the Class A Units, an amount equal to the Class A Unit Preferred Distribution including any unreturned investment and the unpaid Class A Unit Preferred Return on those amounts through the date of distribution (determined at the rate as provided in Section 1.2(a) of this Schedule D), which for such purpose shall be calculated as if the Unit A Preferred Return rate continued to accrue on the unreturned investment for the period from the later of the date of issue and the date of expiry of the last period for which the Class A Unit Preferred Distribution has been paid in full, up to the date of commencement of such Liquidation Distribution; and
- (b) equally on a unit for unit basis with holders of Class B Units and any other Units ranking as to a Liquidation Distribution equally with the Class A Units the remaining property and assets of the Partnership.

### **3.2 Priority**

For greater certainty, except for distributions for Taxes under Section 5.4(a) which shall be paid first, the amounts described in section 3.1(a) shall be paid to the holders of Class A Units before any amount shall be paid or any property or assets of the Partnership shall be distributed to the holders of Class B Units, the holder of the Class C Unit, Series 1 or to the holders of any other Units ranking junior to the Class A Units as to Liquidation Distribution.

**Schedule E**  
**Certain Rights – Class B Units**

**ARTICLE 1**  
**DEFINITIONS**

**1.1 Definitions**

In this Schedule E, except where otherwise specifically provided, the following words have the following meanings:

**"Class B Unit Preferred Distribution"** means an amount equal to the lesser of: (i) Distributable Cash; and (ii) \$500,000;

**"Liquidation Distribution"** has the meaning set forth in Section 3.1 of this Schedule E; and

**"Payment Date"** means each date during the fifteen year period following the Commencement Date on which the General Partner determines to make a Class B Unit Preferred Distribution in accordance with Section 5.4(b) of the Agreement.

In addition to the above, words used in this Schedule E which are defined in the Agreement shall have the meanings set forth therein.

**ARTICLE 2**  
**DISTRIBUTION RIGHTS**

**2.1 Distribution Rights**

Subject to the prior rights and privileges attaching to any other class or series of Units of the Partnership:

- (a) the holders of the Class B Units shall be entitled to receive in priority to distributions payable in respect of the Class C Unit, Series 1 and any Units ranking as to distributions of the Class B Preferred Unit Distribution junior to the Class B Units, and the Partnership shall pay, if, as and when declared by the Board of Managers of the General Partner, fixed non-cumulative preferential cash distributions each in the amount of the Class B Unit Preferred Distribution on the Payment Dates but only if, and to the extent the Board of Managers of the General Partner determines Distributable Cash is available to make the payment; and
- (b) the holders of the Class B Units shall be entitled to receive equally on a unit for unit basis with the holders of Class A Units and any Units ranking equally as to distributions of Distributable Cash made in excess of (i) the Class A Unit Preferred Distributions and (ii) the Class B Unit Preferred Distributions and the Partnership shall pay, if, as and when declared by the Board of Managers of the

General Partner, out of the moneys of the Partnership properly applicable to the payment of distributions, distributions of Distributable Cash. The General Partner shall make distributions under this Section 2.1(b) at least once per Fiscal Year to the extent Distributable Cash is available therefor.

### **ARTICLE 3**

### **DISSOLUTION RIGHTS**

#### **3.1 Dissolution Rights**

Subject to the prior rights and privileges attaching to any other class or series of units of the Partnership, including, without limitation, any accrued and unpaid Class A Unit Preferred Distribution, in the event of the liquidation, dissolution or winding-up of the Partnership, whether voluntary or involuntary, or any other distribution of assets of the Partnership among its Partners for the purpose of winding up its affairs (a "**Liquidation Distribution**"), the holders of Class B Units, after the payment of all debts and other liabilities of the Partnership, shall be entitled to receive:

- (a) in priority to distributions payable with respect to the Class C Unit, Series 1 and any Units ranking as to distributions of the Class B Preferred Unit Distributions junior to the Class B Units, a pro-rata portion of the Class B Unit Preferred Distribution equal to the number of days from the beginning of the Fiscal Year that elapse before the date that the payment is made, divided by 365, but only to the extent that the Board of Managers of the General Partner determines Distributable Cash is available to make the payment; and
- (b) equally on a unit for unit basis with holders of Class A Units and any other Units ranking as to Liquidation Distribution equally with the Class B Units, the remaining property and assets of the Partnership.

**Schedule F**  
**Class C Unit, Series 1 – Rights, Privilege, Restrictions and Conditions**

**ARTICLE 1**  
**RIGHTS, PRIVILEGES, RESTRICTIONS AND CONDITIONS**

**1.1 Distribution Rights**

Subject to the prior rights and privileges attaching to any other class or series of Units of the Partnership the holder of the Class C Unit, Series 1 shall be entitled to receive equally on a unit for unit basis with the holders of Class A Units, Class B Units and any Units ranking as to distributions of Distributable Cash equally with the Class C Unit, Series 1 and the Partnership shall pay, if, as and when declared by the Board of Managers of the General Partner, out of the moneys of the Partnership properly applicable to the payment of distributions, distributions of Distributable Cash. The General Partner shall make distributions under this Section 1.1 at least once per Fiscal Year to the extent Distributable Cash is available therefor.

**1.2 Dissolution Rights**

Subject to the prior rights and privileges attaching to any other class or series of units of the Partnership, including, without limitation, any accrued and unpaid Class A Unit Preferred Distribution and any declared but unpaid Class B Unit Preferred Distribution, in the event of the liquidation, dissolution or winding-up of the Partnership, whether voluntary or involuntary, or any other distribution of assets of the Partnership among its Partners for the purpose of winding up its affairs (a "**Liquidation Distribution**"), the holder of Class C Unit, Series 1 shall be entitled to receive equally on a unit for unit basis with holders of Class A Units, Class B Units and any other Units ranking as to Liquidation Distribution equally with the Class C Unit, Series 1 the remaining property and assets of the Partnership.



