



Interoffice Memorandum

July 17, 2017

TO: Mayor Teresa Jacobs
and Board of County Commissioners

FROM: Raymond E. Hanson, P. E., Director
Utilities Department

A handwritten signature in black ink, appearing to be "R. Hanson", written over the "FROM:" line.

**SUBJECT: BCC AGENDA ITEM – Consent Agenda
August 1, 2017 BCC Meeting
Landfill Gas Sale and Purchase Agreement between Orange
County and Orlando Utilities Commission
Contact Person: James Becker, Manager
Utilities Solid Waste Division
407-254-9660**

Orlando Utilities Commission (OUC) would like to utilize the landfill gas (LFG) being generated from closed landfill cells Cell 7B/8 and Cell A-K. Orange County currently rents a blower/flare unit for destruction of the LFG.

Under this agreement OUC will demolish the inoperable LFG facility and construct a new blower/treatment facility to send the LFG to the Curtis Stanton Energy Center.

OUC and Orange County will coordinate in the design and permitting of the facility. OUC will pay Orange County \$0.10 per MBTU of LFG sent to the Curtis Stanton Energy Center. There will be no cost to Orange County.

The Orange County Attorney's Office staff reviewed the agreement and finds it acceptable. Utilities Department staff recommends approval.

Action Requested: Approval and execution of Landfill Gas Sale and Purchase Agreement between Orange County, Florida (County) and Orlando Utilities Commission (OUC).

District 4.

BCC Mtg. Date: Aug. 1, 2017

LANDFILL GAS SALE AND PURCHASE

AGREEMENT BETWEEN

**ORANGE COUNTY,
FLORIDA (COUNTY)**

AND

**ORLANDO UTILITIES
COMMISSION (OUC)**

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LANDFILL GAS SALE AND PURCHASE AGREEMENT WITH SITE LEASE AND EASEMENTS

This Landfill Gas Sale and Purchase Agreement ("Agreement") is made by and between the Orange County, a charter county and political subdivision of the State of Florida, with principal offices at 201 South Rosalind Avenue, Orlando, Florida, 32801 ("County"), and Orlando Utilities Commission, a statutory commission, created by special act of the Florida Legislature, Chapter 9861, Laws of Florida (1923), as amended, with principal offices at 100 West Anderson Street, Orlando, 32801 ("OUC"), with reference to the following facts and circumstances.

RECITALS

A. County owns and operates the Orange County Landfill located at 5901 Young Pine Road, Orlando, Florida 32729, consisting of approximately 5,000 acres, inclusive of associated contiguous property used for access and staging, as otherwise depicted or described on **Exhibit "A"** attached hereto and incorporated herein by reference, and together with any additional real property used for any expansions of the Landfill (collectively, the "Landfill").

B. Landfill Gas is produced from the decomposition of solid waste within the Landfill. County and OUC recognize that the use of recovered Landfill Gas provides environmental and economic benefits to both parties.

C. County has constructed Cells 7B-8 and A-K, and has constructed a Landfill Gas Collection System for Cells 7B-8 and A-K.

D. County desires to extract, capture, and beneficially use Landfill Gas from Cells 7B-8 and A-K.

E. County wishes to sell to OUC Landfill Gas extracted from Cells 7B-8 and A-K in accordance with the terms and conditions set forth herein.

F. OUC wishes to purchase Landfill Gas collected by County from Cells 7B-8 and A-K in accordance with the terms and conditions set forth herein.

G. OUC wishes to install a Landfill Gas Blower/Treatment Facility at the Landfill in order to treat and purchase Landfill Gas of a quality compatible for use as a fuel at the Curtis H. Stanton Energy Center ("SEC") based on the terms and conditions set out in this Agreement. In furtherance thereof, County wishes to (i) lease a portion of the Landfill to OUC to install the Landfill Gas Blower/Treatment Facility and Conveyance/Delivery System, and (ii) grant necessary appurtenant easements or licenses for OUC's activities, all in accordance with the terms and conditions set forth herein.

H. OUC intends to use such Landfill Gas purchased to produce power at the SEC.

NOW THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, County and OUC agree as follows:

ARTICLE I DEFINITIONS

"Blower/Treatment Facility" means all facilities, including electric distribution facilities, blowers, flares, equipment and operations necessary to enable OUC (1) to receive Landfill Gas from the Collection System; (2) to remove moisture, pressurize, meter, and transport Landfill Gas that OUC accepts for use at the SEC; or (3) to send to flares for combustion when OUC cannot accept all or a portion of the Landfill Gas extracted from Cells 7B-8 and A-K, as more fully described in **Exhibit "C."**

"CO₂" means carbon dioxide.

"Claims" shall have the meaning set out in **Section 14.1.**

"Collection System" means all Landfill Gas extraction wells and horizontal collectors, lateral piping, and other related equipment or facilities related to the extraction of Landfill Gas from Cells 7B-8 and A-K, as more fully described in **Exhibit "C."**

"Condensate" means the liquid formed from the condensing of vapors that occur when collecting, processing, and transporting Landfill Gas.

"Contract Year" means every twelve (12) month period which begins at 12:01 a.m. Eastern Standard Time on the first Day of the Delivery and Purchase Term and on every anniversary thereof during the Delivery and Purchase Term.

"Conveyance/Delivery System" means the Landfill Gas pipeline from the Blower/Treatment Facility to SEC, condensate sump, condensate knock-out and pressure reducing valve.

"County" shall have the meaning set out in the Recitals.

"County's Termination Event" shall have the meaning set out in **Section 8.2.**

"County Indemnified Party" shall have the meaning set out in **Section 14.2.**

"Customer" means any person or entity that takes and purchases power from OUC.

"Day" means each twenty-four (24) hour period commencing at 12:01 a.m.

"Dekatherm" means 1 MMBTU.

"Delivery and Purchase Term" shall have meaning set out in **Section 8.1**.

"Easement Agreement" means that Access and Use Easement Agreement between County and OUC granting certain easement and access rights on the Landfill, the agreed form of which is attached hereto as **Exhibit "B."**

"Effective Date" shall be the date that the last of the parties hereto executes this Agreement as evidenced by the dates written immediately below the signatures of the representatives of the parties.

"Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable now or in the future to the use or destruction of Landfill Gas or the production of energy from Landfill Gas put through the Conditioning System. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of CO₂, methane (CH₄) and other greenhouse gases (GHGs); (3) tax credits or similar renewable energy attributes; (4) green tags and similar products; and (5) all other forms of subsidy or incentive allowed for by law and all related reporting rights.

"Environmental Claims" means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, accusations, allegations, notices of noncompliance or violation, investigations (other than internal reports prepared by any Person in the ordinary course of its business and not in response to any third party action or request of any kind) or proceedings relating in any way to any actual or alleged violation of or liability under any Environmental Law or relating to any permit issued, or any approval given, under any such Environmental Law, including, without limitation, (i) any and all Claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Substances or arising from alleged injury or threat of injury to human health or the environment.

"Environmental Laws" means any and all federal, state and local laws, statutes, ordinances, rules, regulations, permits, licenses, approvals, rules of common law and orders of courts or Governmental Authorities, relating to the protection of human health or occupational safety or the environment, now or hereafter in effect and in each case as amended from time to time, including, without limitation, requirements pertaining to the manufacture, processing, distribution, use, treatment, storage, disposal, transportation, handling, reporting, licensing, permitting, investigation or remediation of Hazardous Substances.

"Expansion Increment" shall have the meaning set out in **Section 7.1**.

"Facilities" means the Blower/Treatment Facility, the Conveyance/Delivery System, and the Collection System.

"Fiscal Year" means the period of consecutive twelve (12) months which begins on October 1 and ends on September 30.

"Force Majeure" means any act, event or condition that causes delay in, or failure of, performance of obligations under the Agreement if the act, event or condition (a) is beyond the reasonable control of the party relying on it, (b) is not the result of the willful misconduct of that party (or any person over whom that party has control), and (c) is not an act, event or condition, the risk or consequence of which that party has expressly assumed under this Agreement, and then only to the extent the same cannot be cured, remedied, avoided, offset, or otherwise overcome by the prompt exercise of reasonable diligence by the party relying on it (or any person over whom that party has control) including, without limitation, the following:

(a) acts of God, war, riots, insurrection, rebellion, floods, hurricanes, tornadoes, earthquakes, lightning, and other natural calamities which the affected party could not reasonably have anticipated;

(b) acts or inaction of any government authority, with the exception of the party to this Agreement asserting or claiming Force Majeure;

(c) explosions or fires; and

(d) a change in any Requirements of Law, regulation or order that materially affects the ability of the claiming Party to operate its respective portion of the Facilities.

Notwithstanding the foregoing, Force Majeure shall not include any labor disputes which are not part of a regional or state labor dispute or a natural physical condition of the surface or subsurface of the Landfill which influences the suitability of the Landfill for the Project.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof and any municipal, local, city or county government, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

"H₂S" means hydrogen sulfide.

"Hazardous Substances" means any substances or materials (i) that are or become defined as hazardous wastes, hazardous substances, pollutants, contaminants or toxic substances under any Environmental Law, (ii) that are defined by any Environmental Law as toxic, explosive, corrosive, ignitable, infectious, radioactive, mutagenic or otherwise hazardous, (iii) the presence of which require investigation or response under any Environmental Law, (iv) that constitute a nuisance, trespass or health or safety hazard to Persons or neighboring properties, (v) that consist of underground or aboveground storage tanks, whether empty, filled or partially filled with any such substance, or (vi) that contain, without limitation, asbestos, polychlorinated biphenyls, urea formaldehyde foam insulation, petroleum hydrocarbons, petroleum derived substances or wastes, crude oil, nuclear fuel, natural gas or synthetic gas.

"Heating Value" means the amount of heat released when a known volume of Landfill Gas is burned plus the amount of heat released due to the condensation of water vapor from combustion to the liquid state.

"Interconnection Point" means the point where Landfill Gas passes from the Collection System to the Blower/Treatment Facility, as depicted on **Exhibit "C."**

"Landfill" shall have the meaning set out in the Recitals.

"Landfill Gas" means that gas from the Landfill consisting primarily of methane and carbon dioxide, and having trace amounts of other constituent gases and other non-methane organic compounds, which is produced from the decomposition of solid waste within the Landfill.

"Lease" means the lease between OUC and County for the lease of the Project Site in the form attached hereto as **Exhibit "D."**

"MMBTUs" means one million (1,000,000) BTUs.

"OUC" shall have the meaning set out in the Recitals.

"OUC's Equipment" means the machinery, equipment, fixtures, and buildings that make up the Blower/Treatment Facility and Conveyance/Delivery System.

"OUC Indemnified Party" shall have the meaning set forth in **Section 14.1.**

"OUC Termination Event" shall have the meaning set out in **Section 8.4.**

"PSC" means the Florida Public Service Commission.

"psia" means pounds per square inch absolute.

"Person" means any corporation, association, joint venture, partnership, limited liability company, organization, business, individual, trust, government or agency or political subdivision thereof, or any other legal entity.

"Point of Sale" means the point at which the Landfill Gas exits the Billing Meter under the terms of this Agreement as shown in **Exhibit "C."**

"Project" means all of County's and OUC's activities undertaken pursuant to this Agreement, including installation and operation of the Collection System, Blower/Treatment Facility, and Conveyance /Delivery System.

"Requesting Party" shall have the meaning set out in **Section 17.2**.

"Requirements of Law" means, with respect to any Person, the charter, articles or certificate of organization or incorporation and bylaws or other organizational or governing documents of such Person, and any statute, law, treaty, rule, regulation, order, decree, writ, injunction or determination of any arbitrator or court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject or otherwise pertaining to the Project.

"SEC" shall have the meaning set out in the Recitals.

"Subsurface Heating Events" shall have the meaning of any subsurface fire, smoldering fire, slow pyrolysis, glowing combustion, subsurface oxidation, and reaction.

"Cells 7B-8 and A-K" shall have the meaning set out in the Recitals.

"Term" shall have the meaning set out in **Section 8.1**.

ARTICLE II

CONDITIONS PRECEDENT TO THE OBLIGATIONS OF THE PARTIES

The obligation of the parties to commence work on the construction and operation of the Facilities is subject to satisfaction of the following conditions:

2.1 Permits, Authorizations.

(a) **County.** County holds all State and Federal permits necessary to collect Landfill Gas from Cells 7B-8 and A-K, and temporarily operate a skid-mounted flare to oxidize Landfill Gas collected from these cells. County shall use commercially reasonable efforts to maintain its Title V air operation permit (Permit No. 0950113-001-AV) as it may be amended from time to time, solid waste management permits, and environmental resource permits necessary for the operation of the Collection System due to any changes in Environmental Laws that may occur after the Effective Date.

(b) **OUC.** At its sole cost, OUC shall have obtained all necessary federal, state, and local approvals, authorizations, clearances, permits, easements, licenses, and rights of way required for the performance of its obligations hereunder, and shall use commercially reasonable efforts to obtain, at its sole cost, the permits and authorizations necessary for the construction and operation of Blower/Treatment Facility and Conveyance/Delivery System required in order to fulfill its obligations hereunder. Notwithstanding OUC's obligations set forth immediately above, County, not OUC, shall obtain the Title V air construction and operation permits necessary for the construction and operation of the Blower/Treatment Facility with capability to allow OUC to flare the full Landfill Gas capacity for Cells 7B-8 and A-K delivered to the Interconnection Point. However, OUC shall design the Blower/Treatment Facility, with capability to allow OUC to flare

the full Landfill Gas capacity for Cells 7B-8 and A-K delivered to the Interconnection Point. Furthermore, OUC shall prepare permitable plans and specifications in support of County's Title V air construction and operation permit application necessary for the construction and operation of the Blower/Treatment Facility. Preparing the design of the Blower/Treatment Facility, as well as preparing permitable plans and specifications of the Blower/Treatment Facility shall be at OUC's sole cost.

