



Western Australia

Fremantle Electricity Undertaking (Purchase Moneys) Agreements Act 1952

Compare between:

[04 Mar 1999, 00-a0-05] and [04 Jul 2006, 00-b0-05]

Fremantle Electricity Undertaking (Purchase Moneys) Agreements Act 1952

An Act to approve, ratify and confirm agreements made between The Fremantle Municipal Tramways and Electric Lighting Board, City of Fremantle and Municipality of East Fremantle providing for the use, control and safeguarding of the purchase money and interest thereon of the electrical undertaking sold to the Electricity Commission of Western Australia by the Board.

[Assented to 7th January, 1953]

Be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

1. Short title

This Act may be cited as the *Fremantle Electricity Undertaking (Purchase Moneys) Agreements Act, 1952*.

2. First and Second Schedule Agreements approved, ratified and confirmed

The agreements entered into by The Fremantle Municipal Tramways and Electric Lighting Board with the City of Fremantle and the Municipality of East Fremantle and executed respectively on the seventeenth day of April, one thousand nine hundred and fifty-two, copies of which are set forth in the First and Second Schedules to this Act, are approved, ratified and confirmed.

3. Third Schedule Agreement approved, ratified and confirmed

An agreement entered into on the 27th day of November, one thousand nine hundred and fifty-two between the parties mentioned in section two of this Act, a copy of which agreement is set forth in the Third Schedule to this Act is approved, ratified and confirmed.

First Schedule

[S. 2]

THIS INDENTURE made this 17th day of April One thousand nine hundred and fiftytwo BETWEEN *FREMANTLE MUNICIPAL TRAMWAYS & ELECTRIC LIGHTING BOARD* a Board constituted pursuant to the Fremantle Municipal Tramways & Electric Lighting Act 1903/1946 whose office and principal place of business is situate at William Street, Fremantle in the State of Western Australia (hereinafter with its successors and assigns referred to as “the Board”) of the one part *CITY OF FREMANTLE* (hereinafter called “the City”) of the second part AND *MUNICIPALITY OF EAST FREMANTLE* (hereinafter called “the Municipality”) of the third part.

WHEREAS:

- (a) Heretofore the Board has carried on a transport undertaking and an electrical undertaking in Fremantle and district under the powers vested in it by the Fremantle Municipal Tramways & Electric Lighting Act 1903-1946 (hereinafter called “the Fremantle Tramways Act”).
- (b) The Board has sold its electrical undertaking to the State Electricity Commission of Western Australia (hereinafter called “the Commission”) by an Agreement dated the 16th day of April 1952 pursuant to the Powers vested in it by Section 6 of the “Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Act, 1952”
- (c) The Commission has agreed to pay the Board £700,000 for its electrical undertaking as follows: —
 - (i) £100,000 to be paid to the Board forthwith on the Commission taking over the electrical undertaking.
 - (ii) The sum of £50,000 by five equal annual payments of £10,000 each, the first of such payments to be made on the 1st day of June 1952.

- (iii) The balance of £550,000 to be paid on twelve 12) months' notice on either side
- (d) The Agreement of sale provides for the payment of interest at the rate of £4 per cent per annum but subject to variation as therein provided
- (e) The Board intends to continue carrying on its transport undertaking
- (f) The Fremantle Tramways Act (Section 21) provides for the division of net profits derived from the working of the Board's undertakings in every year between the City and the Municipality in the proportions therein set out
- (g) The parties hereto are desirous of making provision for the use control and safeguarding of the said purchase money and interest thereon.
- (h) This Indenture makes provision for the control of the sum of £550,000 of the said money
- (i) Instead of this Indenture making provision for the control of the said sums of £100,000 and £50,000 a separate Indenture has been entered into between the parties hereto of even date with regard to same.

NOW THEREFORE THIS INDENTURE WITNESSETH as follows: —

1. THIS Indenture is subject to the condition that the terms hereof are ratified and confirmed by Act of Parliament on or before the 31st day of December, 1952.