**Schedule G**  
**Transfer Restrictions**

**ARTICLE 1**  
**DEFINITIONS**

**1.1 Definitions**

In this Schedule G, except where otherwise specifically provided, the following words have the following meanings:

**"Closing"** has the meaning set forth in Subsection 8.1(a) of this Schedule G;

**"Disposing Limited Partner"** has the meaning set forth in Section 7.2 of this Schedule G;

**"Disposing Limited Partner's Project Interest"** has the meaning set forth in Section 7.2 of this Schedule G;

**"Disposition"** has the meaning set forth in Section 7.1 of this Schedule G;

**"Exercise Notice"** has the meaning set forth in Section 7.3 of this Schedule G;

**"Limited Partner's Loans"** means all outstanding loans from time to time owing by the Partnership to a Limited Partner;

**"Limited Partners' Notice"** has the meaning set forth in Section 7.4 of this Schedule G;

**"Majority"** has the meaning set forth in Section 5.2 of this Schedule G;

**"Minority"** has the meaning set forth in Section 5.2 of this Schedule G;

**"Offering Limited Partner"** has the meaning set forth in Section 3.1 of this Schedule G;

**"Offeror"** has the meaning set forth in Section 8.1 of this Schedule G;

**"Offer Purchase Notice"** has the meaning set forth in Section 3.3 of this Schedule G;

**"Offer Transfer Notice"** has the meaning set forth in Section 3.2 of this Schedule G;

**"Piggy Back Notice"** has the meaning set forth in Section 6.1 of this Schedule G;

**"Piggy Back Project Interest"** has the meaning set forth in Section 6.2 of this Schedule G;

**"Piggy Back Right"** has the meaning set forth in Section 6.1 of this Schedule G;

**"Purchaser"** has the meaning set forth in Section 8.1 of this Schedule G;

**"Refusal Purchase Notice"** has the meaning set forth in Section 4.3 of this Schedule G;

**"Refusal Transfer Notice"** has the meaning set forth in Section 4.2 of this Schedule G;

**"Seller"** has the meaning set forth in Section 6.1 of this Schedule G; and

**"Selling Limited Partner"** has the meaning set forth in Section 4.1 of this Schedule G.

In addition to the above, words used in this Schedule G which are defined in the Agreement shall have the meanings set forth therein.

## **ARTICLE 2**

### **CERTAIN TRANSFERS OF PROJECT INTERESTS**

#### **2.1 Prohibitions**

In the event that a Sale of part only of a Project Interest is permitted hereunder, such Sale shall include the same percentage of the holder's total Units and total L.L.C. Interests.

#### **2.2 Overriding Provisions**

Notwithstanding anything contained in the Agreement or this Schedule G:

- (a) no Sale of L.L.C. Interests to any Person shall be made until after such Person agrees in writing to be bound by and to observe the terms and provisions of the Limited Liability Company Agreement and a Person so agreeing shall be deemed to be a party to the Limited Liability Company Agreement;
- (b) Sales of Project Interests must comply with Sections 3.8, 3.9, 3.11(b), 3.11(c), 3.12, 3.13, 3.15, 3.16, 3.18, 4.2, 4.7, 4.10 and 4.14 of the Agreement, as applicable;
- (c) prior to the Commercial Operations Date, no Sales of Project Interests may be made by Energy Projects without the prior written consent of Fort Chicago, in its sole discretion.

#### **2.3 Certain Approved Sales**

Notwithstanding anything contained in the Agreement or this Schedule G, the following Sales of Project Interests shall be permitted subject only to Sections 2.1 and 2.2 of this Schedule G:

- (a) any Sale by Fort Chicago to an Affiliate of Fort Chicago;
- (b) any Sale by Fort Chicago of up to 20% of its Project Interest to Energy Fundamentals Group;
- (c) any Sales made pursuant to Sections 4.7, 4.8 or 7.19 of the Agreement;

- (d) subject to Sections 7.1(e) and (f) of this Schedule G, Sales pursuant to or in connection with an amalgamation, reorganization, arrangement, merger or other business combination of a Limited Partner and the surviving or continuing entity is the Limited Partner; and
- (e) at any time and from time to time any Limited Partner may hypothecate, mortgage, pledge, charge, encumber or otherwise grant a security interest in any of its Units to a *bona fide* creditor as security for any loan or other indebtedness provided that:
  - (i) such creditor delivers a written undertaking to and in favour of the General Partner that, upon written request from the General Partner, the creditor will forthwith subordinate any right or interest it may have in respect of such hypothecation, mortgage, pledge, charge, encumbrance or security interest (including, without limitation, in respect of any acknowledgements and distributions contemplated in Section 2.3(e)(iii) of this Schedule G) to and in favour of any hypothecation, mortgage, pledge, charge, encumbrance or security interest granted by the Limited Partner or by the General Partner on the Limited Partner's behalf pursuant to the power of attorney in Section 2.9(h) of the Agreement in favour of any creditor providing financing to the Partnership with respect to the Facilities (provided, however, that such creditor of the Limited Partner will not be required to so subordinate in favour of any creditor whose financing is already subordinated by agreement or otherwise to any other financing provided to the Partnership with respect to the Facilities;
  - (ii) such creditor delivers a written undertaking to the General Partner in favour of the other Limited Partners from time to time that, if such creditor exercises any of its remedies in respect of such hypothecation, mortgage, pledge, charge, encumbrance or security interest, the creditor shall not foreclose on or otherwise retain such Units but shall sell them in accordance with and subject to the provisions hereof; and
  - (iii) if a Limited Partner hypothecates, mortgages, pledges, charges, encumbers or otherwise grants a security interest in any of its Units pursuant to Section 2.3(e) of this Schedule G then the General Partner will, upon receipt of a written request from such Limited Partner, deliver a written acknowledgement to the creditor specified by the Limited Partner in the request acknowledging such hypothecation, mortgage, pledge, charge, encumbrance or security interest and confirming that such hypothecation, mortgage, pledge, charge, encumbrance or security interest has been reflected in the Register and that, upon receipt by the General Partner of a written order from such creditor setting forth an address for service, all distributions by the Partnership in respect of such Units following the receipt by the General Partner of such order shall be made to such creditor at such address for service until such creditor delivers a release of the acknowledgement to the General Partner and the Limited Partner hereby agrees that by delivering the written request to the General Partner, the

Limited Partner shall be deemed to have authorized the General Partner to make, and consents to the making of, all such distributions pursuant to any such written order.