(c) **County and OUC.** Each party shall provide the other with a copy of all permits and authorizations described above, promptly upon receipt thereof. Upon request, the parties hereto shall use commercially reasonable best efforts to support and assist one another in the acquisition of any required permit or authorization. Such support shall include, without limitation, participation in regulatory proceedings and provision of information concerning each party's operations.

2.2 Design Review. In accordance with sections 10.1 and 10.2, respectively, OUC shall provide County with an opportunity to review all plans for design and construction of Blower/Treatment Facility and Conveyance/Delivery System.

ARTICLE III SALE AND PURCHASE OF LANDFILL GAS

3.1 Upon satisfaction of the conditions precedent set forth in **Article II**, the obligations of County are as follows:

(a) County hereby agrees to sell "AS IS" and "WITH ALL FAULTS" to OUC, exclusively, during the Term and pursuant to the conditions hereof all Landfill Gas produced and collected from Cells 7B-8 and A-K. County does not represent, warrant, or guarantee quality or quantity of Landfill Gas delivered to OUC.

(b) County shall lease to OUC the Project Site for OUC's use based on the terms of the Lease attached hereto as **Exhibit "D."** County and OUC shall finalize the legal description for the Project Site and execute the Lease agreement within the times necessary to allow OUC to meet its construction schedule under this Agreement. Such right to use the Project Site shall commence upon the Effective Date of this Agreement through the Term, and shall terminate upon any termination of this Agreement or upon the terms and conditions provided in the Lease.

(c) County shall grant to OUC such non-exclusive easements or licenses over the Landfill and facilities thereon, or modify any existing licenses or easements, exclusive of the area encompassing the Project Site, as necessary to permit the construction, installation, operation, modification and maintenance of OUC's Equipment pursuant to the Easement Agreement. County and OUC shall finalize the legal description for the easements and execute the Easement Agreement within the times necessary to allow OUC to meet its construction schedule under this Agreement.

(d) County hereby grants to OUC during the term of this Agreement the County's rights to all Environmental Attributes related to Landfill Gas produced from Cells 7B-8 and A-K

either now existing or which may exist during the term of this Agreement that arise from the use of Landfill Gas to generate electricity; and County retains the rights to all Environmental Attributes related to Landfill Gas produced from Cells 7B-8 and A-K either now existing or which may exist in the future related to the capture of carbon or other such activities related to the capture, collection, destruction or disposal of the Landfill Gas as part of its operation of the Landfill. Where the two Environmental Attributes conflict with each other, OUC and County shall have equal shares in that portion of Environmental Attributes in conflict.

ARTICLE IV ENVIRONMENTAL COMPLIANCE

4.1 Environmental Compliance. OUC and the County acknowledge that the primary objective of the Collection System and the Blower/Treatment Facility is and will continue to be to control Landfill Gas migration and emissions in order to meet all local, state and federal regulatory requirements and the requirements of existing and future landfill permits. OUC shall operate the Blower/Treatment Facility in a manner consistent with this primary objective. The parties agree that the Collection System, the Blower/Treatment Facility, and the Conveyance/Delivery System shall be designed, constructed in accordance with County's Title V air permit, and operated in accordance with the terms and conditions of County's Title V air construction and operation permits, solid waste management construction and operation permits, and environmental resource permits, all as may be renewed, amended, or modified from time to time.

ARTICLE V RESPONSIBILITY OF COUNTY

5.1 Subject to the remaining provisions of this Agreement, County hereby reserves the following rights for itself:

(a) Notwithstanding any provision to the contrary contained in this Agreement but subject to OUC's right of termination and County's other duties under this Agreement, County shall be free at all times during the Term hereof to take any action County deems reasonably necessary or desirable, in County's sole judgment, to comply with any Requirements of Law, Environmental Laws, regulation or permit or order of any other Governmental Authority without regard to the effect on the quantity or quality of Landfill Gas provided to OUC under this Agreement, provided (a) County shall provide notification of its intent to take action pursuant to this paragraph 5.1(a) prior to taking the action, if time permits such notification, and in any event shall provide OUC notice after and a summary of actions taken if such actions impact the rights or duties of OUC under this Agreement and (b) if such changes materially impact OUC's ability to perform under this Agreement and there is no mutually agreeable modification to this Agreement to resolve such impact, then OUC may terminate and such termination shall be considered a termination OUC under Article 8.4; and

(b) County shall have the right to inspect the Project Site with advance notice and at reasonable times, and in a reasonable manner, to confirm that OUC's operations are in compliance with the requirements of this Agreement.

5.2 Upon satisfaction of the conditions precedent set forth in **ARTICLE II**, the obligations of the County are as follows:

(a) County shall operate and maintain the Collection System in accordance with the terms of its applicable permits and the terms of this Agreement. In the event that the terms of this Agreement conflict with any term of any applicable permit, the terms and conditions of the applicable permit shall prevail. County shall operate the Collection System during the Term according to prudent operating practices and comply with the Requirements of Law, Environmental Laws and all applicable regulations, and permits.

(b) County shall:

(i) cooperate with OUC in the performance of the obligations imposed on each by this Agreement;

(ii) not intentionally interfere with OUC's construction, operation and maintenance of Blower/Treatment Facility unless it is necessary to maintain compliance with any Environmental Law or permit;

(iii) not intentionally cause the disruption or destruction of the biological composition of solid waste material within Cells 7B-8 and A-K, unless such disruption or destruction of the biological composition of solid waste is necessary to maintain compliance with any Environmental Law or permit, provided, however, County is not limited in the type or composition of solid waste deposited in the Landfill nor the manner that solid waste is deposited in the Landfill;

(iv) not allow any of its independent contractors to commit such interference, disruption, or destruction described in (ii) and (iii) above;

(v) share with OUC, from time to time and at OUC's request, any existing or future planning data or studies regarding projected Landfill Gas volumes or development sequencing of Cells 7B-8 and A-K, which may be generated by the County and its consultants during the term of this Agreement; provided, however, County makes no warranties as to the accuracy of any such data and OUC may rely on such data at its own risk;

(vi) at no cost to OUC dispose of any condensate delivered by OUC to the point shown in Exhibit "C" and generated by the OUC's operations at the Landfill; and

(vii) be responsible for maintenance of the existing sump, pumps, valves, and piping system to provide adequate means of transporting the condensate to the County's process facility adjacent to the Blower/Conveyance facility. Based on expected maximum LFG gas flow of 1,500 scfm (wet basis), condensate flow rate produced by the Blower/Conveyance facility is anticipated to be in the range of 1,000 – 2,000 gallons/day.

(c) Upon the satisfaction of all conditions precedent in **ARTICLE II**, and upon OUC's completion of its obligations under **ARTICLE VI**, County shall begin delivery of Landfill Gas to the Interconnection Point. And,

(d) Upon request by OUC, and to the extent permitted by law, County shall:

(i) Provide OUC with copies of documents in its possession regarding Landfill Gas production from Cells 7B-8 and A-K, and the quantities of solid waste in Cells 7B-8 and A-K; and

(ii) Provide assistance as may be necessary for OUC to obtain any permits required to undertake the activities contemplated in this Agreement.

ARTICLE VI RESPONSIBILITY OF OUC

6.1 Upon satisfaction of the conditions precedent in **ARTICLE II**, the obligations of the OUC are as follows:

(a) At no cost to County, OUC shall design, permit (excluding the Title V air construction and operation permit and the solid waste management permits), construct, operate, and maintain the Blower/Treatment Facility and portions of the Conveyance/Delivery System on the Project Site. All Project activities of OUC will be coordinated with County. OUC shall operate the Blower/Treatment Facility and the Conveyance/Delivery System according to prudent operating practices, in a manner intended to optimize the quantity of Landfill Gas purchased by OUC, and in compliance with the Requirements of Laws, Environmental Laws, and all applicable regulations and permits. OUC shall cooperate with County in the performance of the obligations imposed on each by this Agreement.

(b) Within six (6) months from the date on which the last permit (acquired by either County or OUC, as applicable) required to begin construction of Blower/Treatment Facility is issued, OUC shall begin construction of the Blower/Treatment Facility.

(c) OUC shall complete construction of the portions of the Blower/Treatment Facility required to receive Landfill Gas at the Interconnection Point and legally flare it within twelve (12) months from the date on which it begins construction under **Subsection 6.1(b)** above.

(d) OUC shall destroy, in accordance with the Requirements of Law and all applicable permits, (i) all Landfill Gas tendered to OUC hereunder that is not used by OUC due to unavailability of Blower/Treatment Facility or outages in its power generation facilities and (ii) all Landfill Gas OUC is unable to use due to the quality of the gas. If due to a Subsurface Heating Event, the Landfill Gas quality degrades to a point that OUC cannot destroy the Landfill Gas, OUC shall not have any responsibility.

(e) Upon termination of this Agreement, OUC shall be responsible for (i) the clean-up of any environmental condition at the Landfill resulting from the operations of the

Blower/Treatment Facility and/or Conveyance/Delivery System for Cells 7B-8 and A-K under this Agreement, and (ii) removal of OUC's Equipment related to Cells 7B-8 and A-K and restoration of the Project Site and easement areas pursuant to **ARTICLE XV**, but OUC shall not be responsible for any costs related to the operation, dismantling or removal of Collection System, any other clean-up and restoration of the Landfill or any other property of County or any pre-existing environmental contamination on the Landfill.

(f) OUC shall pay County for the Landfill Gas as set forth in **ARTICLE XI**.

(g) OUC shall deliver to County at the agreed location(s), and County shall dispose of any condensate produced at the Blower/Treatment Facility and within the Conveyance/Delivery System at no cost to OUC, and otherwise in compliance with all Requirements of Laws and regulations.

(h) OUC shall dispose of any waste product, other than condensate, resulting from the operations of the Blower/Treatment Facility and said disposal shall be in compliance with all Requirements of Laws and regulations, and at no cost to County.

(i) OUC shall procure and install the Billing Meter at the Point of Sale and shall at all times during the Delivery and Purchase Term operate, maintain, calibrate and read the Billing Meter. The metering equipment shall be of standard make and type, installed at a readily accessible location, and shall record flow with an error not to exceed plus or minus two percent of full scale reading, suitable for billing purposes. The meter shall be calibrated annually within thirty days of the anniversary date of the Effective Date. In calculating billing adjustments, the parties shall assume that the meter inaccuracy existed for one-half of the entire time interval between meter accuracy checks.

(j) OUC shall operate and maintain the Billing Meter measuring Landfill Gas consumption by OUC in accordance with the Measurement Standards for Landfill Gas set forth in **Exhibit "C"** attached hereto and incorporated herein by reference, and shall provide real time flow and billing information to County, as well as written notice of opportunity to witness billing meter accuracy tests at least three (3) business days prior to conducting the tests.

(k) OUC shall construct and operate OUC's Equipment, including the flare, in a manner which will not materially impact the landfill operations, and which is consistent with prudent utility practices.

(l) OUC shall conduct its activities under this Agreement in accordance with prudent operating practices to avoid (i) adverse environmental condition; (ii) objectionable odors coming from OUC's equipment, as detected at or beyond the boundary of the Landfill; (iii) nuisance conditions affecting off-site areas, (iv) violations of any Environmental Laws that limits noise or sound levels in areas located beyond the boundary of the Project Site; and (v) violations of any other Federal or State law, regulation, local law, ordinance, or regulation.

(m) OUC shall be solely responsible for any fines or penalties imposed on

County or OUC by any regulatory agency due to OUC's operations of the Blower/Treatment Facility and Conveyance/Delivery System.

(n) OUC shall share with County, from time to time and upon County's request, any information on the operation and use of OUC's Equipment and Landfill Gas as well as use of Landfill Gas at SEC which may be generated by OUC or its consultants during the term of this Agreement; provided, however, OUC makes no warranties as to the accuracy of any such data and County may rely on such data at its own risk. And,

(o) OUC shall dismantle and properly dispose of all existing equipment and utilities not required for the Blower/Treatment Facility.

ARTICLE VII EXCLUSIVE RIGHT TO GAS

7.1 Exclusive Right and Right to Negotiate. OUC shall have the exclusive rights during the Delivery and Purchase Term of this Agreement to purchase any and all Landfill Gas produced by Cells 7B-8 and A-K.

ARTICLE VIII TERM AND RIGHT TO TERMINATE

8.1 Term. Subject to the other provisions contained herein, this Agreement shall become effective on the Effective Date and shall continue in effect until the expiration of the Delivery and Purchase Term (the "Term"). The "Delivery and Purchase Term" of this Agreement shall commence on the date Landfill Gas is first acceptable by OUC at the Point of Sale by OUC for purposes of power generation hereunder and shall continue for five (5) years and each consecutive year thereafter until the pressure or quality become unacceptable to OUC.