2. THE Board is **HEREBY APPOINTED** Trustee and the Board **HEREBY DECLARES** that it is only entitled to and shall hold and control the

said sum of £550,000 as Trustee for and on the following trusts and conditions which are mutually agreed to by all parties hereto namely:

- (a) To invest the said moneys in investments authorised by law for Trustees to make, and in this regard allowing the said money to remain owing by the State Electricity Commission shall constitute such an investment.
- (b) Subject to the said sum of £550,000 or any portion of it being uninvested and available the Board shall advance same or a portion thereof to either of or both of the City and Municipality on request subject to usual Municipal securities for such a class of loan and subject to payment of interest approved of by the Commonwealth Loan Council from time to time for local Authorities. Any such advance shall constitute a Trustee's investment within the meaning hereof.
- (c) Neither the City or the Municipality shall be entitled under the preceding clause to borrow in all from time to time more than six sevenths and one seventh respectively of the said sum of £550,000.
- (d) If at any time money is available for loan to the City, and the Municipality as aforesaid and the City and the Municipality each request a loan then subject to Clause 2 (c) each shall be entitled to borrow six sevenths and one seventh respectively of the money so available. Nothing herein shall prevent the proportions being altered by agreement.
- (e) Should at any time any portion of the said sum of £550,000 be repaid to the Board or become uninvested the Board shall promptly notify the City and the Municipality accordingly.
- (f) The Board shall at the request of either the City or the Municipality give requisite notice to the Commission or any other person Government or body with whom the said sum of £550,000 or any portion thereof is invested calling up such money or a portion thereof so that it will become uninvested and available within the meaning of clause 2 (b) hereof. In such case the party so giving notice shall be

entitled to borrow the full amount so becoming available pursuant to such notice subject to Clause 2 (c) hereof and in that case clause 2 (d) hereof shall not apply.

- (g) To pay to the Board's Transport Trading Account each year sufficient interest to balance and make good any loss for that year appearing in the Board's audited P. & L. Account (after allowing for depreciation, interest, sinking funds, repayment; of principal, and other usual debits) Any such payment shall be deemed an income receipt of the Board within the meaning of Section 21 of the Fremantle Tramways Act. The balance of the interest (or the whole of the interest if there be no such payment) shall be deemed to be net profit derived from the working of the undertakings of the Board and shall be divisible between the City and the Municipality as provided in Clause 21 of the Fremantle Tramways Act.
- (h) Should at any time the Board become dissolved or non-existent, the Trustees of the said sum of £550,000 and all accrued interest shall be those appointed by the City and the Municipality and in default of or until appointment they shall be the Mayor, Town Clerk and Treasurer for the time being of the City and the Municipality.

3. THE Board shall open a Separate Trust Account for the purpose of controlling the trust moneys herein referred to.

4. THE Board will supply to the City and the Municipality annually an audited statement as to the said Trust Fund.

5. SHOULD the said sum of £550,000 become invested in Trustees pursuant to clause 2 (h) hereof they shall hold same upon the trusts and conditions herein contained except the whole of the interest therefrom shall be divided between the City and the Municipality in the proportion of six-sevenths and one-seventh respectively.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore appearing.

SEALED with the Official Seal
of the *FREMANTLE MUNICIPAL
TRAMWAYS & ELECTRIC LIGHTING
BOARD* and signed in
authentication by *FRANK ERNEST
GIBSON* Chairman of the Board and
CLAUDE ALEXANDER LAW Secretary
in the presence of:

}
(Sgd) F.E. Gibson

}
(Sgd) C. Law

(L.S.) C.W. Jerrat

THE COMMON SEAL of *CITY
FREMANTLE* was hereto affixed this
17th day of April 1952 pursuant
to a Resolution passed the 10th
day of April 1952 in the presence of:

(L.S.) MAYOR (Sgd) W. Fred Samson

TOWN CLERK (Sgd) N.J.C. McCombe

THE COMMON SEAL of the Mayor
and Councillors of East Fremantle
was hereunto affixed by direction of
the Council in the presence of:

(L.S.) MAYOR (Sgd) W. Wauhopp

TOWN CLERK (Sgd) L. R. Latham

Second Schedule

THIS INDENTURE made this 17th day of April One thousand nine hundred and fifty two BETWEEN *FREMANTLE MUNICIPAL TRAMWAYS & ELECTRIC LIGHTING BOARD* a Board constituted pursuant to the Fremantle Municipal Tramways & Electric Lighting Act 1903-1946 whose office and principal place of business is situate at William Street, Fremantle in the State of Western Australia (hereinafter with its successors and assigns referred to as “the Board”) of the one part *CITY OF FREMANTLE* (hereinafter called “the City”) of the second part AND *MUNICIPALITY OF EAST FREMANTLE* (hereinafter called “the Municipality”) of the third part.

WHEREAS:

- (a) Heretofore the Board has carried on a transport undertaking and an electrical undertaking in Fremantle and district under the powers vested in it by the Fremantle Municipal Tramway & Electric Lighting Act 1903-1946 (hereinafter called “the Fremantle Tramways Act”)
- (b) The Board has sold its electrical undertaking to the State Electricity Commission of Western Australia (hereinafter called “the Commission”) by an Agreement dated the 16th day of April 1952 pursuant to the powers vested in it by Section 6 of the “Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Act, 1952”
- (c) The Commission has agreed to pay the Board £700,000 for its electrical undertaking as follows:-
 - (i) £100,000 to be paid to the Board forthwith on the Commission taking over the electrical undertaking.
 - (ii) The sum of £50,000 by five equal annual payments of £10,000 each, the first of such payments to be made on the 1st day of June 1952.
 - (iii) The balance of £550,000 to be paid on twelve (12) months’ notice on either side

- (d) The Agreement of sale provides for the payment of interest at the rate of £4 per cent per annum but subject to variation as therein provided.
- (e) The Board intends to continue carrying on its transport undertaking.
- (f) The Fremantle Tramways Act (Section 21) provides for the division of net profits derived from the working of the Board's undertakings in every year between the City and the Municipality in the proportions therein set out.
- (g) The parties hereto are desirous of making provision for the use control and safeguarding of the said purchase money and interest thereon.
- (h) This Indenture makes provision for the control of the sum of £150,000 of the said money.
- (i) Instead of this Indenture making provision for the control of the balance of £550,000, a separate Indenture has been entered into between the parties hereto of even date with regard to same.

NOW THEREFORE THIS INDENTURE WITNESSETH as follows: —

1. THIS Indenture is subject to the conditions that the terms hereof are ratified and confirmed by Act of Parliament on or before the 31st day of December, 1952.
2. THE Board shall be entitled at any time to spend and use the said deposit of £100,000 as follows: —
 - (a) On capital purchases for the Board's transport undertaking and whether real or personal property.

- (b) For discharging and liquidating existing liabilities of the Board.
- (c) For discharging and liquidating future liabilities of the Board resulting from contracts or undertakings heretofore entered into.
- (d) In making investments authorised by law for Trustees to make, changing such investments and converting such investments into cash.
- (e) To pay interest from investments into the Board's Trading Account.

3. THE Board shall pay the said sum of £50,000 to the City and the Municipality as and when received by annual payments as follows: —

- (a) In respect of the section of tram tracks in Marmion Street between Silas Street and Allen Street, the cost of removal of the rails and sleepers shall be a charge on the sum of £50,000 but the responsibility for construction or re—instatement of road surfaces after the rails and sleepers are removed shall be the responsibility of the East Fremantle Municipal Council.
- (b) The balance of the sum of £50,000 including any interest that may accrue shall be divided between the two Local Authorities in proportion to the mileage of single track that is laid down in each Municipal District. In case of dispute the matter shall be referred to a Surveyor (to be approved of by the City and the Municipality) whose decision shall be final.

4. THE City and the Municipality shall use such moneys so paid to it under the preceding clause exclusively for the removal of tram track and the repairing and/or renewing of roads resulting from the pulling up and removing of tram track.