## **2.4 Securities Transactions**

The provisions of this Agreement relating to Project Interests shall apply *mutatis mutandis* to any units, shares or other securities into which such Project Interests or the components thereof may be converted, changed, reclassified, redivided, redesignated, redeemed, subdivided or consolidated; to any units, shares or other securities of the Partnership or General Partner that are received as a stock dividend or distribution payable in units, shares or other securities; and to any units, shares or other securities of the Partnership or General Partner or of any successor or continuing entities to the Partnership or General Partner that may be received on a reorganization, amalgamation, consolidation or merger, statutory or otherwise.

## **ARTICLE 3** **RIGHTS OF FIRST OFFER**

### **3.1 Offer To Sell**

If any Limited Partner or Limited Partners (herein collectively referred to as an "**Offering Limited Partner**") desires to Sell all or a portion of its Project Interest and has not received a third party offer to purchase as contemplated in Section 4.1 of this Schedule G, it shall first offer such Project Interest to the other Limited Partners in accordance with this Article 3.

### **3.2 Transfer Notice**

The Offering Limited Partner shall give a written notice (the "**Offer Transfer Notice**") to the other Limited Partners of its intention to Sell such Project Interest, which Offer Transfer Notice shall set out:

- (a) the portion of its Project Interest which it proposes to Sell; and
- (b) an offer to Sell to the other Limited Partners setting out the price and terms of payment which the Offering Limited Partner is willing to accept for such Project Interest (it being understood that such offer must be for cash consideration) and other material terms of sale.

### **3.3 Purchase Notice**

The other Limited Partners shall have the right, during the 30 day period following receipt of the Offer Transfer Notice, to elect to purchase all (but not less than all) of the Project Interest being offered for Sale by the Offering Limited Partner upon the terms contained in the Offer Transfer Notice by giving written notice (the "**Offer Purchase Notice**") to the Offering Limited Partner accepting the offer contained in the Offer Transfer Notice. If there is more than one other Limited Partner at the time the Offering Limited Partner desires to Sell such Project Interest and they each elect as aforesaid to purchase the Project Interest being Sold by the Offering Limited Partner then the Project Interest shall be allocated among them *pro rata*

according to their existing beneficial ownership of voting Units and their respective Offer Purchase Notices together with the Offer Transfer Notices shall constitute several contracts for the purchase and Sale of the Project Interests allocated to them respectively.

### **3.4 Failure To Purchase**

If none of the other Limited Partners give to the Offering Limited Partner an Offer Purchase Notice within the 30 day period referred to in Section 3.3 of this Schedule G or if the Sale of the Project Interest of the Offering Limited Partner fails to close as contemplated in Section 3.5 of this Schedule G, then the other Limited Partners shall be deemed to have refused to purchase the Project Interest referred to in the Offer Transfer Notice and the Offering Limited Partner may, subject to the exercise of the Piggy Back Rights of the other Limited Partners set out in Article 6 of this Schedule G, within 120 days after the later of the expiration of such 30 day period or the failure to close as contemplated in Section 3.5 of this Schedule G, as the case may be, Sell the Project Interest set forth in the Offer Transfer Notice to any *bona fide* third party purchaser at a price and on terms which shall not be more favourable to the proposed purchaser than those specified in the Offer Transfer Notice. If no such Sale is consummated, the rights of the Limited Partners shall revive in respect of such Project Interest and if the Offering Limited Partner shall thereafter desire to Sell its Project Interest under Section 3.1 of this Schedule G it shall again give notice under this Article 3 and so on from time to time.

### **3.5 Closing**

It shall be a condition of the Closing of any purchase and Sale under this Article 3 for the benefit of the purchasing Limited Partner or Limited Partners, as the case may be, that the Offering Limited Partner deliver against payment a representation and warranty dated the day of closing to the effect that the Offering Limited Partner has good right and lawful authority to Sell the subject Project Interest, that the subject Project Interest is not subject to any contractual or other restrictions (other than pursuant to this Agreement, the Limited Liability Company Agreement or the Certificate), and that such Project Interest is beneficially owned by the Offering Limited Partner free and clear of any liens, encumbrances, mortgages, pledges, charges or security interests of any kind whatsoever, other than security interests or encumbrances on such interests securing Partnership obligations. The purchase and Sale of the Project Interest shall be completed in accordance with the terms set out in Article 8 of this Schedule G.

## **ARTICLE 4** **RIGHTS OF FIRST REFUSAL**

### **4.1 Offer To Sell**

If any Limited Partner (a "**Selling Limited Partner**") receives an offer to purchase all or a portion of its Project Interest for cash from a *bona fide* third party offeror and desires to Sell such Project Interest, it shall first offer such Project Interest to the other Limited Partners in accordance with this Article 4

## 4.2 Transfer Notice

The Selling Limited Partner shall give a written notice (the "**Refusal Transfer Notice**") to the other Limited Partners of its intention to Sell all or a portion of its Project Interest, which Refusal Transfer Notice shall set out:

- (a) the name and address of such third party offeror (as well as the name of the person(s) controlling such offeror) together with an executed copy of such offer to purchase with all the terms and conditions of such offer contained therein (it being understood that such offer must be for cash consideration); and
- (b) any other material terms of the proposed Sale to the third party offeror, including the number of Units in the Partnership and percentage interest in the General Partner proposed to be sold.

