

**DELAWARE COUNTY SOLID WASTE AUTHORITY
MEETING
ROSE TREE PARK
September 20, 2023
3:00 PM**

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. **Approval** of the Minutes of the Board of Directors Meeting held at Rose Tree Park on August 9th, 2023 and August 16th, 2023
5. Public Comment
6. Report: CEO, Brooks Stayer
Updates: Office Relocation, Keystone SWANA Conference, 2024 budget schedule, other
Resolution 2023-2: Service Award, Jim McLaughlin
7. Facility Operations/Development
Review: August and YTD 2023 Tonnage Summary
Action Item with Issue Paper: Easement Agreement for Tree Harvesting at RHL
Presentation: ARM Group update on MSW berm design and use of ash at RHL
8. Accounting and Finance Report
Review: August and YTD Operating and Capital Budget Report
Action Item: Approval of the Accounts Payable List for August 2023.
9. Strategic Planning, Policy and Administration:
Action Item with Issue Paper: Approve LFG Sales Agreement with NextEra Energy
Action Item with Issue Paper: Approve Consulting Agreement with SCS Engineers
10. Other Business
11. Solicitor Report
12. Executive Session
None
13. Adjournment

**DELAWARE COUNTY SOLID WASTE AUTHORITY
Rose Tree Park**

August 9, 2023

The meeting was called to order at 3:00 PM.

Board Member Attendance: James McLaughlin, Chairman
William Silverstein, Vice Chairman
Steven Goldfield, Treasurer/Asst. Secretary
William Jones, Secretary
James P. Kelly, Member
John Butler, Member
Don Vymazal, Ex-Officio

Others In attendance: James Warner, Interim CEO
Michael Clarke, Solicitor
Samantha Newell, Solicitor
Jeff Munster, COO
Angela Nash, Accounting Manager

RESOLUTION NO. 2023- 1: A RESOLUTION OF THE DELAWARE COUNTY SOLID WASTE AUTHORITY HIRING BROOKS STAYER AS CHIEF EXECUTIVE OFFICER was approved unanimously by the board.

The being no other business, the board adjourned the meeting.

DELAWARE COUNTY SOLID WASTE AUTHORITY
Rose Tree Park

August 16, 2023

The meeting was called to order at 3:00 PM.

The pledge of Allegiance was said.

Roll Call

Board Member Attendance: James McLaughlin, Chairman
 William Silverstein, Vice Chairman
 William Jones, Secretary
 James P. Kelly, Member
 John Butler, Member
 Don Vymazal, Ex-Officio

Others In attendance: James Warner, Interim CEO
 Michael Clarke, Solicitor
 Samantha Newell, Solicitor
 Jeff Munster, COO
 Wendy Marburger, CAO
 Angela Nash, Accounting Manager

Upon motion duly made and seconded, and by unanimous vote **Approval** of the Minutes of the Board of Directors Meeting held at Rose Tree Park on June 21, 2023, July's Board Meeting was cancelled. Motion made by John Butler Seconded by James Kelly; motion was passed with no dissenting votes.

Jim Warner, Consultant updates on:
 o 6-month financial review
 o Reginal Authority financials

July 2023 Tonnage Summary reviewed.

Upon motion duly made and seconded, and by unanimous vote **Approval** Rolling Hills Landfill Change Order Motion made by James Kelly; Seconded by William Silverstein, motion was passed with no dissenting votes.

July 2023 and YTD Operating and Capital Budget reviewed and discussed.

Upon motion duly made and seconded, and by unanimous vote **Approval** of Payment of Bills For the months of July and August 2023. Motion made by James Kelly; Seconded by William Jones, motion was passed with no dissenting votes.

Upon motion duly made and seconded, and by unanimous vote **Approval** of Exclusive Negotiations with NextEra Energy. Motion made by James Kelly; Seconded by William Silverstein, motion was passed with no dissenting votes.

Upon motion duly made and seconded, and by a vote of 4 to 1 **Approval** was granted to SCS Services as Transfer Station Consultant. Motion made by James Kelly; Seconded by William Jones, motion was passed with one dissenting vote by John Butler.

Upon motion duly made and seconded, and by unanimous vote **Approval** to Authorize Electronic Signature of Board Chairman and Treasurer to PADEP Recycling Grant Submission Motion made by James Kelly; Seconded by William Silverstein, motion was passed with no dissenting votes.

Upon motion duly made and seconded, and by a vote of 4 to 1 **Approval** to purchase furniture from Office Basics. Motion made by James Kelly; Seconded by William Silverstein, motion was passed with one dissenting vote by John Butler.

RFP for Local Engineering Firm for Land Development Services for Transfer Stations Reviewed and Discussed.

Solicitor Report:

- Review: Meeting with County Officials re: delegation agreement
- Waste Management code revisions

There being no further business, the meeting was adjourned at 4:07 PM.

The Delaware County Solid Waste Authority Board went into Executive Session: Personnel.

**DELAWARE COUNTY SOLID WASTE AUTHORITY
AUGUST 2023
TONNAGE SUMMARY**

	MONTH				YTD			
	Budget	Actual	Variance	%	Budget	Actual	Variance	%
Delaware County Refuse								
Delco Residential	15,460	14,663	(796)	-5%	99,811	108,245	8,434	8%
Delco Commercial	11,070	11,157	86	1%	77,826	81,998	4,172	5%
Delco Direct Residential	4,809	5,475	666	14%	45,140	37,034	(8,106)	-18%
Delco Direct Commercial	3,576	4,557	980	27%	33,594	34,081	487	1%
Total Tons	34,915	35,852	937	3%	256,372	261,359	4,987	2%
Rolling Hills Landfill								
Covanta Ash	33,957	37,660	3,703	11%	252,461	264,755	12,293	5%
Plymouth Ash	3,622	6,307	2,684	74%	26,929	30,790	3,861	14%
Berks County	4,718	8,830	4,113	87%	35,075	57,030	21,955	63%
Montgomery County	9,961	9,199	(761)	-8%	74,055	61,567	(12,488)	-17%
Residual	0	5,537	5,537		0	40,339	40,339	
Total Tons	52,257	67,532	15,275	29%	388,520	454,480	65,960	17%
System Tons	87,172	103,384	16,212	19%	644,892	715,839	70,947	11%
Delco Tons to RHL	3,360	4,152	792	24%	26,880	28,575	1,695	6%

ISSUE PAPER

Issue: Temporary Access Easement Agreement to Facilitate Hardwood Tree Harvesting at RHL

Background: The Authority was contacted by Loft Logging (Loft) about gaining access to remove three trees from small neighboring property. Management discussed access and harvesting some trees on Authority property while working next door to the neighboring property with the three trees for removal.

Discussion: The Authority and Loft agreed that Loft would remove 49 trees from a two-acre wooded area (total parcel is 230 acres) while granting an easement through Authority property to access the neighbor's property and Authority trees to be harvested. Loft has agreed to pay the Authority \$11,190 for the trees. The Authority solicitor drafted a Temporary Access Easement Agreement, and Loft has agreed to the conditions.

Recommendation: It is recommended the Authority Board of Directors approves the Temporary Access Easement Agreement with Loft Logging in the form as noted in the attached agreement, and in consultation with the solicitor, approves the CEO signing the final agreement.

Approved: _____

James McLaughlin, Chairman

Date: September 20, 2023

PREPARED BY: Rudolph Clarke, LLC
Seven Neshaminy Interplex, Suite 200
Trevose, PA 19053
215.633.1890

RETURN TO: Michael P. Clarke, Esquire
Rudolph Clarke, LLC
Seven Neshaminy Interplex, Suite 200
Trevose, PA 19053

BERKS CO.
TAX PARCEL NO.: 42536700391643

TEMPORARY ACCESS EASEMENT AGREEMENT

THIS TEMPORARY EASEMENT AGREEMENT made this _____ day of _____, 2023 (the "Agreement"), by and between **DELAWARE COUNTY SOLID WASTE AUTHORITY**, a municipal authority organized and existing in accordance with the laws of the Commonwealth of Pennsylvania, maintaining a primary business address of _____ (the "*Grantor*"), and **BRANDON LUFT, d/b/a LUFT LOGGING**, an adult individual maintaining a business address at _____ (the "*Grantee*").

WITNESSETH:

WHEREAS, Grantor is the owner of certain real estate located in Earl Township, Berks County, Pennsylvania and designated as Berks County Tax Parcel Number 42536700391643, located at 583 Longview Road, Boyertown, Pennsylvania (the "*Premises*"); and

WHEREAS, Grantee conducts business at 178 Longview Road, Boyertown, Pennsylvania; and

WHEREAS, Grantor has agreed to grant a temporary, non-exclusive Easement to Grantee for access, ingress and egress across a specific portion of the Premises for the purposes stated herein below.

NOW, THEREFORE, Grantor for and in consideration of the sum of ELEVEN THOUSAND ONE HUNDRED NINETY and 00/100 (\$11,190.00), the covenants and promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does by these presents, GRANT unto Grantee, its successors and assigns, a temporary, non-exclusive easement for the purpose of providing Grantee access on, over, across and upon the Premises contained within the easement area located in Earl Township, Berks County, Pennsylvania (the "Access Easement"), as is hereinafter described and depicted on Exhibit "A", attached hereto and made a part hereof, for the non-exclusive right to remove certain designated trees standing and lying in on the Premises (the "Logging Activities").

This Access Easement is granted upon the following terms and conditions:

1. Grantor and Grantee agree that all rights as aforesaid are for the sole benefit of Grantee, its successors and assigns, and Grantor shall receive no benefit therefrom nor any consideration therefor except in accordance with the covenants, promises and agreements set forth herein.

2. All reasonable care shall be exercised by Grantee to protect the Premises in connection with the Logging Activities. Upon completion of the Logging Activities, Grantee shall, at its sole cost and expense, restore the Access Easement to its condition prior to the Logging Activities conducted by Grantee over the Access Easement, to the satisfaction of Grantor in its sole discretion.

3. Grantee shall be solely responsible for the Logging Activities and shall obtain all applicable governmental approvals, if any, for the Logging Activities. Grantee shall provide Grantor with reasonable advance notice of Grantee's intention to enter upon the Access Easement, which notice shall specify the time(s) when Logging Activities shall be completed. Grantee shall comply with the following conditions regarding conduct of the Logging Activities:

a. Grantee shall identify, with orange paint, trees designated for cutting on the Premises, subject to Grantor's agreement;

b. Grantee shall remove from the Premises all human garbage, tires, cables, used lubricants, fuels, fluids, and their containers and shall dispose of such items in a proper manner in accordance with all applicable laws, regulations and ordinances;

c. Grantee shall not leave on the Premises logging debris, including without limitation tree tops and limbs, so as to interfere with Grantor's use of the Premises;

d. Grantee shall minimize damage to remaining trees on the Premises;

e. Grantee shall cooperate with Grantor to terminate hauling and/or skidding during periods of wet soil conditions in order to prevent damage greater than normal wear and tear to existing roads and/or trails on the Premises;

f. Grantee shall cut apart and stage trees removed pursuant to this Agreement in an area suitable for a truck entrance, such area to be designated the "landing;"

g. Grantee shall be permitted to use the existing driveway on the Premises for the purpose of hauling logs from the Premises, subject, however, to Grantee being responsible for the cost and expense of repairing any damage to asphalt, concrete and/or other driving surfaces on the Premises; and

h. Grantee shall not employ the use of vehicles having a gross vehicle weight rating of greater than 80,000 pounds; and

i. All Logging Activities within the Access Easement shall be performed in a good workmanlike manner and in accordance with all applicable federal, state and local laws, regulations and ordinances.

4. Grantor shall maintain the surface of the Access Easement and the Premises for all lawful purposes, provided that neither Grantor nor Grantor's agents and assigns shall build, erect, plant or place upon or within the Access Easement any plant, tree, shrub, or fence or any building, or any other permanent object that unreasonably obstructs access, ingress or regress within the Access Easement for the duration of the temporary access easement granted herein.

5. Grantor shall retain the right to use and enjoy the Access Easement and Premises; however, Grantor shall not be required to assume any expense in connection with or incident to Grantee's use of the Premises, and Grantor shall be exempt from any and all charges, costs or assessments of any kind or character on account of Grantee's use of the Premises. Further, the Grantor, its representatives, agents, successors and assigns, agrees not to place upon or within the Access Easement referred to herein any plant, tree, shrub, or fence, or any building, footing, or any permanent object or structure of any kind, nature or description, so that at all times Grantee shall have unobstructed access to allow both inbound and outbound use of the Access Easement.

6. Grantee hereby agrees to indemnify and save harmless Grantor from and against any and all liability, losses, damages, claims, actions, causes of action, costs and expenses (including reasonable attorneys' fees) for personal injury (including death) and/or property damage to whomsoever or whatsoever occurring, arising from or growing out of, directly or

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indirectly, the Logging Activities, the presence of Grantee its agents, servants or employees upon or about the Access Easement, or in connection with the privileges herein granted.

7. The covenants, rights, privileges and grant of easement contained herein shall bind and inure to the benefit of the parties hereto, their, and each of their successors and assigns, and shall run with and bind the Premises and the Access Easement.

8. The Access Easement herein created shall terminate as of the date of completion of the Logging Activities, as reasonably determined by Grantor, or twelve (12) months after the effective date hereof, whichever is earlier.

9. Grantee shall not assign its rights hereunder without the express written consent of Grantor.

10. This Agreement shall be construed according to the laws of the Commonwealth of Pennsylvania, and shall be recorded in the office of the Recorder of Deeds in and for Berks County, Pennsylvania, at Grantee's sole cost and expense.

11. Any notice, demand, request, consent, approval or other communication which may be or is required to be given in connection with this Agreement ("Notices") shall be in writing. All Notices contemplated or required under the terms of this Agreement shall be forwarded by certified mail, return receipt requested, postage prepaid or by nationally recognized overnight courier (such as FedEx) to the applicable party at the addresses indicated below:

If to Grantee, addressed to:

If to Grantor, addressed to:
Delaware County Solid Waste Authority
Rose Tree Park – Hunt Club

1521 N. Providence Road
Media, PA 10-64
Attn: Chief Executive Officer
Email: BStayer@dcswa.net

With a copy to:

Michael P. Clarke, Esquire
Rudolph Clarke, LLC
7 Neshaminy Interplex, Suite 200
Trevose, PA 19053

All Notices shall be deemed delivered when received (or, if receipt is refused during business hours on a business day, when refused); provided, however, if a Notice is received on a non-business day or after 5 p.m. (local time of the recipient) on a business day, then same shall be deemed received on the next following business day. All Notices may be given by counsel for either party (on behalf of such party). Rejection or other refusal to accept or the inability to deliver a Notice because of changed address for which no Notice was given, shall be deemed to be receipt of the Notice as of the date of such rejection, refusal or inability to deliver.

12. All parties have had the opportunity to review this Agreement prior to execution and no adverse inference shall be made against the party drafting this Agreement in any dispute over the interpretation of any provision herein. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

13. Grantor agrees that Grantee may, upon reasonable notice to Grantor, assign its rights pursuant to this Agreement to another entity under common ownership.

14. This Agreement may be executed in duplicate counterparts, each of which will be deemed an original.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Permanent Easement Agreement the day and year first above written.