8.2 County's Right to Terminate. County may terminate this Agreement by written notice to OUC following the occurrence of any of the following (each, a "County's Termination Event"):

(a) The initiation of an involuntary proceeding against OUC under the bankruptcy or insolvency laws, which involuntary proceeding remains undismissed for sixty (60) days, or the initiation by OUC of a voluntary proceeding under the bankruptcy or insolvency laws;

(b) OUC's failure to begin construction of Blower/Treatment Facility by the end of the period set out in **Subsection 6.1(b)** above, provided, that if OUC shall have made commercially reasonable efforts to obtain such permits, such period shall be subject to reasonable extension if the extension does not adversely impact any term or condition of any County permit;

(c) OUC's failure to have all Blower/Treatment Facility operational, for reasons other than Force Majeure or delays by County, by the end of the period set out in **Subsection 6.1 (c)** above;

(d) Notwithstanding **Section 13.1** below, OUC's failure to perform its obligations under this Agreement due to Force Majeure asserted by OUC, which lasts longer than three (3) months;

(e) OUC's failure to make any undisputed payment due hereunder within ten (10) business days of the date due; or

(f) OUC's failure to timely comply with a notice to cure letter from County.

(g) The termination of the Lease with no agreement between the parties as to an alternative property right to allow the operation of the OUC Equipment.

(h) OUC's failure to operate the Blower/Treatment Facility in compliance with County permits.

8.3 County's Notice to Terminate. This Agreement shall terminate thirty (30) Days after OUC's receipt of County's notice that a County's Termination Event has occurred, unless OUC cures such County's Termination Event before the applicable termination date. Upon termination, neither party shall have any further obligation to the other, under this Agreement or otherwise, except as set forth in **Articles XIV and XV**. OUC shall have the right for a period of one hundred eighty (180) days after termination to remove from County's property those items pertaining to Blower/Treatment Facility and Conveyance/Delivery System (except for the flare, associated equipment, and piping which shall remain the property of County).

8.4 OUC's Right to Terminate. OUC may terminate this Agreement by written notice to County upon the occurrence of any of the following (each, an "OUC Termination Event"):

(a) Notwithstanding **Section 13.1** below, County's failure to perform its obligations under this Agreement due to Force Majeure asserted by County, which lasts longer than three (3) months;

(b) Landfill's failure to produce a sufficient volume of Landfill Gas required to operate the Blower/Treatment Facility within its technical operating limits for a period of consecutive six (6) months during the Delivery and Purchase Term;

(c) OUC determines through testing of the composition of the Landfill Gas conducted during any consecutive six (6) months during the Delivery and Purchase Term by OUC at OUC's sole expense the presence of any component or constituent which would subject the Landfill Gas to special handling, collection, storage, treatment, disposal or notification requirements under Environmental Laws;

(d) Any one or more licenses, permits, accreditations, or authorizations of County or OUC relating to the operation of the Project shall be suspended, limited or terminated or shall not be renewed, or any action shall be taken, by any Governmental Authority (other than County) in response to any alleged failure by County to be in compliance with applicable

Requirements of Law, and such action, individually or in the aggregate has a material adverse effect on the ability of OUC to use and generate electricity from Landfill Gas throughout any consecutive six (6) months during the Term provided, however, nothing herein shall release OUC of its good faith obligation to maintain all permits; or,

(e) Any one or more Environmental Claims shall have been asserted against County (or a reasonable basis shall exist therefore); County has incurred or would be reasonably likely to incur liability as a result thereof; and such liability, individually or in the aggregate, has or would be reasonably likely to have a material adverse effect upon the Project throughout any consecutive six (6) months during the Term.

8.5 OUC's Notice to Terminate. This Agreement shall terminate one hundred eighty (180) Days after County's receipt of OUC's notice that an OUC Termination Event has occurred. OUC's notice of termination shall provide the reason that it intends to terminate and provide County with a reasonable period to cure of not less than thirty (30) days. Upon termination, neither party shall have any further obligation to the other, under this Agreement or otherwise, except as set forth in **Articles XIV and XV**. OUC shall have the right for a period of one hundred eighty (180) days after termination to remove from County's property those items pertaining to Blower/Treatment Facility and Conveyance/Delivery System (except for the flare and blower, associated equipment, and piping which shall remain the property of County).

ARTICLE IX NO IMPLIED WARRANTIES

THE PARTIES AGREE THAT THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND DO NOT APPLY TO THE LANDFILL GAS SOLD HEREUNDER.

ARTICLE X INSTALLATION & OPERATION OF FACILITIES

10.1 Collection System Operation.

County shall operate the Collection System pursuant to County permits.

10.2 Blower/Treatment Facility and Conveyance/Delivery System.

(a) **Design of Blower/Treatment Facility and Conveyance/Delivery System.** At no cost to County, OUC shall design and construct the Blower/Treatment Facilities and Conveyance/Delivery System based on the design basis set out in **Exhibit "C"** hereto. The Blower/Treatment Facility shall be designed to be compatible with the Collection System. OUC shall design and construct the blower and flare and associated controls and piping in a manner that the blowers and flare may be operated independently from the remainder of the Blower/Treatment

Facilities in order to allow County to operate the flare if necessary to maintain compliance with Environmental Laws and permits. The blower and flare shall be capable of flaring the entire volume of Landfill Gas produced by Cells 7B-8 and A-K.

(b) Design Reviews of Blower/Treatment Facility and Construction Status Reports. OUC shall coordinate its design and construction of the Blower/Treatment Facility with County. OUC will provide the designs and permitting documents for County's review and comment at conceptual phase and then at conceptual design completion prior to the issuance of construction bid requests. County shall provide any design comments within ten (10) business days. OUC shall incorporate any such comments provided into the design if the changes set out in the comments are required by law or permit conditions or to operate in conjunction with the Collection System, but OUC shall only be required to consider incorporating comments received from County which are not so required.

(c) Permits. As part of OUC's scope of work for the installation of the Blower/Treatment Facility and the Conveyance/Delivery System, OUC shall be responsible for obtaining and maintaining all necessary construction and operating permits necessary to allow the installation of the Blower/Treatment Facility and the Conveyance/Delivery System, except for construction and operational activities that may be authorized under County Title V air construction and operation permits, landfill construction and operation permits, and environmental resource permits authorizing landfill construction activities. In instances that the construction or operation of the Blower/Treatment Facility or the Conveyance/Delivery System may be authorized under County Title V air construction and operation permits, landfill construction and operation permits, and environmental resource permits authorizing landfill construction activities, OUC will provide necessary supplemental information necessary for County to make application for permit modifications that may be required. OUC shall pay all applicable permitting fees. **Exhibit "E"** sets out the permits OUC shall obtain; however, it is not necessarily an exclusive list.

(d) Insurance During Construction. OUC and its contractors and subcontractors (if not covered by OUC's insurance policies) shall maintain in effect at all times during the construction and operation of the Blower/Treatment Facility and the Conveyance/Delivery System insurance coverage (or self-insure, as to OUC) with limits not less than those customarily carried by OUC for construction of its projects. It shall be the responsibility of OUC to maintain adequate insurance coverage and to assure that all of its contractors are adequately insured at all times during construction. Such coverage shall include:

(i) Worker's compensation insurance, covering liability under applicable worker's compensation law, at the statutory coverage levels; and

(ii) All-Risk Builders liability and property damage insurance in a combined single limit of not less than \$2,000,000 per occurrence and in the annual aggregate for death or injury to any person(s) or for third party property damage as a result of any one occurrence which may arise out of or in connection with OUC's performance of its obligation hereunder.

Each of the foregoing policies shall name County as an additional insured to the

extent its interests arise under this Agreement.

(e) **Hazardous Substances.** OUC shall be responsible for the proper collection, removal and disposal of any Hazardous Substances furnished, used, or applied at the Landfill by the OUC or its Contractor or Subcontractor including, but not limited to, used oils, greases, and solvents from flushing and cleaning processes performed under the Agreement; provided, however this shall not include any such material that is permanently incorporated into the Blower/Treatment Facility. Hazardous Substances shall not be stored at the Landfill.

ARTICLE XI CHARGES, BILLING AND PAYMENT

11.1 Landfill Gas. OUC shall pay County for Landfill Gas provided to the Point of Sale hereunder during the Delivery and Purchase Term of this Agreement. OUC shall pay County \$0.10 per Dekatherm of Landfill Gas metered by OUC at the Point of Sale.

11.2 Billing and Payment.

(a) **Billing.** On or before the last business day of each calendar month during the Delivery and Purchase Term, OUC shall contact and meet with a County representative and read and record the Billing Meter; on or before the thirtieth (30th) business day after reading the Billing Meter, OUC shall provide County with a payment and a supporting statement of Landfill Gas consumption that includes the beginning and ending Billing Meter readings for amounts paid.

(b) **Errors in Billing.** If either party hereto shall find at any time within one (1) year after the date of any payment hereunder that there has been an overcharge or undercharge, the party finding the error shall promptly notify the other party in writing. In the event OUC verifies there has been an undercharge, OUC shall pay the amount due within thirty (30) Days after such verification. In the event County verifies an overcharge, County shall refund the overpayment to OUC.

(c) **Interest.** Interest shall accrue on any amount not paid on or before the due date at a rate equal to 18% per year or 1.5% per month.

(d) **Records.** Each party, and its employees and agents, shall have the right, at its sole expense during normal business hours, to examine the other party's books, records, and working papers to the extent necessary to verify the accuracy of any statement, invoice or computation made hereunder, all at such times and from time to time, upon reasonable notice, as may be reasonably required.

ARTICLE XII TAXES

12.1 Each party shall pay or cause to be paid any taxes and assessments imposed on that

party with respect to its performance under this Agreement.

ARTICLE XIII FORCE MAJEURE

13.1 Suspension of Obligations. If either party is rendered unable, wholly or in part, by Force Majeure to carry out its obligations under this Agreement, such party shall notify the other party of the nature and cause of the event in writing within three (3) business days after the affected party becomes aware of the event. Upon receipt of such notice, the obligations of the party giving such notice other than the failed obligation to make any payment due hereunder, so far as they are affected by such Force Majeure, shall be excused during the period of Force Majeure. The affected party shall work diligently to cure, remove or otherwise correct each Force Majeure event.

ARTICLE XIV INDEMNITY

14.1 County. To the extent provided under Section 768.28, Florida Statutes, County hereby agrees to indemnify and hold OUC and its officers, commissioners, directors and employees (collectively referred to as the "OUC Indemnified Party") harmless from and against any and all claims (whether or not they are valid or have merit), causes of action, costs, expenses, losses, liabilities, damages, penalties and demands whatsoever (collectively "Claims") together with reasonable counsel fees and expenses, to the extent arising out of either or both of: (i) any negligent act or omission on the part of County, its agents, or employees relating to or arising out of its performance under this Agreement, and (ii) any Claim in connection with the actual or alleged generation, presence, discharge or release of any Hazardous Substances on, into or from, or the transportation of Hazardous Substances to or from, the Project Site or any other Landfill property under easement to OUC hereunder and utilized by the Project, any other Environmental Claims or any violation of or liability under any Environmental Law; provided, however, that the indemnification and hold harmless obligations of this subsection (ii) shall not include any Claims to the extent they arise out of Hazardous Substances introduced to the Project Site or any other Landfill property by OUC or its agents, licensees, employees or invitees or violation of any Environmental Law by OUC, its agents, licensees, employees, contractors or invitees. The provisions of this Section 14.1 shall survive the termination of this Agreement.

14.2 OUC. To the extent provided under Section 768.28, Florida Statutes, OUC hereby agrees to indemnify and hold County and its officers, commissioners, and employees (collectively referred to as the "County Indemnified Party") harmless from and against any and all Claims, as defined in section 13.1 (whether or not they are valid or have merit), together with reasonable counsel fees and expenses, to the extent arising out of either or both of: (i) any negligent act or omission on the part of OUC, its agents, or employees relating to or arising out of its performance under this Agreement, and (ii) any Claim in connection with the actual or alleged generation, presence, discharge or release of any Hazardous Substances introduced to the Project Site by OUC, its agents, or employees or transported to or from the Project Site or any other Landfill property by OUC, its agents, or employees or any fines or penalties resulting from violation of any Environmental Law by OUC its agents, licensees, employees, contractors or invitees. The

provisions of this Section 14.2 shall survive the termination of this Agreement.

ARTICLE XV OWNERSHIP, REMOVAL AND RESTORATION

15.1 Ownership. Blower/Treatment Facility, Conveyance/Delivery System and related equipment shall remain the personal property of OUC with the exception of the blower and flares and associated controls and piping, notwithstanding the method or mode of installation or attachment to real property. Upon written request by OUC, County shall provide a waiver or estoppel certificate from County or any lessee operator of the Landfill acknowledging that OUC's Equipment is personal property owned by OUC and subject to the right of removal by OUC. OUC shall, within one hundred and eighty (180) days after the expiration or termination of this Agreement, remove or cause the removal of OUC's Equipment, except that which becomes the property of County pursuant to Section 15.2, herein, and shall permanently seal and cap all openings for pipes or equipment left in the Landfill in accordance with the most current industry standards. Should OUC fail to remove OUC's Equipment as required under this **ARTICLE XV**, such property shall be deemed abandoned and shall, at County's option, become the property of County. Nothing in this **Section 15.1** shall be construed to create an obligation of OUC with respect to the Collection System. Should (a) County terminate for a County Termination Event or (b) OUC terminate for an OUC Termination Event and then determine it will offer the OUC Equipment for sale, then County shall have the right of first refusal to purchase the OUC Equipment with the purchase price being OUC's remaining book value for the portions of the Blower/Treatment Facility and/or Conveyance/Delivery System purchased.