## 4.3 Purchase Notice

The other Limited Partners shall have the right, during the 30 day period following receipt of the Refusal Transfer Notice, to elect to purchase the entire Project Interest being Sold by the Selling Limited Partner upon the terms contained in the Refusal Transfer Notice (except that Closing shall be 30 days after the date of the making of such election) by giving written notice (the "**Refusal Purchase Notice**") to the Selling Limited Partner accepting the offer contained in the Refusal Transfer Notice. If there is more than one other Limited Partner at the time the Selling Limited Partner desires to Sell its Project Interest and they each elect as aforesaid to purchase the Project Interest being Sold by the Selling Limited Partner then the Project Interest shall be allocated among them *pro rata* according to their existing beneficial ownership of voting Units and their respective Refusal Purchase Notices together with the Refusal Transfer Notices shall constitute several contracts for the purchase and Sale of the Project Interests allocated to them respectively.

## 4.4 Failure To Purchase

If none of the other Limited Partners give to the Selling Limited Partner a Refusal Purchase Notice within the 30 day period referred to in Section 4.3 of this Schedule G or if the Sale of the Project Interest of the Selling Limited Partner fails to close as contemplated in Section 4.5 of this Schedule G, then the other Limited Partners shall be deemed to have refused to purchase the Project Interest referred to in the Refusal Transfer Notice and the Selling Limited Partner may, subject to the exercise of the Piggy Back Rights of the other Limited Partners set out in Article 6 of this Schedule G, within 120 days after the later of the expiration of such 30 day period or the failure to close as contemplated in Section 4.5 of this Schedule G, as the case may be, Sell its Project Interest to the third party offeror identified in the Refusal Transfer Notice at a price and on terms which shall not be more favourable to the proposed purchaser than those specified in the Refusal Transfer Notice. If no such Sale is consummated, the rights of the Limited Partners shall revive in respect of such Project Interest and if the Selling Limited Partner shall thereafter desire to Sell its Project Interest under Section 4.1 of this Schedule G it shall again give notice under this Article 4 and so on from time to time.

## **4.5 Closing**

It shall be a condition of the Closing of any purchase and Sale under this Article 4 for the benefit of the purchasing Limited Partner or Limited Partners, as the case may be, that the Selling Limited Partner deliver against payment a representation and warranty dated the day of Closing to the effect that the Selling Limited Partner has good right and lawful authority to Sell the subject Project Interest, that the subject Project Interest is not subject to any contractual or other restrictions (other than pursuant to this Agreement, the Limited Liability Company Agreement or the Certificate), and that such Project Interest is beneficially owned solely by the Selling Limited Partner free and clear of any liens, encumbrances, mortgages, pledges, charges, security interests, demands or adverse claims of any kind whatsoever, other than security interests or encumbrances on such interests securing Partnership obligations. The purchase and Sale of the Project Interest shall be completed in accordance with the terms set out in Article 8 of this Schedule G.

## **ARTICLE 5 DRAG-ALONG RIGHTS**

### **5.1 Effective Time of Drag-Along Rights**

The rights of the Limited Partners to Sell Project Interests or assets provided for in this Section 5 will not be effective until the Commercial Operations Date.

### **5.2 Sale of Project Interests**

Subject to Section 5.1 of this Schedule G and subject to the prior rights of a Limited Partner to exercise its rights of first offer pursuant to Article 3 of this Schedule G or its rights of first refusal pursuant to Article 4 of this Schedule G, Limited Partners representing no less than 50.1% of the total number of voting Units included in all Project Interests (the "**Majority**") shall have authority, as agent for the remaining Limited Partners (the "**Minority**") and the Partnership, at any time to enter into and execute an agreement on behalf of all of the Limited Partners, the Partnership and the General Partner for the sale of all, but not less than all, of the Project Interests and such agreement(s) shall be binding upon the remaining Limited Partners so long as such agreement(s) is with an unrelated, third party and on an arm's-length basis, negotiated in a bona fide manner, and, provides that all of the Limited Partners shall Sell their Project Interests on identical terms, and the Majority shall be entitled to perform all acts and execute and deliver all documents as they deem reasonably necessary to consummate the transactions contemplated thereby, for and on behalf of the remaining Limited Partners, and each remaining Limited Partner shall, immediately upon the request of the Majority, execute such agreements and related documents that comply with this Section 5.2, and perform all such acts as may from time to time be reasonably required to consummate the transactions contemplated thereby. The Majority shall undertake commercially reasonable efforts to notify the Minority of the terms and conditions of any proposed sale so as to permit the Minority to undertake appropriate assessments pursuant to the Agreement. Upon any Sale in accordance with this Section 5.2, the proceeds therefrom shall be paid to the Limited Partners in the same manner that such proceeds would have been distributed to the Limited Partners if the proceeds had been paid

for the assets of the Partnership and then the Partnership had liquidated and dissolved in accordance with the Agreement.

### **5.3 Sale of Assets**

Subject to Section 5.1 of this Schedule G, the Majority shall be entitled, and shall have authority as agent for the Partnership at any time, without the approval of the remaining Limited Partners, (i) to enter into and execute an agreement or agreements for and on behalf of the Partnership for the sale, lease, or exchange of any or all of the assets of the Partnership, so long as such agreement or agreements are with an unrelated third-party and on an arm's-length basis, negotiated in a *bona fide* manner; and (ii) to enter into, execute and deliver all documents, and perform all acts as are reasonably necessary to consummate the transactions contemplated thereby; and in such event the Partnership and the remaining Limited Partners shall, immediately upon the request of the Majority, execute such agreements, and related documents that comply with this Section 5.3, and perform all such acts as may from time to time be reasonably required to consummate the transactions contemplated thereby.

### **5.4 Notice**

Upon electing to invoke the provisions of Section 5.2 or 5.3 of this Schedule G, the Majority shall, as soon as practicable, give written notice of the same to the remaining Limited Partners. Failure of the Majority to give such notice in a timely manner or at all shall not affect the rights of the Majority pursuant to Section 5.2 or 5.3 of this Schedule G.

### **5.5 Waiver**

The remaining Limited Partners, the Partnership and the General Partner hereby waive any rights which any of them may have:

- (a) to disapprove of or pre-empt the transaction pursuant to the Act or any other statute or common law; and
- (b) pursuant to the Act or any other statute or common law, regarding notice, voting rights, appraisal rights or any other similar rights.