ATTEST:

DELAWARE COUNTY SOLID WASTE AUTHORITY

By: _____

WITNESS:

BRANDON LUFT, d/b/a LUFT LOGGING

Brandon Luft

COMMONWEALTH OF PENNSYLVANIA :

SS

COUNTY OF _____ :

On this the _____ day of _____, 20__, before me, the undersigned officer, personally appeared _____, whose name as _____ of DELAWARE COUNTY SOLID WASTE AUTHORITY is signed to the foregoing instrument, and who is known to me, acknowledged before me on this date that, being informed of the contents of the said instrument, being authorized to do so, executed the same voluntarily for an as the act of said corporation..

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____(SEAL)
NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA :

SS

COUNTY OF _____ :

On this the _____ day of _____, 20____, before me, the undersigned officer, personally appeared BRANDON LUFT, who acknowledged himself to be the person who executed the foregoing instrument for the purposes therein contained by signing his name.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____(SEAL)
NOTARY PUBLIC

**DELAWARE COUNTY SOLID WASTE AUTHORITY
AUGUST 2023
OPERATING BUDGET SUMMARY**

	Month				YTD			
	Budget	Monthly	Variance	Variance %	YTD Budget	YTD	Variance	Variance %
REVENUE								
Delco Residential	\$1,223,526	\$1,217,068	(\$6,458)	-1%	\$7,899,404	\$8,988,519	\$1,089,115	14%
Delco Commercial	\$892,850	\$925,998	33,148	4%	\$6,276,911	\$6,811,847	534,936	9%
Delco Direct Residential	\$374,037	\$454,424	80,387	21%	\$3,511,171	\$3,020,937	(490,234)	-14%
Delco Direct Commercial	\$295,469	\$378,211	82,742	28%	\$2,787,955	\$2,803,678	15,723	1%
Covanta Ash	\$749,424	\$805,051	55,627	7%	\$5,571,806	\$5,537,032	(34,774)	-1%
Plymouth Ash	\$79,214	\$142,401	63,187	80%	\$588,940	\$685,059	96,118	16%
Berks County	\$246,312	\$492,463	246,151	100%	\$1,831,276	\$3,164,167	1,332,891	73%
Montgomery County	\$595,845	\$538,333	(57,511)	-10%	\$4,429,977	\$3,660,339	(769,638)	-17%
Residual	\$0	\$273,315	273,315		\$0	\$1,863,087	1,863,087	
Grants	\$4,167	\$0	(4,167)	-100%	\$33,333	\$174,106	140,773	422%
Miscellaneous	\$5,000	\$8,729	3,729	75%	\$40,000	\$271,017	231,017	578%
Total Revenue	\$4,465,844	\$5,235,994	\$770,150	17%	\$32,970,774	\$36,979,789	\$4,009,015	12%
Discounts		89,444	89,444			652,306	652,306	
Total Net Revenue	\$4,465,844	\$5,146,550	\$680,706	15%	\$32,970,774	\$36,327,483	\$3,356,709	10%
EXPENSES								
Administration	\$264,206	\$199,063	(\$65,143)	-25%	\$1,942,443	\$1,708,508	(\$233,935)	-12%
Operations	\$522,531	\$455,107	(67,424)	-13%	\$3,893,113	\$3,498,242	(394,870)	-10%
Contract Hauling	\$939,156	\$858,953	(80,203)	-9%	\$6,288,357	\$6,526,833	238,476	4%
Covanta Processing	\$1,430,590	\$1,460,601	30,010	2%	\$10,405,188	\$10,449,806	44,618	0%
Delco Host Fees	\$63,164	\$63,435	272	0%	\$459,410	\$464,016	4,606	1%
RHL Host Fees	\$415,493	\$469,331	53,838	13%	\$3,110,483	\$3,146,412	35,929	1%
HHW Events/Recycling	\$7,046	\$2,648	(4,398)	-62%	\$56,367	\$28,423	(27,944)	-50%
Total Expenses	\$3,642,187	\$3,509,139	(\$133,048)	-4%	\$26,155,360	\$25,822,240	(\$333,120)	-1%
Debt P & I Payments	\$60,950	\$60,950	\$0		\$487,600	\$487,600	\$0	
Operating Surplus (Deficit)	\$762,707	\$1,576,461	\$813,754	107%	\$6,327,814	\$10,017,643	\$3,689,829	58%

**DELAWARE COUNTY SOLID WASTE AUTHORITY
BUDGET PERFORMANCE SUMMARY
August 2023**

Capital Budget 2023	\$6,280,000
Capital Expense YTD 2023	<u>\$3,840,754</u>
Capital Budget Balance 2023	\$2,439,246

Summary

Net Operating Surplus August 2023	\$1,576,461
Capital Expense August 2023	\$701,139
Capital Reserve Contribution	\$0
Operating Account Contribution from Operating Surplus	\$875,322
Capital Reserve Account Beginning Balance as of 08/01/23	\$5,833,292
Capital Reserve Account Interest	\$27,131 (5.5%)
Capital Reserve Account Ending Balance as of 08/31/23	\$5,860,422
Republic Operating Account Beginning Balance as of 08/01/23	\$4,888,733
Republic Operating Account Interest	\$7,172 (1.56%)
Republic Operating Account Ending Balance as of 08/31/23 (\$5 million transfer out on 8/30/23)	\$1,480,072
PLGIT Short-Term Account Balance as of 08/31/23 (\$5 million transfer in on 8/30/23)	\$5,063,191 (5.25%)
Total Account Balances	<u>\$12,403,686</u>

****Restricted Accounts****

PLGIT Landfill Closure/PC Account Balance as of 08/31/23	\$814,909 (5.5%)
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Delaware County Solid Waste Authority
Invoices Selected for Payment

Invoice Number	Ve...	Vendor Name	Invoice Description	Invoice Amount
A14463	A. ...	A. N. Lynch Co., Inc.	7/13 Remove/Replace Start/Stop Stations&Back Boxes&8/2 Elec	<u>2,709.11</u>
	Tot...	A. N. Lynch Co., Inc.		2,709.11
1050-1000159...	Abila	Abila	MIP Cloud Project Management (12/2/22-3/1/24)	500.00
1050-1000189...	Abila	Abila	9/2-10/1/2023 MIP HR & EWS Cloud	<u>294.40</u>
	Tot...	Abila		794.40
5501683048	AL...	Airgas USA, LLC	Acetylene (8), Argon (2), Nitrogen (3) & Oxygen (8)	<u>718.57</u>
	Tot...	Airgas USA, LLC		718.57
5330229408	Ara...	Aramark	Employee Weekly Uniform Rentals (3) Transfer Stations	61.21
5330222429	Ara...	Aramark	Employee Weekly Uniform Rentals (3) Transfer Stations	61.21
5330226118	Ara...	Aramark	Employee Weekly Uniform Rentals (3) Transfer Stations	<u>61.21</u>
	Tot...	Aramark		183.63
0010295	AR...	ARM Group LLC	Rolling Hills LF Ash Berm (7/1-31/23)	2,489.50
0010210	AR...	ARM Group LLC	Pad 107 & 2023 Capping Construction CQA (7/1-31/23)	40,110.64
0010209	AR...	ARM Group LLC	DCSWA On-Call Engineering (7/1-31/23)	<u>14,067.12</u>
	Tot...	ARM Group LLC		56,667.26
01P6410	AS...	Associated Truck Parts	Baldwin Air Filter #RS3870 (4) CAT 730C2 Trucks	362.04
01P5289	AS...	Associated Truck Parts	Baldwin Fuel(4), Fuel/Water(8) & Lube(4) Filters - Pumps	<u>312.62</u>
	Tot...	Associated Truck Parts		674.66
53638	Atl...	Atlantic Nuclear Corp.	7/25/23 Repair Defective Detector@Plt.#1 Replace HV Power Su	<u>2,470.52</u>
	Tot...	Atlantic Nuclear Corp.		2,470.52
110874	BO...	Borough of Pottstown	8/23 Leachate Treatment (151,781 gals.)	2,413.33
110885	BO...	Borough of Pottstown	8/23 Leachate Treatment (2,964,093 gals.)	47,128.89
110848	BO...	Borough of Pottstown	2nd Qtr., 2023 Pre-Treatment Testing	<u>5.00</u>
	Tot...	Borough of Pottstown		49,547.22
189	Bry...	Bryan Brothers Excavating & Ha	Haul LF Skid Steer Loader w/Attachments To/From LF/Plt.#1	<u>1,187.50</u>
	Tot...	Bryan Brothers Excavating & Ha		1,187.50
23131-001	CH...	Chenango Contracting, Inc.	7/24/23 Install Fabric Over Berm - Phase I	<u>3,855.14</u>
	Tot...	Chenango Contracting, Inc.		3,855.14
4166887706	Cin...	Cintas First Aid & Supplies	Employee Weekly Uniform Rentals (15) & Coveralls (2)	462.45
4166125564	Cin...	Cintas First Aid & Supplies	Employee Weekly Uniform Rentals (15) & Coveralls (2)	462.45
5173994885	Cin...	Cintas First Aid & Supplies	Acct. #19893531 Misc. First Aid Supplies - LF	77.67
5172597683	Cin...	Cintas First Aid & Supplies	Acct. #10511656 Misc. First Aid Supplies - RT	59.02
4165407283	Cin...	Cintas First Aid & Supplies	Employee Weekly Uniform Rentals (15) & Coveralls (2)	462.45
4164687128	Cin...	Cintas First Aid & Supplies	Employee Weekly Uniform Rentals (15) & Coveralls (2)	<u>462.45</u>
	Tot...	Cintas First Aid & Supplies		1,986.49
356752	Civ...	Civil & Environmental Consulta	Consulting Services - TS-1 & TS-3 Facility Siting	<u>7,307.00</u>
	Tot...	Civil & Environmental Consulta		7,307.00
34375	CO...	Computer Center of North Ameri	Supply/Setup ThinkStation E5/monitor,PC(RT)&Laptop,PC(LF)	252.00
34375	CO...	Computer Center of North Ameri	Supply/Setup ThinkStation E5/monitor,PC(RT)&Laptop,PC(LF)	<u>1,548.00</u>

Delaware County Solid Waste Authority
Invoices Selected for Payment

Invoice Number	Ve...	Vendor Name	Invoice Description	Invoice Amount
34382	CO...	Computer Center of North Ameri	8/22 Onsite Service@Pht.#1&Prep Workstations(3) deliver 8/23	1,240.00
34382	CO...	Computer Center of North Ameri	8/22 Onsite Service@Pht.#1&Prep Workstations(3) deliver 8/23	421.96
34384	CO...	Computer Center of North Ameri	8/29/23 T/S Network Connection@Pht.#1&Assist w/Cyber Ins. Ap	240.00
	Tot...	Computer Center of North Ameri		3,701.96
110139	Cot...	Cotterino Supply & Equip. Co.	Cut Edge(3),R/L End Bit(3),Plow Bolts,Nuts&Lockwashers-JD750	1,337.24
	Tot...	Cotterino Supply & Equip. Co.		1,337.24
0823_DCSWA	Co...	Covanta Delaware Valley	August, 2023 Waste Disposal	655,549.83
0823_DCSWA	Co...	Covanta Delaware Valley	August, 2023 Waste Disposal	63,435.42
	Tot...	Covanta Delaware Valley		718,985.25
19888157 082223	CR...	Crystal Springs	Spring Water Supply & Mthly. Rental (Site/Office)	320.17
	Tot...	Crystal Springs		320.17
31932	Dal...	Dale's Fire Extinguishers Sale	Recharge 20 lb. Extinguisher	114.50
	Tot...	Dale's Fire Extinguishers Sale		114.50
090123P	DE...	Delaware Co. Solid Waste Auth.	Employees Pension Contribution	3,822.66
	Tot...	Delaware Co. Solid Waste Auth.		3,822.66
8-230-76334	FE...	Federal Express Corporation	Fedex Envelope (3) LF	32.37
8-246-13672	FE...	Federal Express Corporation	Fedex Pak - LF	8.35
	Tot...	Federal Express Corporation		40.72
INV1316989	FR...	Fraser Advanced Info. System	Contract CT10446-01 8/25-9/24/23 - Sharp MX3071 Copier/Scann	154.00
INV1304281	FR...	Fraser Advanced Info. System	Contract CT10446-01 7/25-8/24/23 - Sharp MX3071 Copier/Scann	154.00
	Tot...	Fraser Advanced Info. System		308.00
405170P	FR...	Fred Beans Ford of Boyertown	Exhaust Bracket #BC3Z*5260*A - PU#8 2013 F250 Truck	21.46
	Tot...	Fred Beans Ford of Boyertown		21.46
206528	GL...	Gilbertsville Auto Supply	NAPA Air#2757/6496/6449(2 ea.),Oil#1344(4),Fuel#3390(4)Filtte	580.42
207532	GL...	Gilbertsville Auto Supply	U Joint, Seal & Bearing Support - #4 2005 Service Truck	154.12
082523	GL...	Gilbertsville Auto Supply	Misc. Equip. Parts & Shop Supplies-Aug., 2023(less discount)	236.12
	Tot...	Gilbertsville Auto Supply		970.66
INV0134386	GL...	Foley, Inc.	Cartridge(2)/Element/As-X(3) AS&Cab A/As-Lu(2)Filters-#4 D-6	897.11
INV0124661	GL...	Foley, Inc.	Fuel #4367077(5)/5701623(10) & Primary(2) Elements-#4 D-7 Do	1,079.43
INV0129886	GL...	Foley, Inc.	Step Assembly (Fueling) #4773888 - #1 CAT 826K Compactor	5,408.31
INV0123670	GL...	Foley, Inc.	Fuel Cap #3043885 - Skid Steer	45.23
SIN00097015	GL...	Foley, Inc.	PM2 Service per Maint. Agreement-CAT 826K Compactor	2,491.67
	Tot...	Foley, Inc.		9,921.75
230811015253	Hig...	Highmark Blue Shield	Vision Insurance 9/1-30/23	303.87
	Tot...	Highmark Blue Shield		303.87
W52667	HL...	Highway Equip. & Supply Co.	Evaluate & Perform 500 Hour Service - #3 Volvo A30G Art. Tru	989.93
	Tot...	Highway Equip. & Supply Co.		989.93