15.2 Ownership of Blower, Flares and Related Equipment and Piping. Upon the earlier expiration or termination of this Agreement or the Lease, OUC's title to the blowers and flare and associated controls and piping shall automatically terminate and title in said personal property shall thereafter vest exclusively in County. In addition, title to all of OUC's Equipment remaining on the Project Site after any applicable removal periods provided to OUC under this Agreement shall, at County's option, automatically vest exclusively in the County.

15.3 Transfer of Ownership of OUC's Equipment. Within six (6) months prior to the expiration of the later to expire of this Agreement or the Lease (not including termination pursuant to Sections 8.2, 8.3, 8.4, and 8.5, herein), OUC shall provide written notice to County if OUC desires to remove such of OUC's Equipment that does not automatically vest in the County. All of OUC's Equipment not removed from the Project Site within one hundred eighty (180) days after the earlier expiration or termination of the Agreement or Lease shall, at County's option, automatically vest exclusively in the County due to OUC's abandonment. However, OUC shall remain liable to County for all costs and expenses incurred by County in the demolition, removal and disposal of the Blower/Treatment Facility as well as for the restoration of the Project Site.

ARTICLE XVI INSURANCE

16.1 OUC's Insurance. At all times during the Term of this Agreement after the completion of construction of the Blower/Treatment Facility, OUC shall maintain the following

insurance coverages with respect to its activities under this Agreement and in operating the Blower/Treatment facility. Such insurance with an insurance company reasonably acceptable to County or shall self-insure pursuant to its normal insurance program.

(a) Worker's compensation insurance, covering liability under applicable worker's compensation law, at the statutory coverage levels; and

(b) Comprehensive general liability and property damage insurance in a combined single limit of not less than \$2,000,000 for death or injury to any person(s) or for third party property damage as a result of any one occurrence which may arise out of or in connection with OUC's operation of all equipment or facilities required for OUC's performance of its obligation hereunder.

Each of the foregoing policies shall name County as an additional insured to the extent its interests arise under this Agreement and the Lease.

16.2 County's Insurance. At all times during the Term of this Agreement, to the extent commercially available, County shall maintain the following insurance coverages with respect to its activities under this Agreement and in operating the Landfill and Collection System. Such insurance with an insurance company reasonably acceptable to OUC or shall self-insure pursuant to its normal insurance program.

(a) Worker's compensation insurance, covering liability under applicable worker's compensation law, at the statutory coverage levels; and

(b) Comprehensive general liability and property damage insurance in a combined single limit of not less than \$2,000,000 for death or injury to any person(s) or for property damage as a result of any one occurrence which may arise out of or in connection with County's operation of the Landfill and Collection System or facilities required for County's performance of its obligation hereunder.

Each of the foregoing policies shall name County as an additional insured to the extent its interests arise under this Agreement and the Lease.

16.3 Insurance Certificates. Each party shall provide to the other certificates of insurance to evidence that the required insurance coverage is in effect at all times during the Term hereof.

ARTICLE XVII **DISPUTE RESOLUTION**

17.1 Executive Meeting. In the event of any dispute between the parties as to a matter referred to herein or as to the interpretation of any part of this Agreement, including this **Section 17.1 OR AS TO THE DETERMINATION OF ANY RIGHTS OR OBLIGATIONS OR ENTITLEMENTS ARISING FROM OR RELATED TO THIS AGREEMENT OR AS TO**

THE CALCULATION OF ANY AMOUNTS PAYABLE UNDER THIS AGREEMENT, THE PARTIES SHALL REFER THE MATTER TO THEIR RESPECTIVE CHIEF EXECUTIVE OFFICERS, OR ANOTHER DULY AUTHORIZED OFFICER, FOR RESOLUTION. SHOULD SUCH OFFICERS OF THE RESPECTIVE PARTIES FAIL TO RESOLVE THE DISPUTE WITHIN TWENTY (20) DAYS FROM SUCH REFERRAL, THE PARTIES AGREE THAT ANY SUCH DISPUTE SHALL BE FIRST REFERRED TO MEDIATION. SHOULD MEDIATION BE UNSUCCESSFUL WITHIN THE TIMES SPECIFIED IN SECTION 17.2, THE PARTIES MAY PURSUE ANY LEGAL OR EQUITABLE REMEDIES AVAILABLE UNDER FLORIDA LAW AS LIMITED BY SECTION 17.4 HEREIN.

17.2 Mediation. A party submitting a dispute to mediation (the "Requesting Party") shall do so by delivering to the other party a notice demanding or requesting, as the case may be, mediation of the dispute and providing a list of three mediators acceptable to the Requesting Party. Within ten (10) days after the receipt of the notice from the Requesting Party, the other Party shall, in writing, provide a notice either choosing one mediator from the list provided by the Requesting Party or offering a list of three additional mediators for consideration. Within ten (10) days of Requesting Parties receipt of the notice, the parties shall mutually agree and appoint a mediator from the lists provided. To the extent practicable, the mediator shall have special competence and experience with respect to the subject matter under consideration. No mediator, appointed, shall have the power to amend or add to this Agreement. Within twenty (20) days after the mediator is named, a time and date for the mediation shall be scheduled and documented in writing. The mediator thereupon, shall proceed promptly to hear and determine the controversy. The mediator shall fix a time within which the matter shall be submitted to him or her by both of the parties. Any settlement achieved through mediation shall be confidential and made in writing and in duplicate, and one copy shall be delivered to each of the parties. Each party shall pay the costs of its own counsel and share equally the cost of the mediator services. Each party shall accept and abide by any mediation decision approved by the parties. Judgment upon such award may be entered by the prevailing party in any court having jurisdiction thereof, or application may be made by such party to any such court for judicial acceptance of such award and an order of enforcement. Either party shall have the right to seek a temporary or preliminary injunction from a court of competent jurisdiction prior to the mediation.

17.3 Binding Decision. Once accepted by the parties, this agreement to mediate and any award made hereunder that is expressly approved by the governing bodies of each party shall be binding upon each party and the successors and assigns and any trustee or receiver of each party.

17.4 Legal Remedies: Limitation of Liability. If mediation is unsuccessful, either party may pursue its legal rights and remedies made available under Florida Law, subject to the limitations of this **Section 17.4**. NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, NO PARTY SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER INDEMNITY PROVISIONS OR OTHERWISE, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOST

REVENUES, COST OF CAPITAL; LOSS OF USE, LOSS OF GOODWILL, LOSS OF OPPORTUNITY, REPLACEMENT POWER OR CLAIMS OF THE CUSTOMERS OF THE OTHER PARTY. This Limitation of Liability does not release either party from liability for any penalties imposed by any regulatory agency due to the parties' actions or inactions.

17.5 Continued Performance. No dispute shall interfere with the parties' continued fulfillment of their obligations under this Agreement pending the outcome of the mediation process or a decision by the Florida courts. Moreover, no dispute shall interfere with County's right to enter the Blower/Treatment Facility and operate the Blower/Treatment Facility in order to comply with the terms and conditions of its permits.

17.6 Attorneys' Fees. Each party shall bear its own attorneys' fees, costs, and expenses in any litigation, suit, dispute, controversy, mediation, or proceeding, including appellate proceedings, arising out of, based on, or related to, this Agreement.

ARTICLE XVIII MISCELLANEOUS

18.1 Assignment. Neither party may sell, assign or transfer this Agreement or any interest it may have hereunder, without prior written approval of the other party, such approval to be not unreasonably withheld, and provided that any such assignment shall not unreasonably interfere with the rights of the non-assigning party hereunder. All covenants, terms, conditions, and provisions of this Agreement shall be binding upon the parties hereto and shall extend to and be binding upon the successors and permitted assigns of the parties hereto. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective legal representatives, successors and assigns, including any public body which will succeed to or have assigned to it any of the functions of the parties with respect to this Agreement, and any reference to OUC and County shall include a reference to their respective successors, assigns and nominees.

18.2 Notices. Any notice, request, demand, statement and or payment provided for herein shall be in writing and, except as otherwise provided herein, shall be sent to the parties hereto at the following addresses:

County: Orange County
 Orange County Administration Building, 5th Floor
 201 S. Rosalind Avenue
 Orlando, FL 32801
 Attention: County Administrator

With copy to: Orange County Utilities Department
 9150 Curry Ford Road
 Orlando, FL 32825
 Attention: Director

OUC: Jan Aspuru
 VP, Electric & Water Production
 Orlando Utilities Commission
 P.O. Box 3193
 Orlando, FL 32802

With copy to: W. Christopher Browder
 Vice President and General Counsel
 Orlando Utilities Commission
 P.O. Box 3193
 Orlando, FL 32802

Such notices and communications shall be deemed to have been given and received when personally delivered or upon receipt as evidenced by a United States Postal Service Receipt for Certified Mail or evidence of delivery by a private express mail service or upon receipt by facsimile provided that the sender promptly thereafter delivers a copy of the notice together with the receipt issued by the sender's facsimile machine, to the recipient. Either party may change the address to which communications or payments are to be made by notice to the other party as set forth above.

18.3 Integration. This Agreement, the Site Lease and the Easement Agreement are intended by the parties as the final expression of their agreement with respect to such subject matter, both written and oral, and supersedes all previous agreements between the parties related to the sale and purchase of landfill gas from Cells 7B-8 and A-K. This Agreement may be modified only by a written amendment executed by both parties.

18.4 Waiver. A waiver by either OUC or County of any failure of the other party to perform any of its obligations under this Agreement shall not be construed as a waiver of any future or continuing failure or failures, whether similar or dissimilar thereto.

18.5 Choice of Law; Venue. This Agreement and any provisions contained herein shall be interpreted under the laws of the State of Florida without regard to principles of conflicts of law. Venue for any proceeding initiated pursuant to this Agreement shall be in a court of competent jurisdiction in Orange County, Florida.

18.6 Independent Parties. This Agreement is not intended to, nor does it create, a principal/agent, employer/employee, partnership or joint venture relationship between the parties.

18.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

18.8 Invalidity. If any provision of this Agreement is held invalid under any state or federal laws or regulations, such provision shall be deemed not to be part of this Agreement in such jurisdiction, but shall not invalidate any other provision hereof. If any provision shall be

held invalid, either party shall have the option to terminate this Agreement, subject to all provisions respecting termination provided herein, or redraft to restate such provision so as to be in compliance with such law or regulation.

18.9 No Presumption Against Draftsman. The parties acknowledge that each Party and its counsel have participated in the negotiation and preparation of this agreement. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the Party causing the Agreement to be drafted.

18.10 Headings. Captions and headings contained in this Agreement have been included for ease of reference and convenience and shall not be considered in interpreting or construing this Agreement.

18.11 Sovereign Immunity. County and OUC intend to avail themselves of the benefits of Section 768.28, Florida Statutes, and any other statute and common law governing sovereign immunity to the fullest extent possible and nothing herein shall be construed as a waiver of sovereign immunity by these parties.

REMAINDER OF PAGE INTENTIONALLY BLANK

In Witness Whereof, the parties hereto have caused the execution of this Agreement by the officers whose names appear below as of the dates below written.


Orlando Utilities Commission

By: 

Kenneth P. Ksionek
General Manager & CEO

Dated: June 22, 2017

ATTEST:



Name: Elizabeth M. Mason

Title: Assistant Secretary

Date: June 22, 2017

APPROVED as to form and legality,

By: 

Date: June 21, 2017



ORANGE COUNTY, FLORIDA

By: Board of Commissioners

By: *Teresa Jacobs*
Teresa Jacobs
Orange County Mayor

Date: 8.1.17

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Katie Smith*
Deputy Clerk

EXHIBIT A**Legal Description of Landfill**

A parcel of Land in Sections 9, 14, 15, 16, 21, 22, 23, 26, 27, and 28, Township 23 South, Range 31 East, Orange County, Florida, being more particularly described as follows:

Beginning at the southeast corner of the northwest quarter of said section 23;
thence North 0 degrees 9 minutes 10 seconds East, 2655.90 feet to the northeast corner of said northwest quarter;
thence North 0 degrees 10 minutes 58 seconds East, 2656.35 feet to the central corner of section 14;
thence North 0 degrees 10 minutes 58 seconds East, 2661.25 feet to the north quarter corner of section 14;
thence South 89 degrees 36 minutes 49 seconds West, 2654.77 feet to the northwest corner of section 14;
thence South 89 degrees 53 minutes 17 seconds West, 2662.96 feet to the north quarter corner of section 15;
thence South 89 degrees 50 minutes 27 seconds West, 2659.77 feet to the northwest corner of section 15;
thence South 89 degrees 46 minutes 2 seconds West, 1794.70 feet to the north quarter corner of section 16;
thence South 89 degrees 46 minutes 2 seconds West, 860.00 feet to the north quarter of section 16;
thence South 0 degrees 13 minutes 48 seconds East, 2659.60 feet to the northwest corner of the southwest quarter of section 16;
thence South 0 degrees 13 minutes 48 seconds East, 2673.39 feet to a point on the north right of way of Young Pine Road;
thence North 88 degrees 57 minutes 43 seconds East, 2290.33 feet along said right of way to a point on the east line of section 16;
thence South 0 degrees 12 minutes 29 seconds West, 6.00 feet to the southeast corner of section 16;
thence South 0 degrees 18 minutes 24 seconds West, 100.03 feet along the east line of section 21 to a point on the south right of way of Young Pine Road;
thence South 88 degrees 57 minutes 43 seconds West, 2289.08 feet along said right of way;
thence North 89 degrees 43 minutes 57 seconds West, 1419.50 feet along said right of way;
thence 629.25 feet along a curve on said right of way, concave to the north, and having a radius of 1962.86 feet, a central angle of 18 degrees 22 minutes 04 seconds, and a cord bearing and distance of North 80 degrees 32 minutes 55 seconds West, 626.56 feet to a point on the north line of section 21;
thence North 89 degrees 43 minutes 57 seconds West, 663.10 feet to the northwest corner of section 21;
thence South 0 degrees 18 minutes 46 seconds West, 2654.82 feet to the west quarter corner of section 21;
thence South 0 degrees 8 minutes 8 seconds West, 2662.20 feet to the southwest corner of section 21;
thence South 0 degrees 2 minutes 4 seconds West, 2655.96 feet to the west quarter corner of section 28;
thence South 0 degrees 18 minutes 3 seconds West, 1844.44 feet along the west line of the southwest quarter of section 28 to a point on the north right of way of the Bee Line Expressway, a/k/a State Road 528;
thence the following courses along said north right of way;

thence North 57 degrees 23 minutes 40 seconds East, 50.25 feet;
 thence South 48 degrees 50 minutes 48 seconds East, 517.07 feet;
 thence South 31 degrees 23 minutes 40 seconds West, 190.01 feet;
 thence South 60 degrees 25 minutes 11 seconds East, 245.96 feet;
 thence 511.54 feet along a curve, concave to the north and having a radius of 1337.46 feet, a central angle of 21 degrees 54 minutes 50 seconds, and a chord bearing and distance of South 80 degrees 9 minutes 13 seconds East, 508.49 feet;
 thence North 5 degrees 46 minutes 40 seconds East, 143.23 feet;
 thence South 85 degrees 36 minutes 54 seconds East, 588.40 feet;
 thence South 4 degrees 23 minutes 6 seconds West, 146.81 feet;
 thence South 85 degrees 36 minutes 54 seconds East, 293.88 feet;
 thence North 77 degrees 48 minutes 33 seconds East, 1326.12 feet;
 thence South 78 degrees 18 minutes 9 seconds East, 1257.22 feet;
 thence North 84 degrees 47 minutes 8 seconds East, 521.99 feet;
 thence North 86 degrees 13 minutes 55 seconds East, 651.27 feet;
 thence North 89 degrees 45 minutes 12 seconds East, 400.02 feet;
 thence South 86 degrees 40 minutes 13 seconds East, 400.80 feet;
 thence North 21 degrees 57 minutes 25 seconds East, 264.64 feet;
 thence South 85 degrees 20 minutes 51 seconds East, 702.51 feet;
 thence South 0 degrees 14 minutes 48 seconds East, 210.01 feet;
 thence South 63 degrees 40 minutes 41 seconds East, 111.81 feet;
 thence North 89 degrees 45 minutes 12 seconds East, 3295.96 feet to a point on the west line of section 26;
 thence North 89 degrees 45 minutes 12 seconds East, 5317.93 feet to a point on the east line of section 26;
 thence leaving the north right of way of the Bee Line Expressway North 0 degrees 14 minutes 19 seconds East, 2602.31 feet to the east quarter corner of section 26;
 thence North 0 degrees 16 minutes 51 seconds East, 2654.72 feet to the northeast corner of section 26;
 thence South 89 degrees 53 minutes 32 seconds West, 2653.99 feet to the north quarter corner of section 26;
 thence North 0 degrees 9 minutes 10 seconds East, 2654.86 feet to the point of beginning;

ALONG WITH

All of the southeast quarter of section 9;

Subject to the following:

That certain tract of land 220 feet in width, lying and being in section 7, 8, 9, 10, 11, and 12, Township 23 South, Range 31 East, Orange County, Florida, said tract of land being more particularly described in Final Judgment in favor of the City of Orlando, a municipal corporation organized and existing under the Laws of the State of Florida, filed in the Circuit Court of the Ninth Judicial District in and for Orange County, Florida, filed December 14, 1959, Civil Case Number 35952, Minute Book 15, Page 636.

AND EXCEPT

That part of the Alafaya Trail Extension right of way lying in Section 26.

EXHIBIT B

Form of Easement Agreement

EXHIBIT "B"

(NOT FOR EXECUTION)

This instrument prepared by
Anthony J. Cotter
Orange County Attorney's Office
201 S. Rosalind Ave. Orlando, FL 32801

TEMPORARY ACCESS AND USE EASEMENT AGREEMENT

THIS TEMPORARY ACCESS AND USE EASEMENT AGREEMENT entered as of the date of execution below noted, by and between the ORANGE COUNTY, a charter county and a political subdivision of the State of Florida ("GRANTOR"), and ORLANDO UTILITIES COMMISSION, a statutory commission under the laws of the State of Florida ("GRANTEE"), (GRANTOR and GRANTEE are collectively termed herein the "Parties").

A. WHEREAS, GRANTOR owns land located at the Orange County landfill site, described herein at **Exhibit "A"**, attached hereto and incorporated herein by this reference, which is currently utilized as a landfill serving Orange County and surrounding areas; and

B. WHEREAS, GRANTOR and GRANTEE have entered into that certain Landfill Gas Sale and Purchase Agreement dated _____, 20__, pursuant to which each will design, construct, own and operate on the Orange County landfill site a separate portion of an integrated landfill gas collection and conditioning system for the collection of landfill gas for use by GRANTEE in generating electricity; and

C. WHEREAS, GRANTOR and GRANTEE have entered into that certain lease, dated _____, 20__, by which GRANTOR has leased to GRANTEE a leasehold interest in the Project Site, described herein at **Exhibit "D"** (the "LEASE") whereby GRANTEE shall have the exclusive control and occupancy of the Project Site for the purpose of developing, constructing, erecting, installing, repairing, removing, upgrading, operating and maintaining the Blower/Treatment Facility and Conveyance/Delivery System; and

D. WHEREAS, GRANTEE desires to obtain from GRANTOR and GRANTOR desires to grant to GRANTEE a temporary access and use easement in, on, under, over and through the Easement Area, described in Exhibit "C", attached hereto and incorporated herein by this reference (the "Easement Area"), for the purpose of installing and maintaining a Conveyance/Delivery System to conduct landfill gas from the Project Site to the boundary of GRANTOR's property, as well as for installing and maintaining utilities lines across GRANTOR's property to the Project Site.

NOW THEREFORE: GRANTOR, for and in consideration of the sum of One Dollar and other valuable considerations paid, the receipt and sufficiency of which is hereby acknowledged, grants unto GRANTEE, a temporary non-exclusive easement for the purpose of clearing, excavating, constructing pipelines including the right of operating, maintaining, repairing and replacing such pipelines as GRANTEE may deem necessary in connection therewith, in, over, under, upon and through the Easement Area.

TO HAVE AND TO HOLD the same unto GRANTEE until the expiration or termination of the LEASE, at which time, this TEMPORARY USE AND ACCESS EASEMENT AGREEMENT SHALL SIMULTANEOUSLY AND AUTOMATICALLY TERMINATE.

PROVIDED, ALWAYS, NEVERTHELESS, this Agreement is subject to the following conditions:

1. GRANTEE agrees to be solely responsible for adequately maintaining the Easement Area and all facilities therein at no expense to the GRANTOR. In the event GRANTEE fails to properly maintain the Easement Area or the facilities, the GRANTOR may, but is not required to, perform any necessary maintenance and charge the cost thereof to GRANTEE.
2. GRANTEE shall not construct or install any facilities, including pipelines, across roads or driveways except by directional boring method, unless GRANTEE and GRANTOR mutually agree otherwise.
3. GRANTEE shall not perform any construction, repair or replacement of facilities within the Easement Area without giving prior written notice to GRANTOR of the dates and times of such activities as well as a brief description of the scope thereof; provided, however in the event of emergency, no such prior notice need be given although GRANTEE shall provide prompt notice of such emergency activities.

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IN WITNESS WHEREOF, GRANTOR and GRANTEE have caused these presents to be executed on the days(s) and year below noted.

ORANGE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____

Teresa Jacobs, County Mayor

DATE: _____

ADDRESS OF GRANTOR:

P.O. Box 1393

Orlando, Florida 32802-1393

ATTEST: Phil Diamond, CPA,
County Comptroller Clerk of the
Board of County Commissioners

BY: _____
Deputy Clerk

Printed Name

Signed, sealed and delivered
in the presence of:

ORLANDO UTILITIES COMMISSION, as
LESSEE:

By:

Notary Public

Name: Kenneth P. Ksionek
General Manager & CEO

Attest:

Name: Elizabeth M. Mason
Assistant Secretary

FOR THE USE AND RELIANCE OF OUC ONLY- APPROVED AS TO FORM AND
LEGALITY.

Attorney for OUC
Date: _____

EXHIBIT C

Project Design Basis

Design Basis Objective

The objective of this design basis document is to conceptually define the Project and to establish the minimum criteria and standards of performance for the Project.

In the event that detailed engineering for the Project require revisions to this conceptual basis for design, these revisions will be effected through mutual agreement of County and OUC.

Design Basis

Cells 7B-8, A-K

LFG generation from Class I Cells 7B-8 and A-K for design purposes will be based on the current gas flow and historical regression of gas flow for these cells. These cells are closed out and are no longer receiving solid waste input. Therefore, the LFG produced by these cells is projected to reduce over time.

LFG Collection System

The LFG Collection System includes gas extraction wells and well field piping to collect LFG under vacuum from the decomposing solid waste in Cells 7B-8 and A-K and convey it to the Blower /Treatment Facility. The well field design includes both horizontal wells installed as part of disposal operations and vertical wells installed as part of sequential and final closures. The LFG Collection System is also expected to include LFG collection from the leachate collection piping system. LFG extraction from the horizontal and vertical wellheads will be accomplished through a series of lateral and internal header pipes that will convey the collected LFG into a common perimeter header manifold to the Blower/Treatment Facility. The LFG Collection System pipe sizing design is based on maintaining a minimum pressure drop of 0.005 inches of water column per lineal foot of pipe with the average LFG design velocity not to exceed 30 feet per second at any location within the piping network.

The LFG Collection System design includes condensate handling and the associated condensate sump/pump stations, control valves and isolation valves. Condensate generated in the Collection System is planned to be commingled with the landfill leachate recovered from Cells 7B-8 and A-K. The LFG Collection System piping is planned to be constructed of High Density Polyethylene (HDPE) with a size-diameter ratio (SDR) between 11 and 17, depending on the size and location of the pipe.

The design, installation, and operation of the Collection System shall be the responsibility of County.

LFG Modeling

The designer of the Blower/Treatment Facility and Conveyance/Delivery System shall prepare LFG generation curves to be used in the design and technical specifications of the associated equipment.

Blower/Treatment Facility

The Blower/Treatment Facility will provide vacuum for the LFG Collection System. The Blower /Treatment Facility shall be designed to handle 100% of the design flow plus an acceptable flow margin that meets or exceeds industry standards and complies with landfill permits. Secondary (back-up) LFG control will be achieved through incorporation of an industry standard "candle-stick" style flare available during periods of start-up, shut down and maintenance downtime of either the SEC and/ or the Blower/Treatment Facility.

For each phase of development, the primary LFG blowers shall have the capacity to apply a vacuum of at least five (5) inches of Mercury (Hg) (equivalent to approximately 68 inches of water column) to the farthest LFG well on the LFG Collection System at the maximum designed flow rate plus the vacuum losses through the collection piping and condensate sumps, and discharged at the required pressure to the Conveyance/Delivery System or the flare system. The secondary blowers shall be sized in accordance with delivery pressure requirements at SEC. The primary blowers shall have controls sufficient to maintain a set vacuum on the LFG well field consistent with County's operation of the Collection System and automatic shutdown capability to avoid exceeding the LFG Collection System capacity. An emergency shut down valve shall be installed at the Interconnection Point. The valve shall be fail close.

A "candle-stick" style flare must be included in the Blower /Treatment Facility design for LFG destruction as a backup for safety and the Landfill's permit compliance purposes. The flare must meet the minimum requirement for thermal destruction as set by local, State and Federal regulations. The flare shall be designed to meet the LFG control system design capacity. The Blower/Treatment Facility shall be designed with automatic control valves to divert the LFG to the flare in the event of SEC shut-down and system Blower /Treatment system disruptions. The blowers and flare system shall be designed to fully comply with the solid waste and Title V permit conditions.

The condensate generated through the process system shall be collected and transmitted to the Cells 7B-8 leachate storage tanks. The area available for the Blower /Treatment Facility is shown in Attachment 1. This area, if necessary, shall be available exclusively for installation of the Blower/Treatment Facility.

Instrumentation and Controls

The Blower /Treatment Facility shall be controlled in a manner sufficient to monitor and control

integral process parameters and safety features and tied to a human-machine- interface within a control panel at the Blower/Treatment Facility and/or at the SEC for trending and viewing real time and historical data.

Gas composition (methane, carbon dioxide, oxygen) will be continuously monitored at the Blower /Treatment Facility inlet and outlet. Maximum oxygen level (2.5% by volume) and minimum methane concentration level alarms will be set based on safety and minimum BTU content. LFG flow rate to the Conveyance/Delivery System or the flares shall be continuously monitored using instrumentation designed for the accurate measurement of landfill gas flow.

All flow and gas measurement devices/ equipment shall be consistent with industry standards for the purpose intended. Alarms shall be designed for audible and visible annunciation and recorded in a manner acceptable for the purpose of reviewing historical data.

The design, installation, and operation of the Blower/Treatment Facility shall be the responsibility of OUC.