5. THE materials that are recovered by removing tram track shall be stored and made available equitably to the three Authorities for their own works and undertakings and any surplus not so required shall be sold and the proceeds shall be divided between the City and the Municipality in the proportions set out in Clause 3(b) hereof.

6. THE words "tram track" shall not include any trolley lines and wires and gear supporting same but only sleepers, rails and gear fastening rails to sleepers.

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore appearing.

SEALED with the Official Seal of the
FREMANTLE MUNICIPAL
TRAMWAYS & ELECTRIC LIGHTING
BOARD and signed in
authentication by *FRANK ERNEST*
GIBSON Chairman of the Board and
CLAUDE ALEXANDER LAW Secretary
in the presence of:

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(Sgd) F.E. Gibson

(Sgd) C. Law

(L.S.)

C.W. Jerrat.

THE COMMON SEAL of CITY OF
FREMANTLE was hereto affixed this
17th day of April 1952 pursuant to a
Resolution passed the 10th day of
April 1952 in the presence of:

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(L.S.)

MAYOR (Sgd) W. Fred Samson

**Fremantle Electricity Undertaking (Purchase Moneys) Agreements Act
1952**

Second Schedule

TOWN CLERK (Sgd) N.J.C. McCombe

THE COMMON SEAL of the Mayor
and Councillors of East Fremantle
was hereunto affixed by direction of
the Council in the presence of

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(L.S.)

MAYOR (Sgd) W. Wauhop

TOWN CLERK (Sgd) L.R. Latham

Third Schedule

[S. 3.]

THIS INDENTURE made this 27th day of November One thousand nine hundred and fifty two BETWEEN *FREMANTLE MUNICIPAL TRAMWAYS & ELECTRIC LIGHTING BOARD* a Board constituted pursuant to the Fremantle Municipal Tramways & Electric Lighting Act 1903-1946 whose office and principal place of business is situate at William Street, Fremantle in the State of Western Australia (hereinafter with its successors and assigns referred to as “the Board”) of the one part *CITY OF FREMANTLE* (hereinafter called “the City”) of the second part AND *MUNICIPALITY OF EAST FREMANTLE* (hereinafter called “the Municipality”) of the third part.

WHEREAS:

- (a) Heretofore the Board has carried on a transport undertaking and an electrical undertaking in Fremantle and district under the powers vested in it by the Fremantle Municipal Tramways & Electric Lighting Act, 1903-1946 (hereinafter called “the Fremantle Tramways Act”).
- (b) The Board has sold its electrical undertaking to the State Electricity Commission of Western Australia (hereinafter called “the Commission”) by an agreement dated the sixteenth day of April 1952, pursuant to the powers vested in it by section 6 of the “Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Act, 952.”
- (c) The Commission has agreed to pay the Board £700,000 for its electrical undertaking as follows: —
 - (i) £100,000 to be paid to the Board forthwith on the Commission taking over the electrical undertaking.
 - (ii) The sum of £50,000 by five equal annual payments of £10,000 each, the first of such payments to be made on the first day of June, 1952.

- (iii) The balance of £550,000 to be paid on twelve (12) months' notice on either side.
- (d) The agreement of sale provides for the payment of interest at the rate of £4 per cent. per annum but subject to variation as therein provided.
- (e) The Board intends to continue carrying on its transport undertaking.
- (f) The Fremantle Tramways Act (section 21) provides for the division of net profits derived from the working of the Board's undertakings in every year between the city and the municipality in the proportions therein set out.
- (g) The parties hereto are desirous of making provision for the use control and safeguarding of the said purchase money and interest thereon.
- (h) This indenture makes provision for the control of the sum of £150,000 of the said money.
- (i) Instead of this indenture making provision for the control of the balance of £550,000, a separate indenture has been entered into between the parties hereto dated the 17th day of April, 1952.

NOW THEREFORE THIS INDENTURE WITNESSETH as follows: —

1. This indenture is subject to the condition that the terms hereof are ratified and confirmed by Act of Parliament on or before the 31st day of December, 1952.