Delaware County Solid Waste Authority
Invoices Selected for Payment

Invoice Number	Ve...	Vendor Name	Invoice Description	Invoice Amount
E31115	Ho...	Hoffman Equipment	Gutter Broom #1148(2) & Cover #1969 - Stewart-Amos Sweeper	570.38
E31022	Ho...	Hoffman Equipment	MOS Switch #1685 - Stewart-Amos Sweeper	53.31
	Tot...	Hoffman Equipment		623.69
2308-131644	HO...	Hollenbach Home Center	Concrete Mix 5000 (50 lbs./bag) 12 & 1/2in. Pine Sheeting(6)	208.62
	Tot...	Hollenbach Home Center		208.62
1224006	HO...	Home Depot	1/2in.X1-1/4in. SS Clamp(2) & Coupling	7.80
1273217	HO...	Home Depot	Fiskars Pruner & Orbit Zinc Hose Repair Mender	19.96
70332	HO...	Home Depot	1/2in.X1-1/4in.SS Clamp(4),Coupling(2),Nozzle&33in.Shower Wa	43.55
7103587	HO...	Home Depot	Powercare Bump Feed Head #10083811920003700006	20.97
5511131	HO...	Home Depot	36X18X72 4-Tier HD(4)/48X24X78 5-Tier HD Shelves - RT Storg	835.00
	Tot...	Home Depot		927.28
82091714	Int...	Interstate Battery System of R	Battery 31P-MHD - Skid Steer Loader	134.95
82092086	Int...	Interstate Battery System of R	Battery MTP-78DT (3) Godwin Pumps #1/2/8	398.85
	Tot...	Interstate Battery System of R		533.80
PHI08230292	JA...	Jani-King of Phila., Inc.	8/23 Cleaning Service (RT)	415.43
	Tot...	Jani-King of Phila., Inc.		415.43
120	Kat...	Kathryn Sandoe LLC	August, 2023 Consulting	1,200.00
	Tot...	Kathryn Sandoe LLC		1,200.00
348441	Ke...	Keystone Fire Protection Co.	11/30/22,3/19 & 5/19/23 Emergency Sprinkler Service @ Pht.#1	14,806.81
	Tot...	Keystone Fire Protection Co.		14,806.81
192733	Kin...	Kinsley Construction Inc.	7/29-8/20/23 Trash Relocation	36,019.50
192734	Kin...	Kinsley Construction Inc.	Additional Protective Cover (Stone) Phase I	128,554.30
125583A	Kin...	Kinsley Construction Inc.	Pad 107 & 2023 Cap Construction - Project No. 234030	446,958.90
	Tot...	Kinsley Construction Inc.		611,532.70
CICH368414	LE...	Lee Supply Co., Inc.	10in. HDPE DR11 Black Electrofusion Coupler #A10FCEI (2)	377.59
	Tot...	Lee Supply Co., Inc.		377.59
185364	Lev...	Levan Machine Co., Inc.	Backrack w/Mounting Bracket - PU#15 2023 F250 Crew Cab	415.63
	Tot...	Levan Machine Co., Inc.		415.63
08P5781860	Lift...	Lift, Inc.	Suction Fan,Radiator Hoses(2)/Insulators(4) Straw Mulcher	227.47
	Tot...	Lift, Inc.		227.47
090623	M...	Marple Township	Repaving of Reed Road Agreement-28th Payment	25,000.00
	Tot...	Marple Township		25,000.00
237811	M...	Martin Stone Quarries, Inc.	PADOT 2A Modified (471.91 tons)	6,866.58
	Tot...	Martin Stone Quarries, Inc.		6,866.58
P-155610	Mc...	Wm. P. McGovern, Inc.	8/23-9/19/23 Portable Restroom Rental(2) Pht.#1	231.00
P-155609	Mc...	Wm. P. McGovern, Inc.	8/23-9/19/23 Portable Restroom Rental-Pht.#3	115.50

Delaware County Solid Waste Authority
Invoices Selected for Payment

Invoice Number	Ve...	Vendor Name	Invoice Description	Invoice Amount
	Tot...	Wm. P. McGovern, Inc.		346.50
S-2227498	Mc...	Wm. P. McGovern, Inc.	Pump Out Disposal Tank (3743 gals.) Pit.#1	381.50
S-2228187	Mc...	Wm. P. McGovern, Inc.	Pump Out Disposal Tanks (1800 & 3500 gals.) Pit.#3	752.10
S-2228186	Mc...	Wm. P. McGovern, Inc.	Pump Out Holding Tank (3600 gals.) Pit.#1	354.25
S-2228706	Mc...	Wm. P. McGovern, Inc.	Pump Out Disposal Tanks (2000 & 4000 gals.) Pit.#1	626.75
S-2228707	Mc...	Wm. P. McGovern, Inc.	Pump Out Disposal Tanks (4000 & 3500 gals.) Pit.#3	981.00
S-2229276	Mc...	Wm. P. McGovern, Inc.	Pump Out Disposal Tank (2565 gals.) Pit.#3	343.35
	Tot...	Wm. P. McGovern, Inc.		3,438.95
304028-8	Mo...	Moyer Indoor/Outdoor	8/23 Pest Control Service - Pit.#3	312.64
300132-8	Mo...	Moyer Indoor/Outdoor	8/23 Pest Control Service - LF	289.50
	Tot...	Moyer Indoor/Outdoor		602.14
1344	Ott...	Ott's Lawn Service & Landscapi	Lawn Service (8/7, 14, 21, 28/23)	1,340.00
1356	Ott...	Ott's Lawn Service & Landscapi	8/30/23 Repair Concrete Block Wall @ Maint. Blding.	612.00
	Tot...	Ott's Lawn Service & Landscapi		1,952.00
090123D	PA ...	State Collection & Disbursemen	Jonathan L. Cosme #0359100210 (Withholding Support)	57.23
091523D	PA ...	State Collection & Disbursemen	Jonathan L. Cosme #0359100210 (Withholding Support)	57.23
092923D	PA ...	State Collection & Disbursemen	Jonathan L. Cosme #0359100210 (Withholding Support)	57.23
	Tot...	State Collection & Disbursemen		171.69
51303340	Pet...	PetroChoice LLC	Diesel Exhaust Fluid (DEF) 2.5 gals.@80 cases/pallet(2)	1,803.20
	Tot...	PetroChoice LLC		1,803.20
990723	PE...	Wendy L. Marburger	Petty Cash Reimbursement-DCSWA	305.36
	Tot...	Wendy L. Marburger		305.36
30312	PL...	Pikeville Equipment, Inc.	Electric Fuel Priming Pump #A-KV13829 - Stewart-Amos Sweeper	48.11
	Tot...	Pikeville Equipment, Inc.		48.11
PSO498484-I	Pla...	GT & E, LLC	Pump Injector & Misc. Parts - Godwin Pump #7	699.64
	Tot...	GT & E, LLC		699.64
5941	PL...	PA League of Cities & Municipa	L3P - Annual Membership	65.00
	Tot...	PA League of Cities & Municipa		65.00
25103	Pot...	Pottstown Hospital	Preemployment Drug Screen - S. Bower	50.00
	Tot...	Pottstown Hospital		50.00
021	Pra...	Practical Waste Solutions, LLC	CEO Consulting Services (8/1-31/23) J. Warner	29,254.77
	Tot...	Practical Waste Solutions, LLC		29,254.77
119981	QU...	Quigley Chevrolet	Paint #19367452 - PU#11 2020 2500 Silverado	21.23
	Tot...	Quigley Chevrolet		21.23
906	R ...	R GOTWALS	Septic Cleaning (4) & Tank Cleaning Oil Separator	1,400.00
	Tot...	R GOTWALS		1,400.00

Delaware County Solid Waste Authority
Invoices Selected for Payment

Invoice Number	Ve...	Vendor Name	Invoice Description	Invoice Amount
37584	Riv...	Riverview Landscaping, Inc.	8/30/23 Brush Cut Lower Growth & Cut Down Trees-Plt.#1	<u>6,000.00</u>
	Tot...	Riverview Landscaping, Inc.		6,000.00
002	S.J....	S.J. Thomas Company, Inc.	Epoxy Floor & LED Lighting Interior Remodel @ Maint. Bldg.	65,347.07
003	S.J....	S.J. Thomas Company, Inc.	Locker & Bathroom Interior Remodel @ Maintenance Building	12,460.10
002A	S.J....	S.J. Thomas Company, Inc.	Bidding & Construction Admin.-Architectural Design Maint.Bld	<u>5,003.75</u>
	Tot...	S.J. Thomas Company, Inc.		82,810.92
0475886	SC...	SCS Engineers	Leachate Evaporation Evaluation (7/1-7/31/23)	<u>3,388.50</u>
	Tot...	SCS Engineers		3,388.50
08082373637	SN...	Michael R. Yeager	Punch & Chisel (22 pc.) & 1/2in. Truck Oil Fit Wrench	720.75
08292374007	SN...	Michael R. Yeager	1/4in.-18 & 3/4in.-14 NPT Tap & 3/8 Drive Lock Ratchet	280.90
09052374094	SN...	Michael R. Yeager	Solus Edge Scanner Software Subscription (Sept-Oct, 2023)	<u>132.32</u>
	Tot...	Michael R. Yeager		1,133.97
Aug23	Sta...	Standard Insurance Co.	Life/AD&D, Long Term-August, 2023	1,565.18
Sept23	Sta...	Standard Insurance Co.	Life/AD&D, Long Term-September, 2023	<u>1,478.92</u>
	Tot...	Standard Insurance Co.		3,044.10
P3002167	SU...	Suburban Testing Labs, Inc.	Outfall 006, Weekly Outfall 007/T-002 & Monthly SP-5/6	2,635.00
P3002167A	SU...	Suburban Testing Labs, Inc.	Qtrly, T-001/T-002/Metering Pit/WZ-10/Gas	<u>2,114.50</u>
	Tot...	Suburban Testing Labs, Inc.		4,749.50
090123	SU...	Susan M. Cordes	8/1-31/23 Recycling Consultant (91 hrs.)	<u>5,005.00</u>
	Tot...	Susan M. Cordes		5,005.00
33014	TD...	TDS Networks	Labor&Service to Install Network Cabling@Media Offc. (Final)	<u>2,375.00</u>
	Tot...	TDS Networks		2,375.00
142648-0	Th...	PA Municipal Health Insurance	Medical/RX Insurance 10/1-31/23	<u>36,971.44</u>
	Tot...	PA Municipal Health Insurance		36,971.44
8904	Th...	The Casindia Company, LLC	8/23 Clearing Service (Admin. Bldg & Scalehouse@LF)	<u>720.00</u>
	Tot...	The Casindia Company, LLC		720.00
25127	TSI	The Standard Group	#10 Standard Security Window Envelope (1,000) RT	130.00
25112	TSI	The Standard Group	#10 Standard Envelope (500) RT	<u>112.41</u>
	Tot...	The Standard Group		242.41
189688122	UN...	United Concordia Co., Inc.	Dental Ins. #005450001123D (10/1-31/23)	<u>1,714.20</u>
	Tot...	United Concordia Co., Inc.		1,714.20
9824716402	W....	W. W. Grainger, Inc.	Fire Extinguisher Steel Bracket & Nylon Cover (3 ea.)	174.39
9814750700	W....	W. W. Grainger, Inc.	6in. Aluminum Dust Plug #55MH59 (2)	90.98
9815032835	W....	W. W. Grainger, Inc.	6in. Aluminum Cam & Groove Adapter #55MV56 (2)	87.18
9815262630	W....	W. W. Grainger, Inc.	2.4 W Solar Battery Charger(3)&Ductile Iron Adj.Linette Ring	188.08
9815628202	W....	W. W. Grainger, Inc.	3/4in. Inline Brass Ball Valve #1PYPI (3)	64.26
9816811500	W....	W. W. Grainger, Inc.	Lever Hand Drum Pump #40M290	71.97
9821149342	W....	W. W. Grainger, Inc.	20ft. Hot Galvanized Chain #48RR05	54.94
9796803964	W....	W. W. Grainger, Inc.	6ft.H X 8ft.W Gray Welding Screen #22RN76 (2)	324.36

Delaware County Solid Waste Authority
Invoices Selected for Payment

Invoice Number	Ve...	Vendor Name	Invoice Description	Invoice Amount
98021096604	W...	W. W. Grainger, Inc.	Quick Connect Plug(5)/Socket(5),Air Regulator(2)&Pressure Ga	365.48
1/4in,	W...	W. W. Grainger, Inc.	Oil Drain, 1 gal. Gas Can & Blk./White(5) Permanent Markers	86.88
	Tot...	W. W. Grainger, Inc.		1,508.52
August2023	W...	Waste Management	August, 2023 Contract Hauling-Pit.#1	391,889.62
August2023RH	W...	Waste Management	August, 2023 Rolling Hills Landfill-Pit.#1	9,986.63
August23	W...	Waste Management	August, 2023 Contract Hauling-Pit.#3	274,830.93
August23RH	W...	Waste Management	August, 2023 Rolling Hills Landfill-Pit.#3	182,246.17
	Tot...	Waste Management		858,953.35
291941	W...	Weaver's Hardware Company	Fluorescent Red/Orange Marking Paint #S20358 (72)	352.80
	Tot...	Weaver's Hardware Company		352.80
982608	Wh...	Whitetail Disposal	8/1,7,14,17,23,29/23 40 Yd. Roll Off Disposal	330.00
	Tot...	Whitetail Disposal		330.00
18807	Wil...	William R. Gift	Off Road Diesel Fuel (1897.7 gals.)	6,376.27
18799	Wil...	William R. Gift	Unleaded Gasoline (739.1 gals.)	2,076.87
20270	Wil...	William R. Gift	Off Road Diesel Fuel (1878.2 gals.)	6,461.01
	Tot...	William R. Gift		14,914.15
5985163	WI...	Wind River Environmental LLC	Leachate Hauling 8/1-8/15/23 (1,503,433 gals.)	70,060.29
	Tot...	Wind River Environmental LLC		70,060.29
1345110	WI...	Winzer	1/2in. 90 Degree Black Sch 80 Elbow #293.1.12 (2)	56.58
1371587	WI...	Winzer	.270X18 Black Ty-Rap #881.7060 (25)	78.20
	Tot...	Winzer		134.78
1240	Wir...	Wireback Works	8/1-8/31/23 HR Consulting Services	3,636.73
	Tot...	Wireback Works		3,636.73
2632500-2543-8	W...	WM Corporate Services, Inc.	9/1-9/30/23 Dumpster Service (4 yds.) Recycling	223.71
2590570	W...	WM Corporate Services, Inc.	2/1-2/28/23 Dumpster Service (4 yds.) Recycling	211.33
2615841	W...	WM Corporate Services, Inc.	4/1-4/30/23 Dumpster Service (4 yds.) Recycling	211.33
	Tot...	WM Corporate Services, Inc.		646.37
Report Total				2,670,925.89

ISSUE PAPER

Issue: NextEra Renewable Fuels, LLC (NEER) LFG Purchase Agreement

Background: As a result of issuing an RFP and subsequently receiving four (4) responses, the Authority board approved in August selecting NextEra Renewable Fuels, LLC (NEER) as their preferred vendor to provide Landfill Gas (LFG) services.

Discussion: The Authority and NEER have negotiated the terms of a 20-year LFG Purchase Agreement whereby the Authority will sell LFG to NEER who will design, permit, build, pay for and operate a 4.8 MW LFG plant. The compensation to the Authority is outlined in Exhibit E of the Agreement and guarantees the Authority will receive a minimum of 15% and a maximum of 20%, of all project revenues throughout the 20-year term of the agreement.

Recommendation: It is recommended the Authority Board of Directors approves the agreement with NEER materially in the form as noted in the attached agreement, and in consultation with the solicitor, approves the CEO signing the final agreement.