Conveyance/Delivery System

OUC will utilize an existing LFG transmission pipeline that previously supplied the SEC with LFG from Cells 7B-8 and A-K. This pipeline will require modifications for transmission of dry LFG as opposed to the untreated LFG for which the pipeline was originally designed. Modifications to the LFG transmission pipeline will be the responsibility of OUC.

Attachment 1



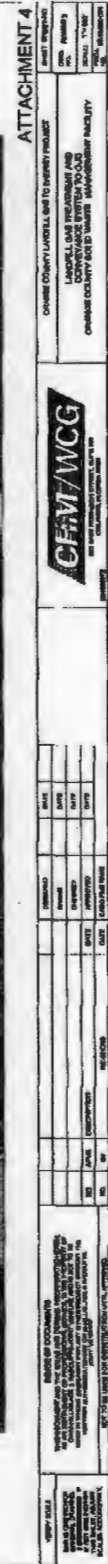


EXHIBIT D

FORM OF LEASE

LEASE

Dated as of _____

Between

ORANGE COUNTY, FLORIDA

As Lessor

and

ORLANDO UTILITIES COMMISSION

as Lessee

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LEASE EXHIBIT A - Facility Site Description

ORANGE COUNTY LANDFILL GAS SITE LEASE

THIS LEASE, effective as of the Commencement Date (as hereinafter defined), is made between ORANGE COUNTY, FLORIDA, a Florida charter county and political subdivision of the State of Florida, as lessor (hereinafter, together with their successors in title and assigns of that certain Facility Site, as hereinafter defined, the "*Lessor*"), and ORLANDO UTILITIES COMMISSION, a statutory commission under the laws of the State of Florida, as lessee (hereinafter, together with its successors in title and assigns as lessee of the Facility Site, the "*Lessee*") (each a "*Party*" and collectively "*Parties*").

RECITALS

A. WHEREAS, Lessor owns certain real property located in Orange County, Florida, as described on Lease Exhibit A attached hereto (the "*Facility Site*"); and

B. WHEREAS, Lessor owns lands located at the Landfill (as hereinafter defined) surrounding the Facility Site which is currently utilized as a landfill serving Orange County and surrounding areas; and

C. WHEREAS, Lessor and Lessee have entered into the Project Agreement (as hereinafter defined) pursuant to which each will design, construct, own and operate on the County's landfill site a separate portion of an integrated landfill gas collection and conditioning system for the collection of landfill gas for use by Lessee in generating electricity (also collectively known as the "*Project*", as hereinafter defined).

D. WHEREAS, Lessor desires to lease and rent to Lessee an undivided leasehold interest in the Facility Site, whereby Lessee shall have the exclusive control and occupancy of the Facility Site, except as herein provided, for the purpose of developing, constructing, erecting, installing, repairing, removing, upgrading, operating and maintaining the Blower/Treatment Facility (as hereinafter defined) portion of the Project; and

NOW THEREFORE, Lessor and Lessee enter into this Lease to specify the terms and conditions of Lessor's lease to Lessee of an undivided leasehold interest in the Facility Site.

WITNESSETH:

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants and agreements contained herein, and intending to be legally bound hereby, Lessor and Lessee do hereby covenant and agree with each other as follows:

SECTION 1. DEFINITIONS.

"Access and Use Easement Agreement" means that certain agreement executed

by the Parties for the purpose of providing Lessee use of certain of Lessor's property in furtherance of this Lease and the Project Agreement.

"Additional Rent" shall have the meaning set forth in Section 5.4.

"Base Rent" shall have the meaning set forth in Section 5.1.

"Blower/Treatment Facility" shall have the meaning set forth in the Project Agreement.

"Commencement Date" shall be the date of later execution of this Lease.

"Conveyance/Delivery System" shall have the meaning set forth in the Project Agreement.

"Default Notice" shall have the meaning set forth in Section 11.1.

"Environmental Laws" shall have the meaning set forth in the Project Agreement.

"Event of Default" shall have the meaning set forth in Section 11.1.

"Extension Term" shall have the meaning set forth in Section 4.2.

"Facilities" shall have the meaning set forth in the Project Agreement. *"Facility Site"* shall have the meaning set forth in Recital A.

"Governmental Authority" shall have the meaning set forth in the Project Agreement.

"Impositions" means such duties, taxes, charges for water, sewer taxes, assessments, and payments, extraordinary as well as ordinary, whether foreseen or unforeseen, as shall be laid, levied, assessed, or imposed upon Lessee, or become due and payable by Lessee, upon all or any part of Lessee's interest in the Facility Site, or any appurtenances thereto, the leasehold estate hereby created, or in connection with and by virtue of the improvement of the Facility Site, as a result of any present or future Law.

"Initial Term" shall have the meaning set forth in Section 4.1.

"Landfill" shall have the meaning set forth in the Project Agreement.

"Lease" shall have the meaning set forth in the introductory paragraph.

"Lease Term" means the Initial Term collectively and any Extension Terms.

"Lessee" shall have the meaning set forth in the introductory paragraph. "Lessor" shall have the meaning set forth in the introductory paragraph.

"Party" or "Parties" shall have the meaning set forth in the introductory paragraph.

"Permissible Use" shall have the meaning set forth in Section 3.1.

"Permitted Encumbrances" means those Lessor encumbrances on the Facility Site which are listed in Exhibit [].

"Project" shall have the meaning set forth in the Project Agreement.

"Project Agreement" means the Landfill Gas Sale and Purchase Agreement executed by the Parties on ____.

SECTION 2. LEASE.

Lessor hereby demises, leases and rents to Lessee a leasehold interest in the Facility Site which lease shall provide Lessee with the exclusive control and occupancy of the Facility Site, except as provided herein, for the purpose of developing, constructing, erecting, installing, repairing, removing, upgrading, operating and maintaining the Blower/Treatment Facility and portions of the Conveyance/Delivery System, and any other lawful purpose attendant or appurtenant thereto.

Simultaneously with the execution of this Lease, Lessor shall execute and deliver to Lessee the Access and Use Easement Agreement.

SECTION 3. USE; QUIET ENJOYMENT.

Section 3.1. Use. The Facility Site shall be used by Lessee solely for the development, construction, ownership, erection, installation, repair, removal, upgrading, operation and maintenance of the Blower/Treatment Facility and portions of the Conveyance/Delivery System, and any other lawful purpose attendant or appurtenant thereto (the "Permissible Use"). Lessee shall not use, or suffer the use of the Facility Site for any other use, business, or purpose whatsoever other than the Permissible Use, without the prior, written consent of Lessor, which may be withheld in the sole discretion of Lessor.

Section 3.2. Quiet Enjoyment. Lessor covenants and agrees for itself, its successors and assigns, that Lessee, upon paying the Base Rent and all other sums and charges to be paid by it as herein provided, and upon observing and keeping all

covenants, warranties, agreements and conditions of this Lease on its part to be kept, and subject to the terms and provisions of the Project Agreement, shall quietly have and enjoy the Facility Site during the Lease Term, without hindrance or molestation from Lessor or by anyone claiming by, under or through Lessor. Lessor further covenants and agrees for itself, its successors and assigns, that during the Lease Term, Lessor shall not (unless otherwise agreed to by Lessee) subject the Facility Site to any covenants or restrictions and shall not initiate, join in or consent to any change in any existing private restrictive covenant, or other private restriction limiting or defining the uses which may be made of, or the kind of facilities which can be constructed or placed on the Facility Site or any part thereof.

SECTION 4. LEASE TERM.

Section 4.1. Initial Term. The initial term of the Lease shall begin on the Commencement Date and shall continue for the period which is 30 years from the Commencement Date or the date that is 120 days after the date on which the Project Agreement is terminated, whichever first occurs.

Section 4.2. Extension Terms. At the end of the initial term, the Lease shall be extended for additional five (5)-year terms, as such terms may be sooner terminated by the termination of this Lease or the Project Agreement by either Party. If either Party terminates the Project Agreement, the then current extension term shall end on the date that is 120 days after the date on which the Project Agreement is terminated.

SECTION 5. BASE RENT.

Section 5.1. The base rental amount for the lease of the Facility Site hereunder for the Initial Term shall be ONE Dollars (\$1.00) per year for each year of the Initial Term ("*Base Rent*"). The initial Base Rent payment shall be made seven (7) Business Days following the first day of the Initial Term. Such first payment of the Base Rent shall be prorated by the fraction, the numerator of which is the number of days between the first day of the Initial Term and December 31, 2008, and the denominator of which is three hundred sixty-five (365). Thereafter, payments of Base Rent shall be due and payable in advance, without demand and without any deduction, holdback or set off whatsoever, on January 1 of each year (or, if later, ten (10) Business Days following receipt by Lessee of Lessor's invoice for such installment of Base Rent) commencing with January 1, 2009. In the event the Lease Term does not end on December 31, the rent for the final year of the Lease Term shall be prorated by the fraction, the numerator of which is the number of days between January 1 of the final year of the Lease Term and the last day of the Lease Term and the denominator of which is three hundred sixty-five (365). All applicable state and local sales taxes shall be paid by Lessee and collected by Lessor on the Base Rent and remitted by Lessor to the State of Florida.

Section 5.2. This Lease shall be deemed to be "absolute net" without cost or expense to Lessor of any nature whatsoever relating to the Facility Site and/or any facilities placed thereon, including, without limitation, those relating to taxes, if any,

insurance, repair, maintenance, use, care or operation, except as expressly set forth in the Project Agreement, unless such cost or expense is caused by the acts of Lessor in its proprietary capacity under this Lease.

Section 5.3. Lessee shall pay all sales, use or rental taxes assessed by any governmental authority against the Base Rent and/or Additional Rent (as defined herein), if any, even if such tax is intended to be imposed against Lessor, including without limitation any tax imposed on the rental value of the Facility Site or which is otherwise measured by or reasonably attributable to the land value of the Facility Site, to the extent such tax exceeds the amount of rental tax payable on the amount of Base Rent and/or Additional Rent payable under this Lease; and (b) any stamp tax or other documentary tax assessed upon or measured by this leasing transaction, and on any document to which Lessee or the Lessor is a party for the purpose of creating or transferring a leasehold interest or estate in the Facility Site. Lessee shall pay before delinquency all ad valorem and non-ad valorem taxes and assessments, if any, whether general or special and all tangible or intangible personal property taxes and assessments of any kind or nature and any and all taxes and other charges which may be levied by any governmental authority against the Facility Site, Lessee's leasehold interest in the Facility Site, or Lessee's leasehold improvements to or personal property located on the Facility Site, in the event the Facility Site is subject to same. Lessee shall have the right to contest the amount or validity of any Imposition payable by it by appropriate legal proceedings (which proceeding or other steps taken by Lessee, if instituted, shall be conducted diligently at its own cost and expense and without cost to Lessor), but such right shall not be deemed or construed in any way as relieving, modifying, or extending Lessee's covenants to pay any such Imposition under this Section 5 unless the legal proceedings shall operate to prevent the collection of the Imposition. Upon termination of such legal proceedings, Lessee shall pay the amount of any such Imposition, or part thereof, as finally determined in such proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, or other liabilities in connection therewith. Lessor agrees that it will reasonably cooperate with Lessee in the event Lessee chooses to contest the amount or validity of any tax or assessment.

Section 5.4. Any and all sums of money or charges required to be paid by Lessee to Lessor or by Lessee directly to third parties under this Lease other than the Base Rent shall be considered "Additional Rent," whether or not the same is specifically so designated and Lessor shall have the same rights to enforce due and timely payment by Lessee of all Additional Rent as are available to Lessor with regards to Base Rent.

SECTION 6. CONSTRUCTION; SEVERANCE; LESSOR'S RIGHT TO OPERATE FLARES.

Section 6.1. In accordance with Chapter 713.10, Florida Statutes, Lessee covenants and agrees that nothing contained in this Lease shall be construed as consent by Lessor to subject the estate of Lessor to liability under the Construction Lien

Law of the State of Florida, it being expressly understood that Lessor's estate shall not be subject to such liability. Lessee shall notify any and all parties or entities performing work or providing materials relating to any improvements made by Lessee of this provision of this Lease. Lessee shall file a notice reasonably satisfactory to Lessor in the Public Records of Orange County, Florida stating that Lessor's interest shall not be subject to liens for improvements made by Lessee. In the event a construction lien is recorded against the Facility Site or other County property in connection with any work performed by or on behalf of Lessee, Lessee shall have the right to contest any such lien for a reasonable period of time but in any event, Lessee shall satisfy such claim, or transfer same to security, within thirty (30) days from notice of such recording. In the event that Lessee fails to satisfy or transfer such claim within said 30-day period, Lessor may do so and thereafter charge Lessee, and Lessee shall promptly pay to Lessor upon demand, as Additional Rent, all reasonable costs incurred by Lessor in connection with the satisfaction or transfer of such claim, including attorney's fees.

Section 6.2. Title to the Blower/Treatment Facility and each part of the Blower/Treatment Facility shall be considered severed, separate and distinct from title to the Facility Site even though affixed to or installed upon the Facility Site. The Blower/Treatment Facility and each part of the Blower/Treatment Facility have been severed by agreement and intention of the Parties and shall remain severed from the Facility Site, and shall be considered as the personal property of the Lessee in accordance with the Project Agreement, even though attached or affixed to or installed upon the Facility Site.