## **ARTICLE 6**

### **PIGGY BACK RIGHTS**

### **6.1 Notice of Proposed Sale**

Subject to the prior rights of a Limited Partner to exercise its rights of first offer pursuant to Article 3 or its rights of first refusal pursuant to Article 4 of this Schedule G, if any Limited Partner or Limited Partners (herein collectively referred to as the "**Seller**") desires to Sell its Project Interest to a third party purchaser, then the Seller shall provide written notice of such decision to the remaining Limited Partners. Such notice (the "**Piggy Back Notice**") shall identify the third party purchaser, if any, and shall specify and incorporate the price, terms and conditions of the proposed Sale. Each remaining Limited Partner shall, within 30 days following the receipt of such Piggy Back Notice, deliver written notice to the Seller as to whether or not it



wishes to exercise its right to require the Seller to Sell its Project Interest, together with the Seller's Project Interest (a "**Piggy Back Right**") referred to in Section 6.2 of this Schedule G. The Piggy Back Notice shall be deemed to also be the Offer Transfer Notice contemplated in Article 3 of this Schedule G or the Refusal Transfer Notice contemplated in Article 4 of this Schedule G, as applicable, and shall include any additional information necessary for Offer Purchase Notices or Refusal Transfer Notices, as applicable. The 30 day period contemplated in this Section 6.1 and the 30 day period contemplated in Section 3.3 of this Schedule G or the first 30 day period contemplated in Section 4.3 of this Schedule G, as applicable, shall run concurrently.

## **6.2 Piggy Back Right**

A Limited Partner who delivers written confirmation that it wishes to exercise its Piggy Back Rights in the time period specified in Section 6.1 of this Schedule G shall be entitled, at its option, to require that the Project Interest held by it (the "**Piggy Back Project Interest**") be Sold along with the Seller's Project Interest on the terms disclosed in the Piggy Back Notice. The purchase and Sale of the Project Interest of the Seller and the Piggy-Back Project Interest shall be completed within 120 days after the later of: (i) the expiration of the 30 day period referred to in Section 6.1 of this Schedule G; or (ii) the failure to close any Sale in accordance with Section 3.5 or Section 4.5 of this Schedule G (as the case may be). If no such Sale is consummated, the rights of the Limited Partners under Section 6.1 of this Schedule G shall revive and if the Seller shall thereafter desire to Sell all or a portion of its Project Interest to a third party purchaser it shall again give notice under this Article 6 and so on from time to time.

## **6.3 Failure To Purchase**

If the Seller notifies the remaining Limited Partners that it intends to Sell all or a portion of its Project Interest and the remaining Limited Partners fail to deliver a notice of intention to exercise a Piggy Back Right to the Seller within the 30 day period referred to in Section 6.1 of this Schedule G, and no right of first offer is exercised pursuant to Article 3 of this Schedule G and no right of first refusal is exercised pursuant to Article 4 of this Schedule G within the period allowed thereunder or the Sale fails to close in accordance with Section 3.5 of this Schedule G or Section 4.5 of this Schedule G, then the Seller may, within 120 days after the later of: (i) the expiration of the 30 day period referred to in Section 6.1 of this Schedule G; or (ii) the failure to close any Sale in accordance with Section 3.5 of this Schedule G or Section 4.5 of this Schedule G (as the case may be), Sell its Project Interest to the third party purchaser identified in the Piggy Back Notice at a price and on terms which shall not be more favourable to the proposed purchaser than those specified in the Piggy Back Notice given by the Seller. If no such Sale is consummated, the rights of the Limited Partners under Section 6.1 of this Schedule G shall revive and if the Seller shall thereafter desire to Sell its Project Interest under Section 6.1 of this Schedule G it shall again give notice under this Article 6 and so on from time to time.

## **6.4 Preference of Right of First Refusal**

It is understood and agreed that any Piggy Back Rights a Limited Partner may have pursuant to this Article 6 shall not apply to the purchase of the Seller's Project Interest by an existing Limited Partner under a right of first offer or right of first refusal exercised pursuant to Article 3 or Article 4 of this Schedule G, respectively.

## 6.5 Closing

Subject to the provisions of this Article 6, the purchase and Sale of the Project Interest and the Piggy Back Project Interest to a third party purchaser shall be completed in accordance with the terms set out in Article 8 of this Schedule G. Upon any Sale in accordance with this Article 6 which includes the exercise of Piggy Back Rights, the proceeds therefrom shall be paid to the applicable Limited Partners in the same manner that such proceeds would have been distributed to such Limited Partners if all of the assets of the Partnership had been sold (at a price equivalent to what would have been received assuming the sale of 100% of the Project Interest at the per Unit price offered) then the Partnership had liquidated and distributed the proceeds in accordance with the Agreement.

## **ARTICLE 7**

### **TRANSFER BY OPERATION OF LAW OR IN SPECIAL CIRCUMSTANCES**

#### 7.1 Disposition

For the purposes of this Article 7, a "**Disposition**" shall occur where the following occurs in relation to a Limited Partner:

- (a) a receiver or receiver-manager is appointed over its affairs or it is petitioned into bankruptcy or makes an assignment for the benefit of its creditors or files for protection from its creditors under insolvency legislation;
- (b) any of its Project Interest or any part thereof is seized or attached in any way for the payment of any judgment or order and has not been released within 30 days;
- (c) an order is made by a court of competent jurisdiction purporting to deal with the ownership of the issued capital of such Limited Partner, or any portion thereof;
- (d) legal or beneficial interest in any of its Project Interest is transferred to a third party pursuant to the exercise of a security interest which had been granted with respect to such Project Interest in connection with debt other than the Partnership's debt;
- (e) with respect to any Limited Partner other than Fort Chicago LNG II U.S. L.P., a change occurs in Control in the Person or group of Persons or any combination thereof which Controls directly or indirectly such Limited Partner;
- (f) with respect to Fort Chicago, it ceases to be Controlled by an Affiliate of Fort Chicago, Energy Partners L.P.; or
- (g) it is dissolved, wound-up or liquidated.