Approved: _____

James McLaughlin, Chairman

Date: September 20, 2023

LANDFILL GAS PURCHASE AND SALE AGREEMENT

by and between

Delaware County Solid Waste Authority_

as Seller

and

NextEra Renewable Fuels, LLC

as Buyer

DATED EFFECTIVE AS OF _____

LANDFILL GAS PURCHASE AND SALE AGREEMENT

This Landfill Gas Purchase and Sale Agreement (“Agreement”), dated as of _____ (“Effective Date”), is by and between Delaware County Solid Waste Authority (“Seller”), and NextEra Renewable Fuels, LLC (“Buyer”). Each of Seller and Buyer are sometimes referred to herein as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, Seller owns the Landfill which produces quantities of landfill gas generated by the decomposition of municipal solid waste and owns the Landfill Gas Collection System along with the rights to the Landfill Gas;

WHEREAS, Buyer plans to develop, construct, own, operate and maintain the Project which may be partially or wholly located on the Landfill;

WHEREAS, Seller and Buyer desire to enter into this Agreement in order that Buyer may purchase, and the Seller may sell, the Landfill Gas produced by Seller at the Landfill and to facilitate the development of the Project at the Landfill; and

WHEREAS, concurrently with the execution and delivery of this Agreement, Seller desires to grant Buyer real property rights over those lands described as _____, under that certain Easement Agreement in order that Buyer may fabricate, install, own operate and remove Buyer’s Facilities at or from the Landfill.

WHEREAS, Buyer desires to construct, operate and maintain Buyer’s Facilities to enable Buyer to accept the delivery of LFG from Seller and deliver Energy to one or more Customers; and

[WHEREAS, to facilitate the production and delivery of LFG produced by the Seller at the Landfill, the Parties desire to enter into a separate wellfield operating agreement (the “Wellfield Agreement”), the form of which is attached hereto as Exhibit D, in order to assign and allocate the respective obligations and responsibilities of Seller and Buyer with respect tasks needed to operation ofe the Landfill Gas Collection System (as hereinafter defined) at the Landfill between Seller and Buyer.]

NOW THEREFORE, in consideration of the mutual covenants contained herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS AND CONSTRUCTION

1.1 Definitions. The following terms, when used in this Landfill Gas Sale and Purchase Agreement or the Easement Agreement, have the following meanings:

“Affiliate” means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes

of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise, including but not limited to the ability to vote fifty percent (50%) or more of the voting equity, membership, or partnership interests of a Person.

“Agreement” has the meaning set forth in the Recitals.

“Ancillary Easements” has the meaning as set forth in Section 1 of the Easement Agreement.

“BTU” means the amount of heat required to raise the temperature of one avoirdupois pound of pure water from 60 degrees Fahrenheit to 61 degrees Fahrenheit.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

“Buyer’s Facilities” means collectively the Electricity Facility, Metering Equipment, and/or the RNG Facility and any and all equipment, including without limitation, any pipeline, lines, or other facilities needed to collect, produce, transmit or transfer Energy to the Utility.

“Buyer Party” or “Buyer Parties” means Buyer and its Affiliates, and their respective directors, officers, managers, agents, employees, and shareholders.

“Buyer Permits” means all orders of approval, permits, licenses, authorizations, consents, certifications, exemptions, rulings, certificates, notifications, entitlements and approvals issued or required by Governmental Authorities or utilities in order to construct, operate, maintain, use, repair, modify, interconnect and expand the Project and modify Buyer’s current power sales arrangements.

“Commercial Operation Date” has the meaning set forth in Section 7.2.

“Commercial Quantities” means volumetric amounts of Landfill Gas deemed by Buyer to be sufficient to pay for all costs of the Project, including operating and maintenance expenses associated therewith.

“Condensate” means the liquid(s) or solid(s) that condense or precipitate out of the Landfill Gas whether before or after the Landfill Gas Delivery Point.

“Condensate Delivery Point” means the location where any and all Condensate collected by the Buyer is tendered from Buyer to Seller as designated on Exhibit B.

“Conforming Landfill Gas” means Landfill Gas that meets the specifications set forth on Exhibit C.

“Contract Month” means a calendar month during the Term. Calculations required for any Contract Month of less than one calendar month resulting from the termination or expiration of this Agreement shall be appropriately prorated for such partial Contract Month.

“Contract Price” means the price payable by Buyer for the Landfill Gas hereunder as set forth in Section 4.1.

“Customer” means any party that directly receives the Energy.

“Easement Agreement” means that certain Easement Agreement, entered by and between Buyer and Seller concurrently with the execution and delivery of this Agreement.

“Easement Premises” has the meaning set forth in Section 1 of the Easement Agreement.

“Electricity Facility” means the electricity generation facility owned and operated by Buyer at the Landfill.

“Emergency Response Plan” has the meaning set forth in Section 6.8.

“Energy” means energy and related products generated by the Buyer’s Facilities which are derived from LFG and provided by the Seller that may include, but are not limited to, processed LFG, RNG, electric power, thermal energy, CO₂, or similar products or by-products thereof.

“Energy Revenues” means the gross revenue that Buyer receives from any sale of Energy to a Customer.

“Environmental Attributes” means any and all credits, benefits, emissions reductions, offsets, incentive payments, and allowances of any kind or nature, howsoever entitled, attributable to the environmental and renewable attributes associated with the use of Landfill Gas for the production of RNG or the generation of electricity or for purposes of any other renewable energy application or for reduction of air emissions of any kind or nature or for any other environmental benefit of any kind or nature, in each case whether now existing or hereafter arising. Environmental Attributes currently include, for example: (i) renewable identification numbers (RINS) and low carbon fuel standard credits (LCFS) and any attributes required to generate RIN or LCFS credits; (ii) Renewable Energy Credits; (iii) 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; (iv) any avoided emissions of carbon dioxide (CO₂), methane (CH₄) and other Greenhouse Gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; and (v) the reporting rights to these avoided emissions. For clarity, Environmental Attributes do not include any tax credits, reductions or incentives provided for by Governmental Authorities.

“Environmental Attributes Revenue” means the gross revenue that Buyer recognizes from any sale or transfer of Environmental Attributes.

“Environmental Laws” means any applicable federal, state, or lawfully promulgated local governmental law, statute, rule, regulation, order, consent decree, decree, judgment, permit,

license, covenant, deed restriction, ordinance or other requirement or standard relating to pollution or the regulation or protection of health, safety, natural resources, or the environment, as now existing or hereafter in effect, including, without limitation, those relating to releases, discharges, emissions, injections, leachings, or disposals of hazardous substances (as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. § 9601, as amended (“CERCLA”), hereafter Hazardous Substances) or hazardous materials into air, water, land or groundwater, to the withdrawal or use of groundwater, to the regulation of Greenhouse Gas emissions, or to the use, handling, treatment, removal, storage, disposal, processing, distribution, transport, or management of Hazardous Substances. “Environmental Laws” shall include, but shall not be limited to, the Clean Air Act; the federal Water Pollution Control Act; the Safe Drinking Water Act; the Toxic Substances Control Act; CERCLA; the Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984; the Occupational Safety and Health Act; the Hazardous Materials Transportation Act; the Oil Pollution Act of 1990; and any similar federal, state or local statutes and regulations.

“Event of Default” means (as the case may be) a default of Seller described in Section 11.1(a) or a default of Buyer described in Section 11.1(b), in each case which has not been cured in accordance with the terms of such Sections.

“Flare(s)” means the gas flare(s) maintained by Seller or Buyer, as noted in the Agreement, at the Landfill, including all ancillary systems, controls and other equipment and instruments required for the operation of such flare(s).

“Force Majeure Event” means any event that renders it impossible for the affected Party to perform its obligations under this Agreement or the Easement Agreement, is beyond the reasonable control of the affected Party, is not caused by the actions of the affected Party, and cannot be avoided by the affected Party. Subject to the foregoing, Force Majeure Event shall include, without limitation, any act of God, natural phenomena such as winds, hurricane, tornado, landslide, lightning, windstorm, earthquake, explosion, storm or floods, fires, strikes or other labor conflicts that are not motivated by the breach of any other contract on the part of the affected Party, civil disturbance, an act of a public enemy, war (whether or not declared), a riot, blockage, insurrections, terrorism, uprisings, sabotage and commercial embargoes against the United States of America (or against any other country if it impacts the delivery of any major equipment supplied by a third party), epidemic or pandemic (subject to Section 14.22 hereof), and other events outside the affected Party’s control. Before any party can claim that a Force Majeure Event has occurred, such party shall first notify the other Party of such claim in accordance with Section 14.3.

“GAAP” means generally accepted accounting principles in the United States of America, consistently applied.

“Governmental Authority” means any federal, state, regional or local legislative, executive, administrative, judicial or other governmental board, agency, authority, commission (including public utility commission), administration, court or other body, or any official thereof having jurisdiction or authority.

“Gross Revenue” means (a) the amount of cash received by Buyer in a calendar month arising from the sale of LFG supplied by Seller to Buyer at Buyer’s Facilities, including, without

duplication, from (i) Environmental Attributes Revenue, and (ii) Energy Revenues *less* (b) third party out-of-pocket costs actually incurred by Buyer in connection with the processing, storage, transportation, marketing, and sale of the Energy and the Environmental Attributes.

“Hazardous Materials” means: (i) any hazardous or toxic substance, material or waste, including, but not limited to, any substance, product, or other material of any nature whatsoever which is or becomes listed, regulated or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. (“CERCLA”); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (“RCRA”); the Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq., all as amended; or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect; and (ii) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance, equitable indemnity, or strict liability or under any reported decisions of a state or federal court.

“Interest Rate” means an annual rate of interest equal to the Prime Rate in effect as of the applicable date of determination plus two percent (2%), but in no event more than the maximum rate permitted by Law.

“Landfill” means the personal and real property comprising the sanitary landfill located on the property commonly known as the Rolling Hills Municipal Landfill located at 583 Longview Road, Boyertown, PA 19512, including all additional property used for any expansions of the Landfill together with Seller’s Facilities, as more particularly described in Exhibit B.

“Landfill Gas” or “LFG” means any and all gases resulting from the decomposition of refuse material within the Landfill, consisting principally of methane, carbon dioxide and traces of other constituent gases.

“Landfill Gas Collection System” means the wells, pipes and associated equipment and components of the landfill gas collection system installed for the recovery and extraction of Landfill Gas from the Landfill and owned and operated by Seller.

“Landfill Gas Delivery Point” means the location where Landfill Gas is tendered from Seller to Buyer as designated on Exhibit B.

“Law” or “Laws” means federal, state or local laws applicable to the Landfill or the Project, as the case may be, including Environmental Laws.

“Leachate” means any liquid, including any soluble or suspended materials in such liquid contained in the Landfill Gas which results from the passage of water or other liquids through the Landfill.

“Metering Equipment” means all meters, metering and associated or related telecommunications equipment, and data processing equipment used to control, adjust, measure,

record or transmit data relating to the (i) volume and quantity of the Landfill Gas, (ii) the extent to which delivered Landfill Gas is Conforming Landfill Gas or Non-Conforming Landfill Gas, and (iii) the amount of Energy injected into an applicable (gas or electric) utility interconnect.

“MMBtu(s)” means one million (1,000,000) Btus.

“Non-Conforming Landfill Gas” means Landfill Gas that does not meet the Conforming Landfill Gas specifications set forth on Exhibit C.

“Non-Defaulting Party” has the meaning set forth in Section 11.2.

“Prime Rate” means the rate published in The Wall Street Journal as the “prime rate” from time to time (or, if more than one rate is published, the arithmetic mean of such rates), in either case determined as of the date the obligation to pay interest arises.

“Project” means Buyer’s Facilities or any other facility, building, enclosure or equipment that will process and deliver Energy to a Customer or any facility that is derived from or supports such processing and delivery of Energy (whether located on the Landfill or a third party property in close proximity to the Landfill or whether owned by Buyer or another party serving the Project) including, without limitation, (a) pipeline(s) needed to transport the LFG from the Landfill Gas Delivery Point to Buyer’s Facilities; (b) all equipment required for a communications interface with Seller’s Landfill Gas Collection System blower(s); (c) any pipeline, lines, or other facilities needed to transfer Condensate collected by Buyer to the Condensate Delivery Point; (d) any pipeline, lines or other facilities needed to transfer the Energy to the Utility interconnect that Buyer or the Utility will construct, own, and operate to produce, purify and/or compress Energy for sale to third parties. For the avoidance of doubt, the Project shall not include any part or portion of Seller’s Facilities.

“Property” shall mean the real property described in Section 1 of the Easement Agreement.

“Removal Period” shall mean twelve (12) months after the expiration or termination of the Easement Agreement.

“Renewable Natural Gas” or “RNG” means processed Landfill Gas that (i) meets the pipeline quality standards for natural gas for the pipeline into which such Renewable Natural Gas is delivered by Buyer and (ii) contains all the Environmental Attributes associated with the Landfill Gas which is the feedstock for the Renewable Natural Gas.

“RNG Facility” means the landfill gas to RNG facility to be developed, owned, operated and maintained by Buyer at the Landfill.

“Safety Plan” has the meaning set forth in Section 6.7.

“Scheduled Commercial Operation Date” means the date that is twenty-four (24) months from Buyer’s receipt of the final approved air permit for the Project.

“Seller’s Facilities” means the Landfill Gas Collection System, all equipment required to deliver Landfill Gas to the Landfill Gas Delivery Point (including, without limitation, all Landfill

Gas pipelines and blowers), all Flare(s) and other systems and equipment necessary to dispose of any and all Landfill Gas, Condensate, Leachate and all other solid matters returned or rejected by Buyer hereunder, and all other items of equipment owned by Seller and identified on Exhibit B.

“Seller Party” or “Seller Parties” means Seller and its Affiliates, and their elected officials, appointed officers, employees, representatives, agents and contractors.

“Seller Permits” means all Permits necessary for Seller to own, use, operate, maintain, and repair the Landfill, Seller’s Facilities, and the Property (including, without limitation, those relating to air quality and the Seller’s Flare(s) and the transmission and sale of Landfill Gas), and to perform its duties and obligations under this Agreement (which, for the sake of clarity shall include all such Permits which would be necessary even in the absence of the Project).

“Seller Project Manager” means the representative employed or contracted by Seller and designated by Seller as “Seller Project Manager” to Buyer in writing.

“Standard Industry Practices” means (i) those practices, methods and acts that, when engaged in, are commonly and standardly used in the landfill industry in the United States at the time in question to design, construct, equip, operate, measure, forecast, schedule, test and maintain landfill facilities, landfill gas collection facilities, electricity generation and renewable natural gas facilities, as the case may be, lawfully and with safety, reliability, efficiency, economy and expedition, or (ii) in the absence of the practices, methods and acts described in the immediately preceding clause (i), those practices, methods and acts that, at a particular time, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, would have been expected to accomplish the desired result consistent with the Law, good business practices, safety, reliability, efficiency, economy and expedition. Standard Industry Practices are not intended to require optimum practices, methods or acts, but rather are a range of standard practices, methods or acts expected within the landfill industry to accomplish the desired results, having due regard for, among other things, preservation of manufacturers’ warranties and the requirements of Governmental Authorities.

“Taxes” means all taxes, charges, fees, levies or other assessments imposed by any Governmental Authority, including gross receipts, excise, property, sales, use, stamp, documentary, filing, business and occupations, real estate excise, recording, transfer, conveyance, real estate, stock transfer, franchise, payroll, withholding, social security or other types of taxes, however described, including any interest, penalties or additions attributable thereto.

“Utility” means the utility, local distribution company, interstate pipeline owner, or transmission line owner to which Buyer’s Facilities are interconnected or injected for the delivery of the Energy to third parties or the Customer.

“Wellfield Agreement” has the meaning set forth in the Recitals to this Agreement.