Section 6.3. Notwithstanding any provision of this Lease, Lessor reserves and Lessee grants a right to Lessor to enter the Facility Site and the Blower/Treatment Facility at any and all times during the term of this Lease to operate, maintain, repair and replace the flares and associated equipment, as Lessor deems necessary, for the destruction of Landfill Gas in the event the Lessee fails to do so under the terms and to the extent required under the Project Agreement. Any and all costs and expenses incurred by Lessor in the exercise of the foregoing reserved and granted right shall be borne by Lessee and shall be deemed Additional Rent.

SECTION 7. DELIVERY, SURRENDER OF FACILITY SITE.

Section 7.1. Lessor shall deliver to Lessee exclusive control and occupancy of the Facility Site, except as provided herein, upon the Commencement Date.

Section. 7.2. Upon expiration of this Lease or termination of this Lease prior to its expiration, Lessee shall immediately vacate and surrender the Facility Site to Lessor; provided, however, Lessee shall have the right and obligation to remove personal property from the Facility Site as provided in Sections 8 and 15 of the Project Agreement. The provisions of this Section 7.2 shall survive the termination or expiration of this Lease.

SECTION 8. ASSIGNMENT.

Neither this Lease nor any interest granted herein nor the Facility Site nor any interest therein shall be sold, leased, mortgaged, pledged, encumbered, hypothecated, transferred or assigned by Lessor or Lessee, in whole or in part, as security or otherwise, voluntarily, involuntarily or by operation of law, except as expressly permitted by the Project Agreement.

SECTION 9. CONDEMNATION.

Section 9.1. Total Taking of Facility Site. If, at any time during the Lease Term, there shall be a total taking or a constructive total taking of the Facility Site in condemnation proceedings or by any right of eminent domain, this Lease shall terminate on the date of such taking and the Base Rent and other charges payable by Lessee hereunder shall be apportioned and paid to the date of such taking; provided, however, that such termination shall not benefit such condemning authority and shall be without prejudice to the rights of either Lessor or Lessee to recover just and adequate compensation from the condemning authority. The amount of damages resulting to Lessor and Lessee, respectively, and in, to and under this Lease or awards payable because of and by reason of such exercise of power of eminent domain, shall be separately determined and computed in accordance herewith by the court having jurisdiction of such eminent domain proceedings, and separate awards and judgments with respect to such damages shall be paid to Lessor and Lessee in accordance herewith. For the purposes of this Section 9, except as otherwise provided in Section 9.3 hereof, the term a "*constructive total taking*" means a taking of such scope that the untaken portion of the Facility Site is insufficient to permit the restoration of all of the Project so as to allow its intended use.

Section 9.2. Partial Taking of Facility Site. In the event of a permanent taking which is less than a total taking or a constructive total taking, and is not a taking to which Section 9.3 hereof applies, this Lease shall terminate as to the portion of the Facility Site so taken, and the Base Rent and other charges payable by Lessee for the balance of the Lease Term shall be equitably and proportionately reduced from the date of such taking.

Section 9.3. Certain Takings of Facility Site. No constructive total taking shall be deemed to have occurred if Lessor leases to Lessee replacement property (at no additional charge) which permits the rebuilding of the Project so as to allow its intended use. In such event, Lessor and Lessee shall enter into an amendment to this Lease to reflect the change in the Facility Site and to terminate this Lease as to the condemned portion of the original Facility Site; provided, however, that such termination shall be without prejudice to the rights of either Lessor or Lessee to recover just and adequate compensation from the condemning authority with respect to the portion of the Project taken and the costs incurred in connection with or arising out of moving or rebuilding the

Project, in whole or in part.

SECTION 10. MAINTENANCE AND REPAIR; UTILITIES; RIGHT TO INSPECT.

Section 10.1. Lessor shall not be obligated or required to make or conduct any maintenance or repairs whatsoever to the Facility Site, unless such repair work is a result of Lessor's actions in its proprietary capacity. Lessee, at its sole cost and expense, shall maintain the Facility Site and all improvements thereon and appurtenances thereto, in a good, safe condition and repair in accordance with good business practice and industry standards. Lessee, at its sole cost and expense, shall ensure that the Facility Site is clean at all times. All refuse from Lessee's activities is to be removed from the Facility Site at Lessee's sole cost and expense and Lessee will ensure that such refuse is kept in proper containers until removed. Lessee shall provide, operate and maintain adequate facilities for separating, neutralizing, treating, storing and properly disposing of industrial waste and foreign materials brought on site by Lessee, including, without limitation, hazardous and biohazardous waste and materials generated by Lessee's operations (other than condensate), as required by all applicable laws, ordinances, rules, orders and regulations of any governmental entity as now existing or promulgated hereafter, to the extent such facilities are required. Nothing contained in this Agreement shall require Lessee (a) to clean up any pre-existing hazardous or bio-hazardous wastes or refuse existing on the Facility Site, or (b) to make repairs or remedy and pre-existing unsafe conditions on the Facility Site.

Section 10.2. Lessee hereby assumes full responsibility for the condition of the Blower/Treatment Facility and Facility Site. In the event the flares that are necessary for the destruction of Landfill Gas, or any associated equipment, are damaged in any material way whether by act of God, by the act, default or negligence of Lessee, or of Lessee's agents, employees, officers, representatives, guests, invitees, contractors, patrons, or any person admitted to the said Facility Site by Lessee or otherwise, then Lessee, shall promptly restore such damaged facilities at Lessee's sole cost and expense to enable continued destruction of Landfill Gas. Lessor shall have no restoration obligations under any circumstances.

Section 10.3. Lessee shall be solely responsible for and promptly pay all costs and expenses relating to utility service provided to the Facility Site and shall pay directly to the utility company or the provider of such service all charges and assessments for any utility services provided, including, without limitation, connection charges, water, reclaimed water, sewer, gas, electricity, telecommunications, trash collection and removal or any other utility used or consumed by Lessee on the Facility Site. In no event shall Lessor be liable to Lessee for an interruption or failure by a utility provider in the supply of any such utility to the Facility Site.

Section 10.4. Lessor shall have the right, upon reasonable prior notice to Lessee, to periodically enter the Facility Site for the purpose of inspection of the Facility Site to determine compliance by Lessee with its obligations under this Lease, subject to reasonable restrictions upon such inspections imposed by Lessee for safety and

security purposes. The exercise of these inspection rights shall not unreasonably interfere with or disrupt Lessee's operations upon the Facility Site. Nothing herein shall be construed to limit Lessor's rights to ensure compliance with Environmental Laws nor to diminish, limit or alter Lessor's independent authority to enter and inspect the Facility Site in its governmental capacity.

SECTION 11. DEFAULT; REMEDIES AND RIGHT TO CURE; INDEMNIFICATION

Section 11.1. Event of Default. In the event Lessee breaches or fails to observe or perform, any of Lessee's duties, obligations, covenants, or conditions under this Lease, Lessor shall give Lessee prompt written notice ("*Default Notice*") describing such breach or failure in reasonable detail, including whether Lessor intends to terminate this Lease if such breach or failure is not cured within the time period described below. Lessee shall have the right to cure such breach or failure within thirty (30) days after Lessee's receipt of the Default Notice; provided, however, that if any such breach or failure cannot reasonably be cured within such thirty (30) day period in the exercise of due diligence, and if Lessee within such period commences to cure such breach or failure, then the period of time afforded Lessee for such cure shall be extended for so long as Lessee is thereafter diligently prosecuting such cure to completion. If Lessee fails to cure such breach or failure within such time period, an "*Event of Default*" shall be deemed to have occurred.

Section 11.2. Remedy and Right to Cure. Upon the occurrence of an Event of Default, except as otherwise provided in the Project Agreement, Lessor shall have any rights and remedies allowed at law, in equity and by statute, including, but not limited to the right of summary ejectment and otherwise, and in addition, without notice or demand, Lessor may:

- (a) terminate the Lease; and,
- (b) re-enter and either use directly or relet the Facility Site.

Section 11.3. Indemnification.

(a) County. To the extent provided under Section 768.28, Florida Statutes, County hereby agrees to indemnify and hold OUC and its officers, commissioners, directors and employees (collectively referred to as the "OUC Indemnified Party") harmless from and against any and all claims (whether or not they are valid or have merit), causes of action, costs, expenses, losses, liabilities, damages, penalties and demands whatsoever (collectively "Claims") together with reasonable counsel fees and expenses, to the extent arising out of either or both of: (i) any negligent act or omission on the part of County, its agents, or employees relating to or arising out of its performance under this Agreement, and (ii) any Claim in connection with the actual or alleged generation, presence, discharge or release of any Hazardous Substances on, into or from, or the transportation of Hazardous Substances to or from, the Project Site or any other Landfill property under easement to OUC hereunder and utilized by the

Project, any other Environmental Claims or any violation of or liability under any Environmental Law; provided, however, that the indemnification and hold harmless obligations of this subsection (ii) shall not include any Claims to the extent they arise out of Hazardous Substances introduced to the Project Site or any other Landfill property by OUC or its agents, licensees, employees or invitees or violation of any Environmental Law by OUC, its agents, licensees, employees, contractors or invitees. The provisions of this Section 11.3(a) shall survive the termination of this Agreement.

(b) OUC. To the extent provided under Section 768.28, Florida Statutes, OUC hereby agrees to indemnify and hold County and its officers, commissioners, and employees (collectively referred to as the "County Indemnified Party") harmless from and against any and all Claims, as defined in section 11.3(a) (whether or not they are valid or have merit), together with reasonable counsel fees and expenses, to the extent arising out of either or both of: (i) any negligent act or omission on the part of OUC, its agents, or employees relating to or arising out of its performance under this Agreement, and (ii) any Claim in connection with the actual or alleged generation, presence, discharge or release of any Hazardous Substances introduced to the Project Site by OUC, its agents, or employees or transported to or from the Project Site or any other Landfill property by OUC, its agents, or employees or any fines or penalties resulting from violation of any Environmental Law by OUC its agents, licensees, employees, contractors or invitees. The provisions of this Section 11.3(b) shall survive the termination of this Agreement.

Section 11.4 Sovereign Immunity. County and OUC intend to avail themselves of the benefits of Section 768.28, Florida Statutes, and any other statute and common law governing sovereign immunity to the fullest extent possible and nothing herein shall be construed as a waiver of sovereign immunity by these parties.

Section 11.5 Attorneys' Fees. Each party shall bear its own attorney's fees, costs, and expenses in any litigation, suit, dispute, controversy, mediation, or proceeding, including appellate proceedings, arising out of, based on, or related to, this Agreement.

SECTION 12. NO WAIVER; NO ACCORD AND SATISFACTION.

Section 12.1. Waiver. No course of dealing between Lessor and Lessee or any delay or omission of Lessor or Lessee in exercising any right arising from any act or omission on the part of Lessee or Lessor, no matter how long the same may continue, shall be deemed to be a waiver by Lessor or Lessee of any of its respective rights hereunder. No waiver by Lessor or Lessee at any time, express or implied, of any breach of any provision of this Lease shall be deemed to be a waiver by Lessor or Lessee of any subsequent breach of the same or any other provision. The subsequent acceptance of Base Rent hereunder by Lessor shall not be deemed to be a waiver of any breach by Lessee to pay the particular Base Rent so accepted, regardless of Lessor's knowledge of such breach at the time of acceptance of such Base Rent.

Section 12.2. Accord and Satisfaction. No acceptance by Lessor of a sum less than the Base Rent, additional Base Rent, or any other charge then due shall be deemed to be other than on account of the earliest installment of such Base Rent, additional Base Rent or charge due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as a Base Rent, additional Base Rent or other charge be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such installment or pursue any other remedy available to Lessor under this Lease, at law or in equity.

SECTION 13. MISCELLANEOUS.

Section 13.1. Notices. Any notice, request, consent or other communication permitted or required by this Lease shall be in writing and shall be: (a) delivered by hand; (b) delivered through the United States Mail, postage prepaid, certified, return receipt requested; or (c) delivered through or by Federal Express, Express Mail, or other expedited mail or package service, if a receipt evidencing delivery has been retained; and addressed to the Lessor or Lessee as follows:

If to Lessee: Orlando Utilities Commission
Reliable Plaza
100 West Anderson Street
Orlando, Florida 32802
Attention: Vice President of Power Generation
Telephone Number: (407) 244-8372
Telecopy Number: (407) 275-4120

If to Lessor: Orange County
Real Estate Management Division
P.O. Box 1393
Orlando, Florida 32802-1393
Attention: Manager

With a copy to: Orange County
Utilities Division
9150 Curry Ford Road
Orlando, Florida 32825
Attention: Director

All notices pertaining to or affecting the provisions of this Lease shall be deemed given and received: (i) five (5) days after such notice has been deposited in the United States Mail, certified, return receipt requested, with proper postage affixed thereto if the recipient is also provided a facsimile transmittal on the same date as mailed, otherwise, when the recipient receives the U.S. Mail transmittal, (ii) one (1) Business Day (as defined in the Ownership Agreement) after such notice has been deposited with Federal Express, Express Mail, or other expedited mail or package delivery service

guaranteeing delivery not later than the next Business Day, or (iii) upon hand delivery to the appropriate address and person as herein provided if a receipt evidencing delivery has been retained. Any Party hereto may change the address provided hereinabove or the person to whose attention notices are to be given, by notice to the other Party or Parties in the manner hereinabove provided.

Section 13.2. Amendments. Neither this Lease nor any of the terms, covenants, conditions or provisions hereof may be terminated, amended, supplemented, waived or modified orally, but only by an instrument in writing signed by the Party against which enforcement of the termination, amendment, supplement, waiver or modification shall be sought.