#### 7.2 Option

In the event of a Disposition by a Limited Partner (the "**Disposing Limited Partner**"), the Disposing Limited Partner or its receiver, trustee or other authorized representative shall

notify the Partnership within 3 days of such Disposition. Such Disposition shall be deemed to be a grant to the Partnership and the General Partner, as applicable, of an option to purchase all of the Project Interest attributable to the Disposing Limited Partner (the "**Disposing Limited Partner's Project Interest**") and, failing the exercise of the option by the Partnership and the General Partner, as applicable, or upon the failure of the Partnership and the General Partner, as applicable, to purchase the Disposing Limited Partner's Project Interest, to the other Limited Partners of an option to purchase the Disposing Limited Partner's Project Interest. The purchase price of the Disposing Limited Partner's Project Interest to be purchased pursuant to and under the option granted by this Article 7 shall be equal to the fair value of the Disposing Limited Partner's Project Interest as mutually agreed upon by the Partners or as determined under Section 7.8 of this Schedule G.

### **7.3 Exercise Of Option By Partnership and the General Partner**

The Partnership and the General Partner, as applicable, shall have the right, during the 45 day period following its receipt of notice of the Disposition from the Disposing Limited Partner or its receiver, trustee, or other authorized representative, to exercise the option and to elect to purchase the Disposing Limited Partner's Project Interest by giving written notice (the "**Exercise Notice**") to the Disposing Limited Partner stating that they are exercising the option. The purchase and Sale by the Partnership and the General Partner of the Disposing Limited Partner's Project Interest shall be completed within 30 days following the later of the delivery by the Partnership and the General Partner of the Exercise Notice to the Disposing Limited Partner and the determination of the purchase price of the Disposing Limited Partner's Project Interest.

### **7.4 Unaccepted Project Interest**

If the Partnership and the General Partner fail to elect to exercise the option within the 45 day period referred to in Section 7.3 of this Schedule G, or exercise the option but fail to complete the purchase of the Disposing Limited Partner's Project Interest within the period referred to in Section 7.3 of this Schedule G, then the Partnership and the General Partner shall give written notice to the other Limited Partners advising them accordingly together with a copy of the Exercise Notice (if any) and the other Limited Partners shall have the right, during the 30 day period following their receipt of such notice, to exercise their option and to elect to purchase the Disposing Limited Partner's Project Interest by giving written notice (the "**Limited Partners' Notice**") to the Disposing Limited Partner stating that they are exercising their option. If there is more than one Limited Partner at the time of Disposition and if one or more of them together elect as aforesaid to purchase the Project Interest being Sold by the Disposing Limited Partner, then such Project Interest shall be allocated among the purchasing Limited Partners *pro rata* to their existing ownership of voting Units. The completion of the purchase and Sale of the Disposing Limited Partner's Project Interest shall take place not more than 30 days after the later of the delivery by the other Limited Partner(s) to the Disposing Limited Partner of the Limited Partners' Notice(s) and the determination of the purchase price of the Disposing Limited Partner's Project Interest.

### **7.5 Failure To Exercise**

If neither the Partnership and the General Partner nor the other Limited Partners gives to the Disposing Limited Partner an Exercise Notice or Limited Partners' Notice prior to the expiry

of the option periods referred to in Sections 7.3 and 7.4 of this Schedule G, or if the Sale of the Disposing Limited Partner's Project Interest fails to close as contemplated in Section 7.7 of this Schedule G, then the Partnership and the General Partner and the other Limited Partners shall be deemed to have refused to purchase the Disposing Limited Partner's Project Interest and their respective options shall expire.

## **7.6 Optional Terms of Payment**

Either the Partnership and the General Partner, under Section 7.3 of this Schedule G, or any Limited Partner, under Section 7.4 of this Schedule G may, in the case of a Disposition pursuant to Section 7.1 of this Schedule G of this Schedule G at its option, in lieu of delivery of the purchase price by way of cash on Closing, purchase the Disposing Limited Partner's Project Interest which it has agreed to purchase, by delivery of a promissory note providing for payment of the purchase price in not more than five (5) equal consecutive yearly installments commencing on the last day of the next following calendar year with interest thereon at the Reference Rate. Such purchaser shall deliver simultaneously at Closing a pledge agreement and power of attorney as security for such promissory note, in form and substance satisfactory to the Disposing Limited Partner or other applicable party, acting reasonably provided that such pledge and other security documents may, in the case provided by any Limited Partner, be provided in accordance with Section 2.3(e) of this Schedule G and, in any case, not conflict with or cause a default under any Partnership indebtedness.

## **7.7 Closing**

Subject to the provisions of this Article 7, the Closing of any purchase and sale under this Article 7 shall be made on the terms and conditions set forth in Article 8 of this Schedule G. For greater certainty, it shall be a condition of the Closing of any purchase and sale under this Article 7 for the benefit of the Partnership and the General Partner or purchasing Limited Partners, as the case may be, that the Disposing Limited Partner deliver against payment of the purchase price by cash or promissory note, a release and discharge of any and all claims of the Disposing Limited Partner against the Partnership and the General Partner and a representation and warranty dated the day of Closing to the effect that the Disposing Limited Partner has good right, title and lawful authority to Sell the Disposing Limited Partner's Project Interest, that the Disposing Limited Partner's Project Interest is not subject to any contractual or other restrictions (other than pursuant to this Agreement, the Limited Liability Company Agreement or the Certificate), and that the Disposing Limited Partner's Project Interest is beneficially owned solely by the Disposing Limited Partner free and clear of any liens, encumbrances, mortgages, pledges, charges, security interests, demands and adverse claims, of any kind whatsoever, other than security interests or encumbrances on such interests securing Partnership obligations.