1.2 Construction of Certain Terms and Phrases. Unless the context of this Agreement provides otherwise:

(a) the words “herein,” “hereunder” and “hereof” refer to the provisions of this Agreement and a reference to a Recital, Article, Section, subsection, paragraph or attachment is a

reference to a Recital, Article, Section, subsection, paragraph or attachment to this Agreement unless otherwise stated;

(b) references to this Agreement, or any other agreement or instrument, includes any Schedule, Exhibit, annex or other attachment hereto or thereto;

(c) a reference to a paragraph also refers to the subsection in which it is contained and a reference to a subsection refers to the Section in which it is contained;

(d) a reference to this Agreement, any other agreement or an instrument or any provision of any of them includes any amendment of this Agreement or such other agreement, instrument or provision, as the case may be;

(e) a reference to a Law or a provision of any of Law includes all regulations, rules, subordinate legislation and other instruments issued or promulgated thereunder as in effect from time to time and all consolidations, amendments, re-enactments, extensions or replacements of such Law or provision;

(f) the singular includes the plural and vice versa;

(g) a reference to a Person includes a reference to the Person's executors and administrators (in the case of a natural person) and successors, substitutes (including Persons taking by novation) and permitted assigns;

(h) words of any gender shall include the corresponding words of the other gender;

(i) "including" means "including, but not limited to" and other forms of the verb "to include" are to be interpreted similarly;

(j) references to "or" shall be deemed to be disjunctive but not necessarily exclusive (i.e., unless the context dictates otherwise, "or" shall be interpreted to mean "and/or" rather than "either/or");

(k) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of such day; and where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of such day;

(l) if the time for performing an obligation under this Agreement expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day;

(m) a reference to (i) a day (other than a Business Day) is a reference to a calendar day, (ii) a month is a reference to a calendar month and (iii) a year is a reference to a calendar year;

(n) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings; and

(o) all accounting terms used but not defined herein have the meanings given to them under GAAP as consistently applied by the Person to which they relate.

ARTICLE 2. PURCHASE AND SALE; DELIVERY

2.1 Purchase and Sale of Landfill Gas.

(a) Commencing on the Effective Date and continuing throughout the Term, Seller shall sell and deliver to Buyer at the Landfill Gas Delivery Point, and Buyer shall have the exclusive right to purchase and accept from Seller at the Landfill Gas Delivery Point, the Landfill Gas.

(b) Once the Project is operational, as defined by a date specified by Buyer by written notice to Seller, Buyer shall use commercially reasonable efforts and consistent with Standard Industry Practices to maximize its use of available Conforming Landfill Gas within the capabilities of the Project.

(c) Seller may utilize any excess Landfill Gas that Buyer does not use at any particular point in time, until such time Buyer has use for such excess Landfill Gas.

(d) Seller makes no representation, warranty or guaranty regarding the quantity or quality of Landfill Gas that will be generated or collected at the Landfill.

(e) Subsection (d) above shall not be construed to alter, diminish, or limit the Parties' rights and obligations under the remainder of the Agreement.

2.2 Delivery. Seller shall be solely responsible for the delivery of the Landfill Gas from the Landfill to the Landfill Gas Delivery Point and shall bear all risks and costs associated therewith, and Buyer shall not be liable therefor. Buyer shall be solely responsible for the accepted Landfill Gas from and after the Landfill Gas Delivery Point and shall bear all risks and costs associated therewith, and Seller shall not be liable therefor.

2.3 Title and Risk of Loss. Seller expressly warrants that it shall have good and valid legal title to all Landfill Gas delivered to Buyer at the Landfill Gas Delivery Point and that all such Landfill Gas shall be delivered to the Landfill Gas Delivery Point free and clear of all liens and other encumbrances. Subject to the terms of this Section 2.3, title to and risk of loss of the Landfill Gas shall transfer from Seller to Buyer at the time such Landfill Gas is delivered to the Landfill Gas Delivery Point and accepted by Buyer. Notwithstanding the foregoing or anything to the contrary contained herein:

(a) Seller shall at all times retain title to all Condensate and Leachate returned to the Landfill as a result of processing the Landfill Gas; and

(b) Buyer shall have sole and exclusive rights, title to and ownership interest in the Energy, including, without limitation and for the avoidance of doubt, any and all Environmental Attributes generated by the Project.

2.4 Condensate; Leachate; Solid Matter.

(a) At no cost to Buyer, all Condensate and Leachate which Buyer generates, removes or separates from the Landfill Gas shall be returned and delivered by Buyer to Seller at the Condensate Delivery Point using the condensate delivery system at the Landfill, and Seller shall handle, treat, and dispose of all such Condensate and Leachate in compliance with the Law and Standard Industry Practices.

(b) Buyer shall have the right to return to the Landfill any and all solid matter removed by Buyer from Landfill Gas or otherwise resulting from the processing of the Landfill Gas. Seller shall accept and receive all such solid matter and manage and dispose of the same in accordance with the Law and Standard Industry Practices.

2.5 Non-Conforming Landfill Gas. Upon the delivery of Non-Conforming Landfill Gas to the Landfill Gas Delivery Point, Buyer shall have the right to: (i) accept some or all of the Non-Conforming Landfill Gas or (ii) reject some or all of the Non-Conforming Landfill Gas.

If the Landfill Gas delivered by Seller to Buyer continues to be Non-Conforming Landfill Gas when measured on average over a rolling twenty-four (24) hour period, then Buyer shall promptly notify Seller by first contacting Seller's Project Manager by email, text, or phone. Seller shall have three (3) days after receipt of such notice to return the Landfill Gas to the standards of Conforming Landfill Gas. If Seller is unable to return the Landfill Gas to the standards of Conforming Landfill Gas, Buyer shall promptly notify Seller by first contacting Seller's Project Manager by email, text or phone. Representatives of Seller and Buyer shall meet within twenty-four (24) hours after such notice to review proposed remedies. Buyer shall then have the right to enter, adjust and modify the Seller's Facilities at the Landfill to attempt to bring the Landfill Gas back to the standards of Conforming Landfill Gas, first employing lower cost remedial efforts, followed by more sophisticated means, if necessary. Buyer agrees to notify Seller in advance of the days and times that Buyer representatives will be on the Landfill property in order to effectuate any remedial efforts, so that Seller can assist interventions and offer feedback. Buyer will not take any remedial actions that result in regulatory non-compliance on the part of the Seller unless such actions are approved in advance by Seller. While Buyer is pursuing such remedial actions a representative of Buyer shall be accompanied by a representative of Seller, provided that Seller shall make a representative available within 24 hours of receiving Buyer's notice.

2.6 Ownership. The work relating to the Project, Buyer's Facilities, and all related equipment, materials, vehicles and supplies purchased by Buyer to be used in or about the Project, and all plans, drawings and other documentation with respect thereto, shall be legally or beneficially owned by Buyer and not Seller. The Landfill Gas Collection System, Seller's Facilities, and all related equipment, materials and supplies constructed and/or installed by Seller to be used in or about the Landfill Gas Collection System and Seller's Facilities, and all plans, drawings and other documentation with respect thereto, shall legally and beneficially be owned by Seller and maintained by Seller or its contractor and not Buyer regardless of whether Buyer financed or paid for such equipment, materials, supplies, plans, drawings or documents.

**ARTICLE 3.
TERM**

3.1 Term. The term of this Agreement (the “Initial Term”) shall commence upon the Effective Date and, unless sooner terminated in accordance with the terms hereof, shall expire on the date that is twenty (20) years from the Commercial Operation Date. The Initial Term will automatically be extended for up to three (3) consecutive five (5) year terms (each a “Renewal Term”) unless either Party gives written termination notice to the other Party one hundred eighty (180) days prior to the commencement of either Renewal Term.

3.2 Early Termination of Agreement. Notwithstanding the provisions of Section 3.1, this Agreement may be terminated under the following circumstances:

- (a) at Buyer or Seller’s option if:
 - (i) Buyer does not apply for an air permit for the Project within twelve (12) months of the Effective Date, or
 - (ii) the Commercial Operation Date is not achieved within twelve (12) months of the Scheduled Commercial Operation Date, subject to Section 7.3;
- (b) at Buyer’s option, if Buyer determines that Landfill Gas cannot be recovered from the Landfill in Commercial Quantities;
- (c) by mutual agreement of Seller and Buyer;
- (d) in accordance with the provisions of Article 12;
- (e) in accordance with the provisions of Section 14.3(a);
- (f) in the event of a termination of the Easement Agreement as a result of a condemnation of the Easement Premises, the Ancillary Easements, or the Project as provided in the Easement Agreement; or
- (g) at Buyer’s option, if Buyer cannot obtain internal approvals or obtain or maintain all Buyer Permits required to construct or operate the Project and any modifications to the Project; provided Buyer pursues such approvals and Buyer Permits in good faith and with reasonable diligence.

3.3 Removal of the Project. Buyer shall give Seller reasonable prior notice, a minimum of fifteen (15) days, of Buyer’s completion of physical removal of the Project.

**ARTICLE 4.
PRICING AND PAYMENT**

4.1 Contract Price.

During the period from the Commercial Operation Date through the end of the Term, Buyer shall pay the price set forth in Exhibit E (the "Contract Price") for the Landfill Gas delivered to the Landfill Gas Delivery Point and used by the Project. The Contract Price may be adjusted as set forth on Exhibit E ("Contract Price Adjustment").

4.2 Taxes.

(a) Seller shall pay or cause to be paid all Taxes on or with respect to (i) the ownership and operation of the Landfill and (ii) the sale and purchase of the Landfill Gas and activities in respect of Landfill Gas before delivery of and acceptance by Buyer at the Landfill Gas Delivery Point.

(b) Buyer shall pay or cause to be paid all Taxes on or with respect to (i) the ownership and operation of the Project and (ii) activities in respect of Landfill Gas after delivery of and acceptance by Buyer at the Landfill Gas Delivery Point.

(c) If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, the responsible Party shall reimburse the other for such Taxes upon request therefor. Both Parties shall use reasonable efforts to administer this Agreement and implement its provisions so as to minimize Taxes. If any of the sales of the Landfill Gas hereunder are to be exempted from or not subject to any particular Taxes, Buyer and Seller shall cooperate in good faith to promptly provide each other with all necessary documentation to evidence and qualify for such exemption, tax credit or tax benefit.

(d) Buyer shall have the right, in its sole discretion and at its sole expense, to contest by appropriate legal proceedings (which may be brought in the name(s) of Buyer and/or Seller where appropriate or required), the validity or amount of any assessments or taxes for which Buyer is responsible under this Agreement. Seller shall in all respects cooperate with Buyer in any such contest.

4.3 Billing and Payment.

(a) Billing. The billing period shall be each calendar month. The Parties agree that for the time period following the Effective Date to the first calendar month, all amounts due to Seller by Buyer under this Agreement shall not be prorated.

(i) Not later than ten (10) Business Days after the end of each month, Buyer shall prepare and provide to Seller a statement showing for the preceding month the volume and quantity of Landfill Gas delivered to Buyer from the Landfill measured at the Landfill Gas Delivery Point, the MMBtu value of RNG produced and injected into the gas interconnect or utilized by the Project to generate electricity to inject into the electrical interconnect, or stored, the calculation of the amounts due under Section 4.1 and any other amounts payable by either Party under this Agreement, together with supporting documentation for such calculations.

(ii) To the extent Buyer is owed any amounts hereunder, Buyer shall prepare and deliver to Seller a monthly statement indicating such amounts, together with supporting documentation for such amounts.

(iii) Statements shall be sent to Seller's address for billing matters as specified in Section 14.1, or at such address as may be changed by notice delivered to Buyer.

(iv) Following the receipt of monthly statements, Seller may contact Buyer in order to discuss any questions or issues relating to the invoice ~~with Buyer~~, and the Parties shall attempt in good faith to resolve said questions or issues.

(b) Payment; Netting. Payments due by Seller or Buyer, as the case may be, shall be made by electronic funds transfer, or by wire transfer, as designated by the owed Party, to the account of the owed Party as specified by the applicable Party pursuant to Section 14.1, on or before the thirtieth (30th) day following the Seller's receipt of the Buyer's billing statement. Except for payments owed to Seller from Buyer under Section 4.1, if either Party owes an amount to the other for obligations incurred under this Agreement, each party shall separately invoice the other and payment shall be due within sixty (60) days from the date of the invoice. .

(c) Interest. Any payment not made within the time limits specified in this Agreement (and any overpayments) shall bear interest at the Interest Rate from the date on which such payment was required to have been made through but excluding the date such payment is actually received by the owed Party (or from the date of payment until, but excluding, the date of refund in the case of overpayments), and such amount if unpaid shall be added to the subsequent month's billing statement.

(d) Disputed Statements. If either Party disputes the correctness of any billing statement in good faith, it shall nevertheless pay the undisputed portion of the net amount of such statement and shall notify the other Party of the specific basis for the dispute, including supporting calculations and documentation, as soon as practicable after becoming aware of the basis for the dispute. A Party's right to challenge the correctness of a billing statement or notice hereunder shall expire if not exercised within two (2) years from the date on which it receives the applicable billing statement or notice.

(e) Audit of Records; Adjustments. Each Party shall keep complete and accurate records, and shall maintain such data as may be necessary for the purpose of ascertaining the accuracy of the charges submitted hereunder, including, with respect to Seller, the generation and delivery of Landfill Gas, for a period of two (2) years from the date the applicable statement was delivered. Either Party ("Requesting Party") shall have the right, upon reasonable notice to the other Party ("Receiving Party") and during Receiving Party's regular business hours and without materially interfering with the conduct of Receiving Party's business, to access and review all of Receiving Party's records, reports, data, calculations and statements, maintained (or required to be maintained) by Receiving Party, that Receiving Party provides or is obligated to provide to the Requesting Party under this Agreement. Requesting Party shall not be obligated to pay or reimburse Receiving Party for any costs (including the cost of photocopies) that Receiving Party may incur as a result of such review. If, in conducting any review of records under this Section 4.3(e), either Party discovers an error in billings or payments under this Agreement due to billing errors, then the billings and payments shall be corrected promptly after either Party notifies the other Party of the error. Any corrections shall include interest at the Interest Rate from the date that the incorrect payment was made until, but not including, the date of payment or refund reflecting the corrected amount.

ARTICLE 5.
**LANDFILL AND LANDFILL GAS COLLECTION SYSTEM OPERATION;
COOPERATION; OTHER SELLER OBLIGATIONS**

5.1 Landfill and Landfill Gas Collection System Operation; Records.

(a) Buyer acknowledges that Seller's primary obligation and purpose is the operation of the Landfill in compliance with Law.

(b) Subject to Seller's obligations as acknowledged in 5.1(a), Seller agrees, at its sole cost and expense, to use its reasonable-best efforts to develop, operate and maintain the Landfill and the Landfill Gas Collection System so as to (i) enhance-maximize the production and delivery of Conforming Landfill Gas to Buyer at the Landfill Gas Delivery Point, (ii) not unreasonably interfere with the operation of the Project or knowingly cause the disruption or destruction of the biological decomposition of refuse material within the Landfill, (iii) promptly repair all cracks, fissures, erosion, or physical changes in, of or to the interim and final covers at the Landfill which have an adverse material effect on the production of Landfill Gas, (iv) notify Buyer of the Landfill's filling plan and changes thereto, and (v) comply with all Laws relating to the management and operation of the Landfill and Landfill Gas Collection System, including all Environmental Laws.