Section 13.3. Partial Invalidity. If any term, covenant, condition or provision of this Lease or the application thereof to any person or circumstance shall, at any time or to any extent, be held void, voidable, invalid or unenforceable by a court of last resort having jurisdiction in the Facility Site, the validity of the remainder of this Lease, and the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall remain in effect, each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law, and there shall be substituted for such void, voidable, invalid or unenforceable provision a like provision which is legal, valid and enforceable within the limits established by such court's final opinion and which most nearly accomplishes and reflects the original intention of the Parties.

Section 13.4. Memorandum of Lease. An instrument, in recordable form, which will constitute a memorandum of lease, setting forth a description of the Facility Site, the Lease Term and any other portions of this Lease, excepting the rental provisions, may be recorded by Lessee in the public records of Orange County, Florida within thirty (30) days after the Commencement Date. Further, an amendment to the memorandum of lease setting forth the revised "as-built" description of the Facility Site may be recorded by the Lessee in the public records of Orange County, Florida within thirty (30) days after the final approval by all parties of the as-built survey of the Facility Site.

Section 13.5. Interpretation. Wherever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa as the context shall require. The section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof. This Lease may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. Nothing contained in this Lease shall be deemed or held to have created or been intended to create by this Lease a joint venture or partnership between Lessor and Lessee. Should any provisions of this Lease require judicial or other interpretation, it is agreed that the court or other body or agency interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one Party by reason of the rule of construction that a document is to be construed more strictly against the Party who itself or through its agents prepared the same, it being

understood and agreed that all Parties hereto, directly and/or through their agents, have participated in the preparation hereof.

Section 13.6. Bind and Inure. The obligations of this Lease shall run with the Facility Site so long as this Lease remains in effect; this Lease shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

Section 13.7. Parties. Except as herein otherwise expressly provided, the covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of Lessor and Lessee and their respective heirs, executors, administrators, personal representatives, successors, successors-in-interest, successors in title and permitted assigns.

Section 13.8. Governing Law and Venue. This Lease and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Florida and any legal action arising out of or relating to this Lease, or for recognition and enforcement of any judgment in respect thereof, shall be brought in a court of competent jurisdiction located in Orange County, Florida.

Section 13.9. LEASE AS-IS. LESSEE CERTIFIES THAT LESSEE HAS INSPECTED THE PERMANENT FACILITIES SITE AND, SUBJECT TO THE PROVISIONS OF THIS LEASE, ACCEPTS SAME "AS IS", IN ITS EXISTING CONDITION, AS OF THE EFFECTIVE DATE OF THIS LEASE, TOGETHER WITH ALL DEFECTS, LATENT OR PATENT, IF ANY, AND SUBJECT TO THE PERMITTED EXCEPTIONS. LESSEE FURTHER ACKNOWLEDGES THAT, EXCEPT AS SET FORTH IN THIS LEASE, LESSOR HAS MADE NO WARRANTIES OR REPRESENTATIONS OF ANY NATURE WHATSOEVER REGARDING THE FACILITY SITE, INCLUDING, WITHOUT LIMITATION, ANY RELATING TO THE PHYSICAL CONDITION OF THE FACILITY SITE OR ANY IMPROVEMENTS LOCATED THEREIN, OR THE SUITABILITY OF THE FACILITY SITE OR IMPROVEMENTS FOR LESSEE'S INTENDED USE OF THE FACILITY SITE.

Section 13.10. Mutual Limitation on Liability. NO PARTY SHALL BE ENTITLED TO RECOVER FROM THE OTHER PARTY ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT OR ANY RIGHTS GRANTED HEREUNDER.

Section 13.11. Relationship of Parties. Lessee is and shall be deemed to be an independent contractor and operator and shall be solely responsible to all third parties for its respective acts or omissions, and Lessor shall in no way be responsible therefor.

Section 13.12. Governmental Authority. Nothing in this Lease shall be construed to waive or limit any governmental authority Lessor has as a political subdivision of the State of Florida to regulate Lessee or its operations. Lessor's agreements under this Lease are made in a proprietary capacity as owner of the Facility Site, rather than in a

governmental capacity, and such agreements shall not be construed as limiting, prohibiting or eliminating the obligation of the parties to comply with all rules, regulations, ordinances, statutes and laws applicable to such party, nor alter or impair Lessor's governmental functions, including, without limitation, Lessor's right to exercise its regulatory authority over the development and operation of the Facility Site, nor as enabling, permitting, or creating any cause of action or claim arising out of the exercise of Lessor's governmental authority.

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be duly executed under their respective corporate seals by their respective officers thereunto duly authorized.

ORANGE COUNTY, FLORIDA

By: Its Board of County Commissioners

By: _____
Teresa Jacobs, Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk

Signed, sealed and delivered in the
presence of:

Orlando Utilities Commission,
as LESSEE:

Notary Public

By: _____
Name: Kenneth P. Ksionek
General Manager & CEO

Attest:

Name: Elizabeth M. Mason
Assistant Secretary

FOR THE USE AND RELIANCE
OF OUC ONLY – APPROVED
AS TO FORM AND LEGALITY.

Attorney for OUC
Date: _____

LEASE EXHIBITA

SITE DESCRIPTION

THAT PART OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 23 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 23 SOUTH, RANGE 31 EAST, BEING A FOUND 5"X5" CONCRETE MONUMENT WITH 1/2" IRON ROD AND NO IDENTIFICATION; THENCE SOUTH 00°10'06" WEST ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 14, A DISTANCE OF 2418.62 FEET TO A POINT; THENCE NORTH 89°49'54" WEST, A DISTANCE OF 195.88 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 54°35'00" WEST, A DISTANCE OF 117.69 FEET TO A POINT; THENCE NORTH 38°33'16" WEST, A DISTANCE OF 106.43 FEET TO A POINT; THENCE SOUTH 51°26'44" WEST, A DISTANCE OF 66.32 FEET TO A POINT; THENCE NORTH 38°33'16" WEST, A DISTANCE OF 32.17 FEET TO A POINT; THENCE SOUTH 51°26'44" WEST, A DISTANCE OF 47.43 FEET TO A POINT; THENCE NORTH 38°33'16" WEST, A DISTANCE OF 40.34 FEET TO A POINT; THENCE NORTH 51°26'44" EAST, A DISTANCE OF 158.79 FEET TO A POINT; THENCE NORTH 38°33'16" WEST, A DISTANCE OF 17.97 FEET TO A POINT; THENCE NORTH 51°26'44" EAST, A DISTANCE OF 72.48 FEET TO A POINT; THENCE SOUTH 38°33'16" EAST, A DISTANCE OF 203.35 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.676 ACRES, MORE OR LESS.

BOUNDARY SURVEY **ORLANDO UTILITIES COMMISSION GAS TREATMENT FACILITY AT** **ORANGE COUNTY LANDFILL** **LYING IN SECTION 14, TOWNSHIP 23 SOUTH, RANGE 31 EAST** **ORANGE COUNTY, FLORIDA**

LEGAL DESCRIPTION: (PREPARED BY SURVEYOR)

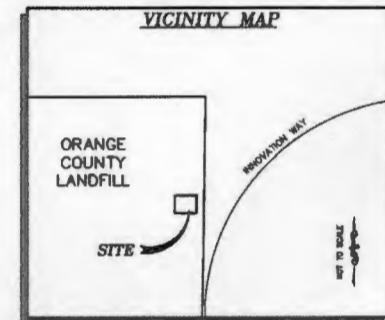
THAT PART OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 23 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 23 SOUTH, RANGE 31 EAST, BEING A FOUND 5"X5" CONCRETE MONUMENT WITH 1/2" IRON ROD AND NO IDENTIFICATION; THENCE SOUTH 00°10'06" WEST ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 14, A DISTANCE OF 2418.62 FEET TO A POINT; THENCE NORTH 89°49'54" WEST, A DISTANCE OF 195.88 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 54°35'00" WEST, A DISTANCE OF 117.69 FEET TO A POINT; THENCE NORTH 38°33'16" WEST, A DISTANCE OF 106.43 FEET TO A POINT; THENCE SOUTH 51°26'44" WEST, A DISTANCE OF 66.32 FEET TO A POINT; THENCE NORTH 38°33'16" WEST, A DISTANCE OF 32.17 FEET TO A POINT; THENCE SOUTH 51°26'44" WEST, A DISTANCE OF 47.43 FEET TO A POINT; THENCE NORTH 38°33'16" WEST, A DISTANCE OF 40.34 FEET TO A POINT; THENCE NORTH 51°26'44" EAST, A DISTANCE OF 158.79 FEET TO A POINT; THENCE NORTH 38°33'16" WEST, A DISTANCE OF 17.97 FEET TO A POINT; THENCE NORTH 51°26'44" EAST, A DISTANCE OF 72.48 FEET TO A POINT; THENCE SOUTH 38°33'16" EAST, A DISTANCE OF 203.35 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.676 ACRES, MORE OR LESS.

GENERAL NOTES:

1. THE PURPOSE OF THIS SURVEY IS TO DETERMINE THE LIMITS OF THE PROPERTY AS DESCRIBED IN THE LEGAL DESCRIPTION SHOWN HEREON, BY ESTABLISHING OR REESTABLISHING CORNERS, MONUMENTS AND BOUNDARY LINES AND TO ESTABLISH THE HORIZONTAL AND VERTICAL SPATIAL RELATIONSHIP OF THE NATURAL OR MANMADE FEATURES LYING THEREIN.
2. BEARINGS SHOWN HEREON ARE RELATIVE TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983/1990 ADJUSTMENT (NAD83/90), ZONE 901, FLORIDA EAST, WITH THE EAST LINE OF THE NORTHWEST 1/4 OF SECTION 14, TOWNSHIP 23 SOUTH, RANGE 31 EAST HAVING A BEARING OF SOUTH 00°10'06" WEST.
3. THE SURVEYOR HAS NOT ABSTRACTED THE LANDS SHOWN HEREON FOR EASEMENTS AND/OR RIGHT-OF-WAY RECORDS. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
4. ALL RECORDING REFERENCES SHOWN ON THIS SURVEY REFER TO THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, UNLESS OTHERWISE NOTED.
5. ACCORDING TO THE FLOOD INSURANCE RATE MAP (FIRM), DATED SEPTEMBER 25, 2009, THIS PROPERTY APPEARS TO BE IN FLOOD ZONE "X" LOCATED ON COMMUNITY PANEL NO. 120179-0455-F, MAP NUMBER 1209500455F AND COMMUNITY PANEL NO. 120179-0475-F, MAP NUMBER 1209500475F.
6. UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT, OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.



PREPARED FOR:
ORLANDO UTILITIES COMMISSION

LEGEND & ABBREVIATIONS

CLF = CHAIN LINK FENCE —○— = OVERHEAD WIRE(S)
 CM = CONCRETE MONUMENT —◇— = POWER POLE
 (P) = FIELD DIMENSION
 ID = IDENTIFICATION
 IR = IRON ROD
 IRC = IRON ROD AND CAP
 N/A = NOT APPLICABLE
 No. = NUMBER
 PVC = POLYVINYL CHLORIDE
 RGE = RANGE
 SEC. = SECTION
 TWP. = TOWNSHIP
 W/ = WITH

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT A SURVEY OF THE PROPERTY SHOWN HEREON WAS MADE UNDER MY SUPERVISION AND THAT THE SURVEY MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027 OF THE FLORIDA STATUTES AND THAT THE SKETCH HEREON IS A TRUE AND ACCURATE REPRESENTATION THEREOF TO THE BEST OF MY KNOWLEDGE AND BELIEF. SUBJECT TO NOTES AND NOTATIONS SHOWN

THIS DAY OF 20

11. Paul deWaters, Professional Land Surveyor No. 4900
 Land Surveyor Business License No. 6355
 VALID ONLY WITH SIGNATURE AND EMBOSSED SEAL

GEODATA CONSULTANTS, INC. SURVEYING & MAPPING 1348 SOUTH INTERNATIONAL PARKWAY SUITE 9401 LAKE MARY, FLORIDA 32746 VOICE: (407) 738-8865 FAX: (407) 678-0841		DRAWN BY: RLM CHECKED BY: JMB LAST DATE OF FIELD SURVEY: MAY 10, 2011 FIELD BOOK 12-14, PAGES 15-20 SEC. 14, TWP. 23 SOUTH, RGE. 31 EAST ORANGE COUNTY, FLORIDA
No. DATE REVISION	DATE: MAY 10, 2011 PROJECT No. 006-01	SCALE: N/A SHEET 1 OF 2

ORLANDO UTILITIES COMMISSION GAS TREATMENT FACILITY AT ORANGE COUNTY LANDFILL
LYING IN SECTION 14, TOWNSHIP 23 SOUTH, RANGE 31 EAST, ORANGE COUNTY, FLORIDA


POINT OF COMMENCEMENT
NE CORNER OF T E W 1/4 OF SECTION 4,
T48N R 25 SOUT., RANGE 3 EAST
T48N R 25 SOUT. OF A 1/2 12 NW 12
CENTRED CORNER SECTION 472327



AREA = 0.878 ACRES ±

POINT OF BEGINNING

SEE SHEET 1 OF 2 FOR LEGAL DESCRIPTION, GENERAL NOTES,
CERTIFICATION, LEGEND AND ABBREVIATIONS

 CHEVROLET POSITIVE & SUPPORT THE BEST COMBINATION PARTS 100-01	DATE: MAY 15, 1967	WHEEL: 1 1/2"
	PRODUCT NO. 100-01	WHEEL: 2