## **7.8 Fair Value**

If the Partners cannot agree upon the fair value of any Project Interest subject to Sale under this Article 7, then the Partnership shall retain a nationally recognized investment banking firm to determine the value of the Partnership as a going concern. The value will be determined on the basis of the prices paid for similar businesses either in private sales or based on the price of publicly traded equities of similar businesses. The fair value will be determined for the Partnership's business as a whole, then the fair value of the subject Project Interest will equal that

portion of the total fair value that the holders of such Project Interests would receive if the assets of the Partnership were sold for such amount and then liquidated and the sales proceeds distributed in accordance with the Agreement.

## **ARTICLE 8**

### **TERMS OF PURCHASE AND SALE**

#### **8.1 Terms of Sale**

In the event of any Sale of a Project Interest by a Limited Partner (the "**Offeror**") as provided in this Schedule G to a third party, the Partnership, the General Partner or another Limited Partner or Limited Partners (such parties being referred to as a "**Purchaser**") the following conditions shall apply:

- (a) the date scheduled for closing (the "**Closing**") shall be that specified in this Schedule G or such other date as may, subject to the terms of this Schedule G, be agreed to by the parties to the Agreement and, if applicable, any third party;
- (b) any amount payable under the agreement of purchase and sale or other agreed transaction shall be paid in United States funds by way of cash, certified cheque or bank draft, unless payment is permitted by promissory note (as provided in certain circumstances in this Schedule G);
- (c) if, upon the date set for Closing, the Offeror shall be indebted to the Partnership in an amount recorded on the books of the Partnership and verified by the auditors of the Partnership, the Offeror shall satisfy and discharge all or any portion of such indebtedness. If the Offeror does not satisfy these amounts the Purchaser shall, to the extent that funds are available from the purchase price, satisfy and discharge all or any portion of such indebtedness and shall receive and take credit against the purchase price for the amount or amounts so paid on account of any such indebtedness;
- (d) if, on the date of Closing, the Partnership shall be indebted to the Offeror pursuant to any Limited Partner's Loans, in an amount recorded on the books of the Partnership and verified by the auditors of the Partnership, such indebtedness shall be paid to the Offeror by the Partnership or bought-out by the Purchaser at the time of Closing in the same manner that the purchase price is paid;
- (e) except as otherwise provided in this Schedule, if, on the date of Closing, the Offeror is responsible on any covenant for liabilities or obligations of the Partnership, the Purchaser shall procure for the Offeror and deliver to it at the time of Closing releases from any such covenants or guarantees;
- (f) if by reason of any lien, charge or encumbrance, or any succession, inheritance, estate, probate or similar duties, taxes, levies or liens existing or assessed against the Offeror, the Offeror is unable to make delivery of the Offeror's Project Interest to the Purchaser within the time limited therefor, the Purchaser shall be at liberty to make payment to the holder of such lien or charge or the governmental

authority imposing such duties, taxes, levies or liens, which payment shall be and be deemed to be payment to the Offeror and shall be applied in reduction of the unpaid balance of the purchase price;

- (g) the Offeror shall contemporaneously with the completion of the transaction execute and deliver to the Purchaser all such notices, documents and other assurances as may be necessary to enable the Purchaser to exercise voting control of the Project Interest of the Offeror;
- (h) the Purchaser shall deliver to the Offeror a covenant to save harmless and keep indemnified the Offeror, its heirs, executors, administrators, successors and assigns, from and against all losses, costs, expenses and damages whatsoever which may be incurred by reason of any action or other proceeding or claim which shall or may be brought or instituted against the Offeror in respect of any debt or obligation of the Partnership that may arise subsequent to the completion of the transaction, including, without limiting the generality of the foregoing, any claim that may thereafter arise that is based upon any section of the Code or any amendments thereto and that are related to tax periods after the Closing, and the Offeror shall provide the Purchaser with a similar indemnity for the period prior to Closing;
- (i) if, on the date of Closing, the Offeror shall without just cause refuse to complete the transaction, the Chairman, President, Vice-President or Secretary of the General Partner shall have the right separately upon such default (without prejudice to any other rights which the Purchaser may have) upon payment by the Purchaser of the balance due on Closing (less or plus any adjustment herein permitted) to the credit of the Offeror in the Partnership's principal bank, or to the solicitors for the Partnership on behalf of and in the name of the Offeror, to complete the transaction as aforesaid and the Offeror hereby irrevocably constitutes the Chairman, President, Vice-President and Secretary of the General Partner the true and lawful attorneys of the Offeror to complete the transaction and to execute any and every document necessary in that behalf;
- (j) between the date of any offer and the Closing of any ensuing transaction, neither the Partnership, the Offeror nor the Purchaser shall do, cause or permit to be done anything except in the ordinary course of business of the Partnership;
- (k) on Closing, the Offeror shall deliver a general release by the Offeror in favour of the Partnership and the General Partner;
- (l) the Project Interest shall be transferred by the Offeror free and clear of all liens and encumbrances other than those that secure obligations of the Partnership; and
- (m) if the Purchaser is a third party, it shall execute a counterpart of this Agreement, the Limited Liability Company Agreement and the Operating Agreement.

**ARTICLE 9**  
**GENERAL**

**9.1 Endorsement on Unit and L.L.C. Interest Certificates**

All certificates representing Units or L.L.C. Interests now or hereafter owned by the Limited Partners during the currency of the Agreement (whether such Units or L.L.C. Interests are issued initially or with respect to transfer or otherwise) shall have endorsed thereon in bold type the following legend:

"THE UNITS/L.L.C. INTERESTS REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE PROVISIONS OF (I) A LIMITED PARTNERSHIP AGREEMENT AMONG THE GENERAL PARTNER, FORT CHICAGO LNG II U.S. L.P., ENERGY PROJECTS DEVELOPMENT L.L.C. (AND OTHER LIMITED PARTNERS FROM TIME TO TIME), AND (II) A LIMITED LIABILITY COMPANY AGREEMENT OF THE GENERAL PARTNER , EACH MADE EFFECTIVE THE 12<sup>TH</sup> DAY OF JULY, 2005, AND EACH AS AMENDED FROM TIME TO TIME, AND SUCH UNITS/L.L.C. INTERESTS ARE NOT TRANSFERABLE ON THE BOOKS OF THE PARTNERSHIP OR GENERAL PARTNER EXCEPT IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF SUCH AGREEMENTS."