2. The Board shall be entitled at any time to spend and use the said deposit of £100,000 as follows: —

- (a) On capital purchases for the Board's transport undertaking and whether real or personal property.
- (b) For discharging and liquidating existing liabilities of the Board.
- (c) For discharging and liquidating future liabilities of Board resulting from contracts or undertakings heretofore entered into.

3. The Board shall pay the said sum of £50,000 to the City and the Municipality as and when received by payments as follows: —

- (a) From the first instalment of £10,000 there shall at once be deducted the sum of £400 and this amount shall be paid to the City forthwith in view of unexpected increase of labour costs of removing rails in the City area.
- (b) The balance of the sum of £50,000 including any interest that may accrue shall as and when received be divided between the two local authorities in proportion to the chainage of single track that is laid down in each municipal district, namely 728.5 chains in the City and 266.5 chains in the Municipality.

4. The City and the Municipality shall use such moneys so paid to it under the preceding clause exclusively for the removal of tram track and the repairing and/or, renewing of roads resulting from the pulling up and removing of tram track.

5. The materials that are recovered by removing tram track shall be stored and made available equitably to the three authorities for their own works and undertakings and any surplus not so required shall be sold and the proceeds shall be divided between the City and the Municipality and the Board in the following proportions,
namely:-

As to the City..... 52%
As to the Municipality 20%
As to the Board..... 28%

Provided after the Board has received a sum of £4,000 hereunder all further moneys received from the sale of the said materials shall be divided between the City and the Municipality in the proportions of 74% to the City and 26% to the Municipality and no further moneys hereunder shall thereafter be payable to the Board.

6. The Board shall undertake the sale and disposal of the materials in clause 5 referred to and the Board shall likewise undertake and be responsible for the allocation and payment of the proceeds on the sale thereof as herein provided for.

7. The City and the Municipality shall clean all rails so recovered in the respective district of each so as to make same satisfactory for sale.

8. The words "tram track" shall not include any trolley lines and wires and gear supporting same but only sleepers, rails and gear fastening rails to sleepers.

9. This agreement is in substitution of a previous agreement made between the parties dated the 17th day of April, 1952, and dealing with the matters herein contained. The said previous agreement is hereby cancelled.

In witness whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore appearing.

SEALED with the Official Seal of the
*FREMANTLE MUNICIPAL
TRAMWAYS & ELECTRIC LIGHTING
BOARD* and signed in
authentication by *FRANK ERNEST
GIBSON* Chairman of the Board and
CLAUDE ALEXANDER LAW Secretary
in the presence of —

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(Sgd)F.E. Gibson

(Sgd) C. Law

(L.S.)

C.W. Jerrat.

*THE COMMON SEAL of CITY OF
FREMANTLE* was hereto affixed this
27th day of November 1952 pursuant
to a Resolution passed the 17th
day of November 1952 in the presence
of —

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(L.S.)

MAYOR (Sgd) W. Fred Samson

TOWN CLERK (Sgd) N.J.C. McCombe

THE COMMON SEAL of the Mayor
and Councillors of East Fremantle was
hereunto affixed by direction of the
Council in the presence of

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(L.S.)

MAYOR (Sgd) W. Wauhop

TOWN CLERK (Sgd) L.R. Latham

Fremantle Electricity Undertaking (Purchase Moneys) Agreements Act 1952

Notes

1. This is a compilation of the *Fremantle Electricity Undertaking (Purchase Moneys) Agreements Act 1952* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Compilation table

<u>Act</u> <u>Short title</u>	Number and Year <u>year</u>	Assent	Commencement	Miscellaneous
<i>Fremantle Electricity Undertaking (Purchase Moneys) Agreements Act 1952</i>	66 of 1952	7 January 1953	7 January 1953	
<u>This Act was repealed by the Statute Law Revision Act 2006 s. 3(1) (No. 37 of 2006) as at 4 Jul 2006 (see s. 2)</u>				