(c) Seller shall, at its sole cost and expense, drill or otherwise construct a new or expanded Landfill Gas Collection System in current waste disposal cells or expansion waste disposal cells at the Landfill (i) as required by Law, (ii) in accordance with Standard Industry Practices, and (iii) to meet the purposes described in paragraph (b) above.

(d) Seller shall have sole and exclusive liability for all issues relating to the operation of the Landfill and Seller's Facilities, including Landfill Gas emissions or the failure of the Landfill to meet air quality or related Laws as may be in effect during the Term (other than any Landfill Gas emissions occurring after the corresponding Landfill Gas has been delivered to and accepted at the Landfill Gas Delivery Point), groundwater quality and management of any groundwater contamination, Condensate and Leachate control and management and other issues, except to the extent caused by Buyer or the Project.

(e) Seller shall keep records with respect to operation, maintenance, and repair activities in connection with the Landfill Gas Collection System. Upon request by a Buyer Party, Seller shall make available to such Buyer Party during Seller's regular business hours all records of such operations, maintenance, and repairs of the Landfill Gas Collection System.

(f) Unless required by state or federal law, Seller shall not divert municipal solid waste, including organic waste, received by Seller away from the Landfill without Buyer's prior written consent, which shall not be unreasonably withheld. For the avoidance of doubt, it shall only be reasonable for Buyer to withhold such consent solely if the proposed diversion of municipal solid waste, including organic waste, would be expected to adversely materially affect the quantity of Landfill Gas available to the Project.

(g) As requested by Buyer, Seller shall register with the Environmental Protection Agency as a biogas producer and will register the Landfill as a biogas production facility

and comply with all applicable record keeping, reporting, registration and other requirements of the Renewable Fuel Standard originated with the Energy Policy Act of 2005, as expanded, extended or amended from time-to-time including the Energy Independence and Security Act of 2007 applicable to biogas producers and such that valid Environmental Attributes (including without limitation, RINs) can be generated on the LFG or biogas transferred to Buyer.

5.2 Seller Permits. Seller shall, at its sole cost and expense, secure, comply with and make all filings, applications and reports necessary to obtain and maintain any and all Seller Permits including as and when required by Law those needed in order to construct, commission and operate the Buyer Facilities. Seller shall provide a copy of each such Seller Permit to Buyer upon Buyer's request. Upon request, Seller shall provide Buyer with all information in Seller's possession necessary to enable Buyer to meet reporting requirements under Buyer Permits or any Law.

5.3 Seller's Facilities. Seller shall, at its sole cost and expense, design, construct, operate and maintain (i) all equipment required to produce the Landfill Gas (including, without limitation, any Landfill Gas Collection System, as set forth in Section 2.6) (ii) all equipment required to deliver such Landfill Gas to the Landfill Gas Delivery Point (including, without limitation, all Landfill Gas pipelines and blowers), (iii) all Flare(s) and other systems and equipment necessary to dispose of any and all Landfill Gas, Condensate, Leachate and all other solid matters returned or rejected by Buyer hereunder (including, without limitation, as a result of the inability of the Project to accept Landfill Gas for whatever reason) in accordance with Section 2.4, and (iv) all other items of equipment set forth on Exhibit B (collectively, the "Seller's Facilities"). At all times during the Term, Seller's Facilities shall be designed, constructed, operated, and maintained by Seller in compliance with the Law and Standard Industry Practices.

5.4 Access. During the Term, Buyer Parties and other appropriate representatives shall have access to the Landfill at any time subject to Seller's reasonable requirements with respect to safety and security, for any duration to the extent reasonably necessary to preserve or enforce Buyer's rights under this Agreement.

5.5 Emergency Actions. Notwithstanding any requirement of this Agreement requiring Buyer approval or consent, if at any time Seller determines in good faith that an emergency situation exists such that action must be taken to protect the safety of the public or its employees, to protect the safety or integrity of the Landfill or Seller's Facilities, or to mitigate the immediate consequences of an emergency event, then Seller shall promptly take all such action it deems in good faith to be reasonable and appropriate under the circumstances. Seller shall promptly notify Buyer of the event to an emergency phone number as provided under Section 14, and of Seller's response thereto. The cost of Seller's response measures shall be borne by Seller, unless such emergency arises from Buyer's negligence, willful misconduct or from conditions or occurrences at the Landfill or Seller's Facilities other than conditions or occurrences that should have been reasonably anticipated by Seller.

5.6 Planned Shutdowns. Seller shall provide thirty (30) days advance written notice to Buyer of any planned shutdowns or material reduction in operations of the Landfill or Seller's Facilities. If the operation of the Landfill or Seller's Facilities is temporarily reduced, curtailed or shut down for any reason so that Seller is unable to deliver Landfill Gas on other than a planned

basis, Seller shall promptly notify Buyer (but in no event later than 24 hours after the commencement of the reduction, curtailment or shutdown) as to the nature and probable duration thereof and the expected effect thereof on operations at the Landfill or Seller's Facilities.

5.7 As-Built Construction Drawings. Seller and Buyer shall keep and maintain all "as-built" construction drawings for at least seven years after construction of any substantial component of the Landfill or Seller's Facilities.

ARTICLE 6. BUYER OBLIGATIONS

6.1 Project Development and Design. Buyer shall, at Buyer's sole cost and expense, develop and design the Buyer's Facilities in accordance with all Laws relating to the development and design of the Project, all Buyer Permits, Standard Industry Practices and so as not to unreasonably interfere with Seller's operation of the Landfill and Seller's Facilities, so long as unless any and all unreasonable interference is coordinated with and agreed to by Seller. Buyer shall make preliminary and final design documents available to the Seller for Seller's review and comment.

6.2 Project Construction. Buyer shall construct the Buyer's Facilities in accordance with all Laws relating to the construction of the Project, all Buyer Permits, Standard Industry Practices and so as not to unreasonably interfere with Seller's operation of the Landfill and Seller's Facilities, so long as unless any and all unreasonable interference is coordinated with and agreed to by Seller. Buyer is responsible for any and all costs relating to the construction of the Project.

6.3 Operation, Maintenance and Repair. Buyer shall, at Buyer's sole cost and expense, operate, maintain and repair the Buyer's Facilities in accordance with all Laws relating to the operation, maintenance and repair of the Project, all Buyer Permits, Standard Industry Practices and so as not to unreasonably interfere with Seller's operation of the Landfill and Seller's Facilities, so long as unless any and all unreasonable interference is coordinated with and agreed to by Seller.

6.4 Metering. Buyer shall ensure that Landfill Gas is metered in accordance with Article 9 below.

6.5 Buyer Permits. At its sole-own cost and expense, Buyer shall make all filings, applications and reports necessary to obtain and maintain Buyer Permits as and when required by Law in order to construct, commission and operate the Project. Buyer shall provide a copy of each such Buyer Permit to Seller without unreasonable delay.

6.6 Documents Required in Connection with Seller Permits. Upon request, Buyer shall provide Seller with all information in Buyer's possession necessary to enable Seller to meet reporting requirements under Seller Permits or any Law.

6.7 Safety Plan. Buyer shall prepare a safety plan which shall be maintained in accordance with this Section (the "Safety Plan"). The Safety Plan shall be delivered to Seller no less than thirty-sixty (3060) days prior to the Commercial Operation Date. Buyer shall maintain the safety of the Project at a level consistent with all Laws and Standard Industry Practices.

6.8 Emergency Response Plan. No less than ~~thirty-sixty~~ (3060) days prior to the Commercial Operation Date, Buyer shall prepare an emergency response plan (the “Emergency Response Plan”) to be implemented in the event of an emergency, including fire, weather, spills, environmental, health, safety, and other potential emergency conditions. The Emergency Response Plan shall be maintained in accordance with this Section, and shall: (1) provide for appropriate notifications to Seller and all other Governmental Authorities having jurisdiction and for measures which facilitate coordinated emergency response actions by Seller and all such other appropriate Governmental Authorities; (2) specifically include relevant emergency response protocols; and (3) assure the timely availability of all personnel required to respond to any emergency (no later than 2 hours during nights, weekends or holidays). The Emergency Response Plan shall be reviewed by the Parties annually and updated by Buyer when necessary.

6.9 Emergency Actions. Notwithstanding any requirement of this Agreement requiring Seller approval or consent, if at any time Buyer determines in good faith that an emergency situation exists with the Project such that action must be taken to protect the safety of the public or its employees, to protect the safety or integrity of the Project, or to mitigate the immediate consequences of an emergency event, then Buyer shall promptly take all such action it deems in good faith to be reasonable and appropriate under the circumstances. Buyer shall promptly notify Seller of the event to an emergency phone number from a list supplied by Seller, and of Buyer’s response thereto. The cost of Buyer’s response measures shall be borne by Buyer, unless such emergency arises from Seller’s negligence, willful misconduct or from conditions or occurrences at the Landfill or Landfill Gas Collection System other than conditions or occurrences that should have been reasonably anticipated by Buyer.

6.10 Planned Shutdowns. Buyer shall provide thirty (30) days advance written notice to Seller of any planned shutdowns or material reduction in operations of the Project. If the operation of the Project is temporarily reduced, curtailed or shut down for any reason so that Buyer is unable to accept Landfill Gas on other than a planned basis, Buyer shall promptly notify Seller (but in no event later than 24 hours after the commencement of the reduction, curtailment or shutdown) as to the nature and probable duration thereof and the expected effect thereof on operations at the Project.

6.11 Access. During the Term, Seller Parties and other appropriate representatives shall have access to the Project at any time subject to Buyer’s reasonable requirements with respect to safety and security, for any duration to the extent reasonably necessary to preserve or enforce Sellers rights under this Agreement.

ARTICLE 7. COMMISSIONING; COMMERCIAL OPERATION DATE

7.1 Commissioning. Buyer shall conduct the commissioning of the Buyer’s Facilities at Buyer’s expense. Buyer shall notify Seller of the schedule for all material commissioning activities at least seven (7) Business Days in advance of the commencement of such commissioning activities and shall permit Seller and its representatives to be present for commissioning activities. Seller and its representatives shall not interfere with or delay such activities.

7.2 Commercial Operation Date. The “Commercial Operation Date” shall be the date Buyer provides written notice to Seller when the Commercial Operation Date has occurred.

7.3 Delay in Scheduled Commercial Operation Date. The Scheduled Commercial Operation Date may be delayed due to a Force Majeure Event, a failure by Seller to deliver Conforming Landfill Gas, other delays caused by Seller, or not receiving any Buyer Permits or Seller Permits despite diligent efforts to obtain them, in each case affecting the schedule for developing, constructing, or commissioning the Project. If one or more of the above-listed events results in a delay in Buyer’s ability to achieve the Commercial Operation Date by the Scheduled Commercial Operation Date, the Scheduled Commercial Operation Date shall be delayed one day for each day of delay caused by said events, provided, however, that Buyer shall provide written notice of any such delay to Seller.

ARTICLE 8. COOPERATION; EMERGENCIES

8.1 Cooperation. The Parties shall cooperate, coordinate and regularly meet with each other in order to ensure successful operation of both the Landfill and the construction and operation of the Project. Such cooperation and coordination will include Seller support of Buyer’s efforts to obtain and maintain Buyer Permits and Buyer support of Seller’s efforts to obtain and maintain Seller Permits. Prior to the Commercial Operation Date, Seller and Buyer shall communicate by conference call or site meetings at least once a month during the first week of the month to discuss the status of permitting, construction and other Project development activities. During construction, the Parties may ~~choose~~ agree to increase the frequency of meetings. Following the Commercial Operation Date, Seller and Buyer shall communicate by conference call or site meetings at least once a month to discuss the Landfill Gas Collection System and Landfill operation and maintenance along with planned capital improvements and expansion plans as well as Project operation and maintenance.

The Parties recognize the need for continued integration of Buyer's Facilities with Seller's Facilities to enable Buyer to successfully operate, maintain, use, repair, and modify the Project at the Landfill. Each Party shall conduct its operations and provide reasonable assistance and cooperation to the other so as to reduce and minimize any unreasonable interference with the other Party's operations at the Landfill, including the reasonable modification of operations or procedures to the extent practicable, in order to avoid the imposition of additional burdens, whether financial or non-financial, on the other Party in the performance of its operations at the Landfill. Pursuant to the Wellfield Agreement attached hereto as Exhibit D, the Parties contemplate the construction, installation, and operation of additional wells as part of Seller's Landfill Gas Collection System. Seller shall, in good faith, consult with Buyer on the design of additional wells to be incorporated into Seller's Landfill Gas Collection System and shall consider, in good faith, any suggestions or concerns Buyer may have concerning said design. Seller shall implement those suggestions or changes that Seller determines to be are reasonable and that do not negatively impact Seller's operation of the Landfill.

8.2 Seller Project Manager. Buyer shall reasonably cooperate with any Seller Project Manager designated by Seller to assist Seller in connection with the administration of this Agreement. In the performance of such services, Buyer agrees that the Seller Project Manager

(and/or an engineering consultant or construction manager designated by the Seller Project Manager) may, without limiting other possible services to Seller: review and monitor construction progress, including attending pre-construction and construction status meetings; observe the completion of the Project work; review drawings, plans and specifications; monitor the commissioning undertaken by Buyer to determine whether such tests have been satisfied; review and advise Seller with respect to material changes to the Project during the Term; and provide certifications and perform such other duties as may be specifically conferred by Seller upon the Seller Project Manager hereunder. It is understood that the services intended to be provided by the Seller Project Manager shall be of an observational and review nature only and that the Seller Project Manager shall not have authority to require or approve changes to the Project work or Buyer's plans and specifications made in accordance therewith. Buyer agrees to cooperate with all reasonable requests made by Seller Project Manager in connection with the performance of such duties for Seller. The fees of the Seller Project Manager shall be paid by Seller and Buyer shall not have any liability therefor.

8.3 Cooperation in Proceedings or Hearings. Each Party shall reasonably cooperate with the other in connection with any proceedings, hearings or other procedures necessitated by any Environmental Law or required pursuant to any environmental impact reports or studies, Permits, or similar type requirements, related to the planning, construction, operation, use, repair, modification, expansion, or maintenance of the Project or the Property, as applicable. Each Party shall reasonably cooperate with the other Party in briefing the officials of any Governmental Authority with respect to the status of the Project or the Property, as applicable.

ARTICLE 9. METERING

9.1 Metering Equipment.

(a) All Metering Equipment shall be installed, owned, operated, maintained and repaired by Buyer. Seller and Buyer agree that the Metering Equipment shall be used for all purposes of this Agreement including, without limitation, to control, adjust, measure and record the volume, quantity, and quality of Landfill Gas delivered to Buyer by Seller from the Landfill and Energy. Buyer shall provide Seller with reasonable access to Buyer's Metering Equipment. Nothing herein precludes the Seller from having its own metering equipment for its own purposes up to and at the Landfill Gas Delivery Point.

(b) At Buyer's option but no less frequently than once per calendar year, the accuracy of the Metering Equipment may be tested and verified at any time at Buyer's expense.

(c) At Seller's option, the accuracy of the Metering Equipment may be tested and verified at any time. Any such test shall be at Seller's expense except that if such test reveals the Metering Equipment to be defective or inaccurate by more than three percent (3%), Buyer shall bear the expense of such test and reimburse Seller for any costs incurred in connection with such test.