**Schedule H**  
**Fort Chicago – Additional Capital Contributions**

**ARTICLE 1**  
**FUNDING OF DEVELOPMENT COSTS -**  
**JORDAN COVE ENERGY PROJECT**

**1.1 Agreement to Make Additional Capital Contributions -- Development**

Subject to the terms and conditions of this Schedule H and subject to Section 4.3(c) of the Agreement, Fort Chicago agrees to fund the development costs of the Jordan Cove Energy Project by way of additional Capital Contribution to the Partnership.

**1.2 Project Budget and Project Schedule**

Exhibit 1 to this Schedule H includes the current Jordan Cove Energy Project budget and schedule. The Jordan Cove Energy Project budget and the Jordan Cove Energy Project schedule are the Partners' best estimates of the costs and schedule for the development phase of the Jordan Cove Energy Project, but the Partners acknowledge that the costs and schedule may vary significantly from the budget and schedule. Through the Operating Agreement, the Partnership has contracted with Energy Projects to provide development services to the Partnership. During the development phase, Energy Projects will provide budget estimates, reports to the Partners and funding notices to the Partnership.

**1.3 Funding Mechanism**

- (a) Not less than seven days prior to the commencement of each month during the development phase of the Jordan Cove Energy Project (each such month, a "**Month**"), Energy Projects shall compute and deliver to the Partnership, and to each Partner, a bona fide estimate of the amount of additional Capital Contribution required to fund development costs for such Month. Subject to the terms and conditions of this Schedule H and subject to Section 4.3 of the Agreement, Fort Chicago will pay to Energy Projects, on behalf of and as a contribution to the Partnership, such estimated amount on the first day of such Month.
- (b) Energy Projects will deliver to Fort Chicago within 20 days after the end of each Month a written statement (the "**Statement**") setting out in reasonable detail the amount of the actual development costs for such Month, together with a reconciliation of the actual expenses compared to budget. If the amount of the estimated Capital Contribution paid by Fort Chicago during such Month differs from the actual amount of development costs expended for such Month, Fort Chicago shall pay such difference to the General Partner or the General Partner shall credit the next Month's requested estimated Capital Contribution payment from Fort Chicago with such difference, as applicable.



- (c) If Fort Chicago disputes the accuracy of any Statement, Fort Chicago shall nevertheless make payment in accordance with the Statement, but payment will not be a waiver of any dispute or claim with respect thereto.
- (d) Fort Chicago may only dispute a Statement and claim a re-adjustment by notice given to Energy Projects and the General Partner within 6 months after the delivery of the Statement to Fort Chicago.
- (e) The amount of actual additional Capital Contributions made by Fort Chicago to the Partnership as contemplated in this Schedule H shall be those amounts determined once the procedures set forth above have been completed.

#### **1.4 Election to Cease Funding**

- (a) Fort Chicago may, for any reason, on 60 day's prior written notice to the General Partner, the Partnership and the other Limited Partners, elect to terminate its obligations under this Schedule H to provide any further development funding effective at the end of such notice period. Pending the end of such notice period, Fort Chicago shall continue to provide development funding in accordance with this Schedule H only to the extent necessary to fund non-terminable obligations of the Partnership incurred prior to, but due during, such 60 day period.
- (b) If Fort Chicago elects to cease funding as contemplated in Section 1.4(a) of this Schedule H, then, on the effective date of the cessation of funding, Fort Chicago shall surrender to the Partnership and General Partner for cancellation, as applicable, its Project Interest. Upon withdrawal, Fort Chicago will have no further right, obligation or liability with respect to the Partnership or General Partner except: (i) the obligations contemplated in Section 1.4(a) of this Schedule H; and (ii) the return of its Capital Contribution and Limited Partner's Loans plus the return on such amounts as specifically provided below. Energy Projects has the right to appoint a third party to receive Fort Chicago's Project Interest, on an "as is" "where is" basis and the right to continue and reconstitute the Partnership and the General Partner without interruption.
- (c) If Fort Chicago withdraws as contemplated in Section 1.4(b) of this Schedule H, and if, thereafter, Energy Projects carries on with an alternative funding source through the Partnership with one or more new Partners or otherwise to develop the Jordan Cove Energy Project, then the Partnership will, at its option, either:
  - (i) immediately upon receiving funding from an alternative, third-party funding source (specifically excluding any funding from any then-existing Limited Partner or Affiliate of any such Limited Partner) reimburse Fort Chicago for all of the Capital Contributions and Limited Partner's Loans plus simple interest at the Reference Rate calculated from the dates of advance; or
  - (ii) on the Commercial Operations Date reimburse Fort Chicago for all of its Capital Contributions and Limited Partner's Loans plus interest at a rate

equal to the rate of return included in the Class A Unit Preferred Distribution calculated from the dates of advance.

### **1.5 Agreement to Make Additional Capital Contributions - Construction**

The Parties anticipate that, after the development is completed, the Partnership will obtain construction financing, and commitments for permanent financing following the Commercial Operations Date, from third-party lenders. Subject to the Project meeting Fort Chicago's investment criteria, (in its sole discretion) Fort Chicago intends to provide the additional equity required for the construction and permanent financing, subject to the terms and conditions of this Schedule H and subject to the Agreement. If the additional equity is provided by Fort Chicago, the additional investment will be provided to the Partnership as agreed from time to time by Fort Chicago, subject to the Agreement. Fort Chicago may not contribute more equity as part of its investment in the Partnership than the minimum amount required to obtain the financing on commercially reasonable terms from nationally known lenders in the energy industry, and that would generally be required to obtain a credit rating from Standard & Poors for the debt of the Partnership, secured by a first lien on all of the assets of the Partnership, of BBB+ or its equivalent.

**Exhibit 1 to Schedule H**  
**Current Project Schedule**