(d) Buyer, at its sole cost and expense, shall have the right at any time to inspect or perform testing procedures at the Landfill Gas Delivery Point to determine the amount of Conforming Landfill Gas and Non-Conforming Landfill Gas being delivered by Seller.

(e) If the Metering Equipment is found to be defective or inaccurate, Buyer shall repair or replace it at Buyer's expense.

9.2 Adjustment for Inaccurate Metering Equipment.

(a) If the Metering Equipment fails to register, or if the measurements made by such equipment or devices are found upon testing to be inaccurate by more than three percent (3%) an adjustment shall be made correcting all measurements by the inaccurate or defective Metering Equipment for both the amount of the inaccuracy and the period of the inaccuracy, in the following manner:

(i) The Parties shall in good faith estimate the amount of the necessary adjustment on the basis of deliveries of Landfill Gas from the Landfill during periods of similar operating conditions when the Metering Equipment was registering accurately. Upon the good faith mutual agreement of the Parties with respect to the estimate, the adjustment shall be made for the period during which inaccurate measurements were made.

(ii) If the Parties cannot agree on the actual period during which the inaccurate measurements were made, the period during which the measurements are to be adjusted shall be the shorter of (i) the last one-half of the period from the last previous test of the Metering Equipment to the test that found the Metering Equipment to be defective or inaccurate, or (ii) the one hundred and eighty (180) days immediately preceding the test that found the Metering Equipment to be defective or inaccurate.

(b) To the extent that the adjustment period covers a period of deliveries for which payment has already been made by Buyer, Seller shall use the corrected measurements as determined in accordance with this Article 9 to re-compute the amount due for the period of the inaccuracy and shall subtract the previous payments by Buyer for this period from such recomputed amount. If the difference is a positive number, the difference shall be paid by Buyer to Seller with Seller separately invoicing Buyer; if the difference is a negative number, that difference shall be paid by Seller to Buyer with Buyer separately invoicing Seller. Payment of such undisputed difference by the owing Party shall be made not later than sixty (60) days after the owing Party receives notice of the amount due under separate invoice.

ARTICLE 10. ENVIRONMENTAL

10.1 Hazardous Materials. Seller is responsible for investigating and remediating at its own cost any Hazardous Materials contamination found at, on, under or emanating from the Easement Premises or Landfill other than contamination caused by Buyer's operations. Buyer is responsible for investigating and remediating at its own cost any Hazardous Materials contamination found at, on, under or emanating from the Easement Premises or Landfill that is caused by Buyer's operations. The provisions of this Section 10.1 shall survive termination or expiration of this Agreement.

10.2 Seller's Environmental Representation. Seller represents that with respect to the Easement Premises there are no, and for the last five (5) years have not been, any: (i) violations of any Environmental Laws or Seller Permits, (ii) governmental or other regulatory actions,

proceedings or claims, (iii) claims made in writing or threatened by any Person against Seller resulting from the presence of any Hazardous Materials or any violation of any Environmental Law, or (iv) events or conditions that would impose any restrictions under any Environmental Law or Permit on Buyer or the Project. Seller has made available to Buyer copies of all available environmental investigations, studies, audits, reports or tests in relation to the Easement Premises or the Easement Lands. To Seller's actual knowledge, the Landfill has not knowingly accepted any Hazardous Waste for disposal.

ARTICLE 11. INDEMNIFICATION

11.1 Seller's Indemnity. Seller shall, to the fullest extent permitted by Law, defend, indemnify and hold harmless each Buyer Party from, against and with respect to, any and all Losses arising out of or relating to any third party claim or action against such Buyer Party to the extent arising out of the following:

(a) any actual or alleged injury or death of persons or damage to property arising out of the negligence or willful misconduct of Seller, its vendors, suppliers, contractors, subcontractors, or any of its employees; and

(b) any failure by Seller to perform or observe, or to have performed or observed, in full, any covenant, agreement or condition to be performed or observed by Seller under this Agreement or the Easement Agreement.

11.2 Buyer's Indemnity. Buyer shall, to the fullest extent permitted by Law, defend, indemnify and hold harmless each Seller Party from, against and with respect to, any and all costs, including attorney's fees, Losses arising out of or relating to any third-party claims, penalties, fines, damages, losses, liabilities, demands and actions against such Seller Party to the extent arising out of the following:

(a) any actual or alleged injury or death of persons or damage to property, or business losses or other monetary losses arising out of the negligence or willful misconduct of Buyer, its vendors, suppliers, contractors, subcontractors or any of its employees; and

(b) any failure by Buyer to perform or observe, or to have performed or observed, in full, any covenant, agreement or condition to be performed or observed by Buyer under this Agreement or the Easement Agreement.

11.3 Notice and Settlement of Claims. A Party seeking the benefit of an indemnity under this Article 11 shall give the Party from which indemnification is sought written notice of any claim giving rise to the indemnity promptly after such Party learns of the same and, provided the indemnifying Party has acknowledged to the Party seeking indemnification that the indemnifying Party would be responsible for indemnification under this Article 11 for the damages of the Party seeking indemnification if the allegations in the claim or action alleging violation of the events described in Section 11.1 or Section 11.2, as applicable, are proven to be true, tender control over the defense and settlement of such claim to the indemnifying party. The indemnifying Party may, at its own cost, conduct negotiations for the settlement of such claim and any litigation that may arise therefrom. The Party claiming the benefit of the indemnity shall not make any

admission that might be prejudicial to the indemnifying Party unless the indemnifying Party fails to take over the conduct of the negotiations or litigation within a reasonable time after having been so requested. The indemnifying Party shall not settle any indemnified claim without the indemnified Party's prior written approval. The Party claiming the benefit of the indemnity shall, at the request of the other Party, provide reasonable assistance for the purpose of contesting any such claim or action, and shall be paid all reasonable costs incurred in doing so and shall have the right to have its own counsel, at its expense, participate in the defense and negotiation of the claim or action.

11.4 Waiver. Solely for the purpose of the indemnities contained in this Article 10, each Party expressly waives any immunity, defense, or protection that may be granted to it under any workers' compensation law. This Section 11.4 shall not be interpreted or construed as a waiver of such Party's right to assert such immunity, defense or protection directly against any of its own employees, or such employee's estate or other representatives.

ARTICLE 12. DEFAULT AND REMEDIES

12.1 Events of Default.

(a) Seller Events of Default. Each of the following shall constitute an Event of Default of Seller under this Agreement:

(i) Seller fails to maintain in full force and effect or renew within thirty (30) days prior to expiration any insurance required to be maintained under this Agreement and such failure is not cured within thirty (30) days after Buyer notifies Seller in writing of such failure, which notice sets forth in reasonable detail the nature of such failure;

(ii) Seller fails to make any payment as and when required to be made under this Agreement and such failure is not cured within thirty (30) days after Buyer notifies Seller in writing of such failure, which notice sets forth in reasonable detail the nature of such failure;

(iii) Seller fails to perform in any material respect any other obligation under this Agreement or the Easement Agreement and such failure is not cured within thirty (30) days after Buyer notifies Seller in writing of such failure, which notice sets forth in reasonable detail the nature of such failure, unless such failure is excused by Force Majeure or by Seller's inability to cure within thirty (30) days, so long as Seller has commenced and is diligently pursuing a cure, which shall be completed within ninety (90) days after Buyer's written notice of said failure;

(iv) any representation or warranty made by Seller in Section 12.1 is not true in material respects as of the date made or deemed repeated and such inaccuracy is not cured within ninety (90) days after Buyer notifies Seller in writing of such inaccuracy;

(v) a Bankruptcy Event occurs with respect to Seller; or

(vi) an Event of Default (as such term is defined under the Easement Agreement) of Grantor has occurred under the Easement Agreement.

(b) Buyer Events of Default. Each of the following shall constitute an Event of Default of Buyer under this Agreement:

(i) Buyer fails to maintain in full force and effect or renew within thirty (30) days prior to expiration any insurance required to be maintained under this Agreement and such failure is not cured within thirty (30) days after Seller notifies Buyer in writing of such failure, which notice sets forth in reasonable detail the nature of such failure;

(ii) Buyer fails to make any payment as and when required to be made under this Agreement and such failure is not cured within thirty (30) days after Seller notifies Buyer in writing of such failure, which notice sets forth in reasonable detail the nature of such failure;

(iii) Buyer fails to perform in any material respect any other obligation under this Agreement or the Easement Agreement and such failure is not cured within thirty (30) days after Seller notifies Buyer in writing of such failure, which notice sets forth in reasonable detail the nature of such failure, unless such failure is excused by Force Majeure or by Buyer's inability to cure within thirty (30) days, so long as Buyer has commenced and is diligently pursuing a cure, which shall be completed within ninety (90) days after Seller's written notice of said failure;

(iv) any representation or warranty made by Buyer in Section 13.2 is not true in all material respects as of the date made or deemed repeated and such inaccuracy is not cured within ninety (90) days after Seller notifies Buyer in writing of such inaccuracy;

(v) a Bankruptcy Event occurs with respect to Buyer; or

(vi) an Event of Default (as such term is defined under the Easement Agreement) of Grantee has occurred under the Easement Agreement.

12.2 Termination and Remedies. If an Event of Default described in Sections 12.1(a) or 12.1(b) shall have occurred with respect to Seller or Buyer, respectively (such Party, the "Defaulting Party"), and is not cured within the applicable cure period, if any, set forth therein, the other Party (the "Non-Defaulting Party") shall have the right, without prejudice to any other right or remedy the Non-Defaulting Party may have under this Agreement or at law and/or in equity, to terminate this Agreement.

12.3 Duty to Mitigate Damages. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of the Agreement.

12.4 Limitation of Liability.

(a) Consequential Damages. Notwithstanding anything to the contrary contained in this Agreement, and except to the extent caused by the willful misconduct, bad faith, gross negligence or reckless disregard of their respective obligations or duties, Seller and Buyer

waive all claims against each other (and against each other's parent company, Affiliates, contractors, subcontractors, consultants, vendors, suppliers and agents) for any consequential, incidental, indirect, special, exemplary or punitive damages, and regardless of whether any such claim arises out of breach of contract or warranty, tort, product liability, indemnity, contribution, strict liability or any other legal theory.;

(b) Survivability. The provisions of this Section 12.4 shall survive the termination or expiration of this Agreement.

ARTICLE 13. REPRESENTATIONS AND WARRANTIES

13.1 Seller's Representations and Warranties. Seller hereby represents and warrants to Buyer as follows:

(a) Seller is a municipal authority, duly organized and validly existing and in good standing under the Laws of the Commonwealth State of Pennsylvania and is qualified to do business in each other jurisdiction where the failure to so qualify would have a material adverse effect upon the business or financial condition of Seller or its ability to perform its obligations under this Agreement and the Easement Agreement;

(b) Seller has all requisite power and authority to execute, deliver and perform its obligations under this Agreement and the Easement Agreement and is not prohibited from entering into this Agreement and the Easement Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement and the Easement Agreement;

(c) Seller has obtained all regulatory approvals required by any Governmental Authority, whether federal, state or local, in order to perform its obligations hereunder;

(d) The execution and delivery of this Agreement and the Easement Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement and the Easement Agreement will not conflict with or constitute a breach of or a default under or require any consent, license, or approval that has not been obtained pursuant to (i) any of the terms, conditions, or provisions of any Law, (ii) any order, judgment, writ, injunction, decree, determination, award, or other instrument or legal requirement of any Governmental Authority, (iii) the documents of formation of Seller or (iv) any contractual limitation, restriction, or outstanding trust indenture, deed of trust, mortgage, loan agreement, lease, other evidence of indebtedness, or any other agreement or instrument to which Seller is a party or by which it or any of its property is bound including any existing off-take agreements for the Landfill;

(e) This Agreement and the Easement Agreement haves been duly executed and delivered by and on behalf of Seller, and constitutes the legal, valid, and binding obligation of Seller enforceable against Seller in accordance with its terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, reorganization or similar Laws of general applicability

affecting the enforcement of creditors' rights or (ii) the exercise of judicial discretion in accordance with general principles of equity;

(f) There is no litigation, action, suit, proceeding, arbitration, or investigation by any third party pending against Seller before or by any arbitrator or Governmental Authority that, if adversely determined, individually or in the aggregate, (i) could be reasonably expected to adversely affect Seller's performance of its obligations under this Agreement and the Easement Agreement, or could be reasonably expected to modify or otherwise adversely affect the authorizations to enable Seller to perform this Agreement and the Easement Agreement, (ii) could be reasonably expected to have a material adverse effect on the condition (financial or otherwise), business or operations of Seller, or (iii) could be reasonably expected to impair the validity, binding effect or enforceability of this Agreement and the Easement Agreement against Seller or of any action taken or to be taken pursuant to this Agreement and the Easement Agreement or any of the transactions contemplated by this Agreement and the Easement Agreement;

(g) Seller owns, and will at all times during the Term, own or otherwise have all rights necessary to produce and sell to Buyer the Landfill Gas as contemplated by this Agreement and the Easement Agreement, free and clear of any lien, encumbrance, claim of infringement, misappropriation or any violation of the rights of other Persons;

(h) Seller is the fee simple owner of the Property and has good and marketable title and rights to transfer the Landfill Gas to Buyer;

(i) Seller's delivery of Landfill Gas to the Landfill Gas Delivery Point shall be in compliance all applicable Laws and governmental regulations;

(j) Seller is acting for its own account, has made its own independent decision to enter into this Agreement and the Easement Agreement based on its own judgment that this Agreement and the Easement Agreement is appropriate and proper for it, and is capable of assessing the merits of and understanding, and has assessed and understands and accepts, the terms, conditions and risks of entering into this Agreement and the Easement Agreement.

(k) Seller has the requisite expertise and financial ability to perform its obligations hereunder and under the Easement Agreement as of the Effective Date.

(l) Seller has not engaged the services of, and are not liable to, any real estate agent, broker, finder or any other person or entity for any brokerage or finder's fee, commission or other amount with respect to this Agreement or the Easement Agreement.

13.2 Buyer's Representations and Warranties. Buyer hereby represents and warrants to Seller as follows:

(a) Buyer is a limited liability corporation, duly organized and validly existing and in good standing under the Laws of the State of Delaware and is qualified to do business in each other jurisdiction where the failure to so qualify would have a material adverse effect upon the business or financial condition of Buyer or its ability to perform its obligations under this Agreement and the Easement Agreement;

(b) Buyer has all requisite power and authority to execute, deliver and perform its obligations under this Agreement and the Easement Agreement and is not prohibited from entering into this Agreement and the Easement Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement and the Easement Agreement, except where such failure would not have a material adverse effect on Buyer's performance under this Agreement and the Easement Agreement;

(c) Buyer has obtained, or will obtain, all regulatory approvals required by any Governmental Authority, whether federal, state or local, in order to perform its obligations hereunder;

(d) The execution and delivery of this Agreement and the Easement Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement and the Easement Agreement will not conflict with or constitute a breach of or a default under or require any consent, license, or approval that has not been obtained pursuant to (i) any of the terms, conditions, or provisions of any Law, (ii) any order, judgment, writ, injunction, decree, determination, award, or other instrument or legal requirement of any Governmental Authority, (iii) the documents of formation of Buyer or (iv) any contractual limitation, restriction, or outstanding trust indenture, deed of trust, mortgage, loan agreement, lease, other evidence of indebtedness, or any other agreement or instrument to which Buyer is a party or by which it or any of its property is bound;

(e) This Agreement and the Easement Agreement has been duly executed and delivered by and on behalf of Buyer, and constitutes the legal, valid, and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, reorganization or similar Laws of general applicability affecting the enforcement of creditors' rights or (ii) the exercise of judicial discretion in accordance with general principles of equity;

(f) There is no litigation, action, suit, proceeding, arbitration, or investigation by any third party pending against Buyer before or by any arbitrator or Governmental Authority that, if adversely determined, individually or in the aggregate, (i) could be reasonably expected to adversely affect Buyer's performance of its obligations under this Agreement and the Easement Agreement, or could be reasonably expected to modify or otherwise adversely affect the authorizations to enable Buyer to perform this Agreement and the Easement Agreement, (ii) could be reasonably expected to have a material adverse effect on the condition (financial or otherwise), business or operations of Buyer, or (iii) could be reasonably expected to impair the validity, binding effect or enforceability of this Agreement and the Easement Agreement against Buyer or of any action taken or to be taken pursuant to this Agreement and the Easement Agreement or any of the transactions contemplated by this Agreement and the Easement Agreement; and

(g) Buyer is sophisticated and experienced in matters relating to the subject of this Agreement and the Easement Agreement, is acting for its own account, has made its own independent decision to enter into this Agreement and the Easement Agreement based on its own judgment that this Agreement and the Easement Agreement is appropriate and proper for it, and is capable of assessing the merits of and understanding, and has assessed and understands and

accepts, the terms, conditions and risks of entering into this Agreement and the Easement Agreement.

(h) Buyer has the requisite expertise and financial ability to perform its obligations hereunder and under the Easement Agreement as of the Effective Date.

(i) Buyer has not engaged the services of, and are not liable to, any real estate agent, broker, finder or any other person or entity for any brokerage or finder's fee, commission or other amount with respect to this Agreement or the Easement Agreement.

ARTICLE 14. MISCELLANEOUS

14.1 Notices. Any notice or other communication required, permitted or contemplated hereunder (including billing statements and related communications) or under the Easement Agreement shall be in writing, shall be addressed to the Party to be notified at the address set forth below or at such other address as a Party may designate for itself from time to time by notice hereunder:

If to ~~Seller~~Buyer:

[Delaware County Solid Waste Authority](#)
[Rose Tree Park – Hunt Club](#)
[1521 N. Providence Road](#)
[Media, PA 10-64](#)
[Attn: Chief Executive Officer](#)
[Email: BStayer@dcswa.net](#)

With copy to:

[Michael P. Clarke, Esquire](#)
[Rudolph Clarke, LLC](#)
[7 Neshaminy Interplex, Suite 200](#)
[Trevose, PA 19053](#)

If to ~~Buyer~~Seller:

NextEra Renewable Fuels, LLC
700 Universe Blvd, EPM
Juno Beach, FL 33408
Attn: Business Manager
Email: Steven.Gabrielle@NEE.com

With copy to:

NextEra Renewable Fuels, LLC
700 Universe Blvd, LAW
Juno Beach, FL 33408
Attn: General Counsel
Email: NEER-General-
Counsel.sharedmailbox@NEE.com

Each notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (i) if received by first class, registered, or certified United States mail or overnight delivery service, return receipt requested, postage prepaid, (ii) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or paid through an arrangement with such carrier, the next Business Day after the same is delivered by the sending Party to such carrier, (iii) by electronic mail if also delivered by one of the means set forth in clause (i) or clause (ii), or (iv) if delivered in person, upon receipt by the receiving Party. Either Party may from time to time change any of the recipients or its address(es) by giving the other Party notice of the change in accordance with this section.

14.2 Insurance. The Parties shall, at their sole cost and expense, maintain or cause to be maintained the respective insurance coverages set forth on and in compliance with the terms of Exhibit A.

14.3 Force Majeure Events.

(a) Effect. Each Party's performance of its obligations under this Agreement or Easement Agreement shall be suspended by a Force Majeure Event to the extent that the Force Majeure Event prevents the affected Party from performing its obligations under this Agreement or Easement Agreement. The affected Party's time for performance shall be extended by a period of time reasonably necessary to compensate for the delay caused by the Force Majeure Event, provided that the affected Party shall use diligent efforts to remedy or overcome the Force Majeure Event and the suspension of performance shall be of no greater scope and of no longer duration than that required by the Force Majeure Event. If either Party's obligations hereunder are suspended for a period of more than twenty-four (24) consecutive months and such Party has not commenced and is diligently pursuing a resolution of the Force Majeure Event or otherwise resumed performing its obligations during such 24-month period, or if such Party has commenced and diligently pursued a resolution within such 24-month period but despite these efforts has failed to resolve the Force Majeure Event within thirty-six (36) consecutive months after the beginning of the Force Majeure Event, the other Party may terminate this Agreement upon thirty (30) days prior written notice with no liability on the part of either Party.

(b) Notice. The affected Party shall give the other Party (i) no less than within five (5) Business Days after discovery of the Force Majeure Event, written notice stating that a Force Majeure Event has occurred and describing the particulars thereof to the extent known at such time, (ii) no less than within ten (10) Business Days after discovery of the Force Majeure Event, a written explanation of the Force Majeure Event and its effect on the affected Party's performance and (iii) thereafter periodic written reports (no less often than weekly) on the status of the affected Party's efforts to remedy its inability to perform and a good faith estimate of when it will be able to resume performance, in each case to the extent known at the time of the report.

(c) Landfill Gas Interruption. If any Force Majeure Event prevents the delivery or receipt of Landfill Gas for more than thirty (30) consecutive days, the Term of this Agreement may be extended day-for-day by each day that the delivery of Landfill Gas is prevented.

14.4 Confidentiality; Communications.

(a) Confidentiality. Either Party may request that information given by such Party to the other Party and clearly marked as "confidential" be kept confidential by the other Party (such information is defined herein as "Confidential Information") and thereafter the other Party shall not disclose such Confidential Information to third parties, subject to the remainder of this Section 14.4; Except as may otherwise be required by Law, including, without limitation, the Pennsylvania Right to Know Law, the Parties hereby agree to keep confidential, and shall not disclose, the terms and provisions of this Agreement and, upon receipt from the providing Party, any documentation or information (i) which is marked as "proprietary" or "confidential", (ii) which is supplied orally with a contemporaneous confidential designation, or (iii) which is known by the receiving Party to be confidential or proprietary information or documentation (collectively,

the "Confidential Information"). Confidential Information shall not include (a) information that is or becomes available to the public through no breach of this Agreement, (b) information that was previously known by the receiving Party without any obligation to hold it in confidence, (c) information that the receiving Party receives from a third party who may disclose that information without breach of Law or agreement, (d) information that the receiving Party develops independently without using the Confidential Information, and (e) information that the disclosing Party approves for release in writing. The receiving Party shall keep such information confidential and shall limit the disclosure of any such Confidential Information to only those personnel within its organization with responsibility for using such information in connection with this Agreement. The receiving Party shall promptly notify the providing Party of any attempt by a third party to obtain the Confidential Information through a legal process, including, without limitation, pursuant to the Pennsylvania Right to Know Law. A receiving Party may use that information in regulatory or other legal proceedings related to this Agreement but only after notice to the providing Party and affording the providing Party an opportunity to obtain a protective order or other relief to prevent or limit disclosure of the Confidential Information.

(b) Permitted Disclosures. Notwithstanding the foregoing, the Parties may provide any Confidential Information to any other Governmental Authority or in litigation related to this Agreement, to any other Person as required for scheduling, settlement and billing or otherwise to perform under or administer this Agreement or the Easement Agreement, and to lenders or potential lenders in the Project, Affiliates, Energy purchasers, and potential purchasers or assignees of direct or indirect interests in the Project.

(c) Communications; Press Releases. Following the Effective Date, including authorization to enter the Agreement and announcements relating thereto, the Parties shall cooperate and coordinate with each other with regard to any communications in respect of the transactions contemplated by this Agreement with state and local community organizations and groups or the public generally, whether through press releases or otherwise. Each Party agrees to provide the other Party with a reasonable opportunity to stay fully informed with respect to all such matters, to participate therein jointly and to review and provide prior comment upon any communications that it plans to deliver or submit to the foregoing Persons and shall promptly provide the other Party with copies of any communications sent, delivered or received, provided that nothing in the foregoing shall operate to prevent a Party from complying with the Law or the requirements of any Governmental Authority concerning such matters.

(d) Survival. The terms and provisions of this Section 14.4 shall survive the expiration or termination of this Agreement and shall remain in full force and effect for a period of two (2) years after any such expiration or termination.

14.5 Assignment and Transfer.

(a) Buyer may assign or transfer this Agreement or the Easement Agreement, in whole or in part, or delegate any of its duties hereunder, subject to Seller's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. In the event there is a proposed assignment or transfer of the Agreement or the Easement Agreement by Buyer, Buyer shall provide sixty (60) days' written notice to Seller to allow for consent to be given. If Seller fails to provide consent within the sixty (60) day period, then Seller's consent shall

be deemed granted. Buyer shall have the right to assign or transfer this Agreement and its respective rights, obligations and duties hereunder, without Seller's prior consent, (i) to an Affiliate, (ii) for purposes of providing collateral security in connection with any financing transaction, provided, however, that Buyer provides prompt written notice to Seller, or (iii) pursuant to any merger, name change, consolidation, or conversion with or into an Affiliate. Other than the assignments in the preceding sentence, any assignment or delegation by Buyer of its obligations hereunder involving operation of the Project shall be to a Person that is-a qualified to operate the Project.

(b) Seller may assign, transfer or sell any of its rights, title or interests in or to the Landfill or any part thereof, including the Easement Agreement (either directly or through the transfer of interests in any Affiliate of Seller owning the Landfill or to an outside third party), subject towith Buyer's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment or delegation by Seller of its obligations hereunder involving operation of the Landfill shall be to a Person that is-a qualified to operate the Landfill. In the event there is a proposed assignment, transfer or sale of any of Seller's rights, title or interests in or to the Landfill or any part thereof, including the Easement Agreement, Seller shall provide sixtythirty (630) days' written notice to Buyer to allow for the consent to be given. If Buyer fails to provide consent within the sixtythirty (630) day period, then Buyer's consent shall be deemed granted.

(c) Upon any permitted assignment or transfer of this Agreement and, to the extent the permitted assignee assumes all existing and future obligations of the assigning or transferring Party under this Agreement in writing, such assigning or transferring Party shall be, without further action by either Party, released and discharged from all obligations under this Agreement arising after the effective date of such assignment or transfer.

(d) Any purported assignments or other transfers of this Agreement, in whole or in part, or the Landfill, not in compliance with this Section 14.5 shall be void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties and their permitted successors and assigns.

14.6 Governing Law. This Agreement shall be interpreted and enforced in accordance with the Laws of the State of New York. Commonwealth of Pennsylvania

14.7 Dispute Resolution.

(a) Negotiated Resolution. Subject to subsection (b) below, the Parties shall attempt to resolve all disputes arising out of or in connection with the interpretation or application of any of the provisions of this Agreement or the Easement Agreement or in connection with the determination of any other matters arising under this Agreement (each, a "Dispute") by mutual agreement in accordance with this Section 14.7. If any Dispute arises between the Parties, then the disputing Party shall promptly notify the non-disputing Party of the Dispute and each Party shall cause an officer of its management with decision-making authority to meet at the offices of the non-disputing Party, or at any other mutually agreed location, and to negotiate and attempt to resolve the Dispute on an amicable basis within twenty (20) Days of the non-disputing Party's receipt of notice of the Dispute. If the Parties fail to resolve the Dispute for any reason within the

twenty (20) day period identified above, either Party may bring an action in a court of competent jurisdiction in Delaware County, Pennsylvania.

(b) Equitable Relief. It is expressly understood that in the event of a Dispute either Party may immediately seek equitable relief or remedies including injunctive relief from a court of competent jurisdiction without having to proceed through the negotiation process outlined in subsection (a) above.

(c) Continuation of Performance. Unless otherwise agreed in writing, the Parties shall continue to perform their respective obligations under this Agreement during any proceeding by the Parties in accordance with this Section 14.7.

(d) Consent to Jurisdiction. In any judicial proceeding arising from or related to any Dispute, each of the Parties irrevocably consents and agrees that any legal action or proceedings with respect to this Agreement shall be brought in the Court of Common Pleas of Delaware County, Pennsylvania, and that, by execution and delivery of this Agreement and the Easement Agreement, each Party (i) accepts the exclusive jurisdiction of the aforesaid courts, (ii) irrevocably agrees to be bound by any final judgment (after any and all appeals) of any such court, and (iii) irrevocably waives, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the laying of venue of any suit, action, or proceedings with respect to this Agreement and the Easement Agreement brought in any such court, and further irrevocably waives, to the fullest extent permitted by Law, any claim that any such suit, action, or proceeding brought in any such court has been brought in any inconvenient forum.

~~(e) Waiver of Jury Trial. Should any Dispute result in a judicial proceeding notwithstanding the negotiated resolution provisions of this Section 14.7, each of the Parties knowingly, voluntarily, and intentionally waives any right it may have to a trial by jury in respect of any such proceeding. Furthermore, each of the Parties waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived. This provision is a material inducement for the Parties to enter into this Agreement.~~

14.8 Severability. If any provision of this Agreement or the Easement Agreement is determined to be void, unlawful, or otherwise unenforceable, that provision shall be severed from the remainder of the Agreement or the Easement Agreement, and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible, or otherwise modified in such fashion as to preserve, to the maximum extent possible, the original intent of the Parties, and the Agreement and the Easement Agreement, as so modified, shall continue to be in full force and effect.

14.9 Amendment. No modification, amendment, or other change to this Agreement or the Easement Agreement shall be effective unless agreed to in a writing signed by each of the Parties.

14.10 No Waiver. Failure or forbearance by any Party to exercise any of its rights or remedies under this Agreement or the Easement Agreement shall not constitute a waiver of such

rights or remedies in that or any other instance. No Party shall be deemed to have waived any right or remedy resulting from such failure to perform unless it has made such waiver specifically in writing.

14.11 Relationship of the Parties. This Agreement and the Easement Agreement shall not be interpreted or construed to (i) create an association, joint venture, partnership, agency, trust, lease of property or similar arrangement or relationship between the Parties or (ii) impose any partnership, agency fiduciary, trust or similar type of obligation or duty on either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or act as or be an agent or representative of, or otherwise bind, the other Party. Each Party hereby waives any and all rights that it may otherwise have under Law or legal precedent to make any claim or take any action against the other Party or any of its Affiliates in respect of this Agreement and the Easement Agreement based on any theory of agency, fiduciary duty or other special standard of care.

14.12 Third-Party Beneficiaries. The terms and provisions of this Agreement and the Easement Agreement are intended solely for the benefit of each Party and their respective successors or permitted assigns, and it is not the intention of the Parties hereto to confer third-party beneficiary rights upon any other Person.

14.13 Entire Agreement. This Agreement and the Easement Agreement and any amendments thereto contain the complete agreement between Seller and Buyer with respect to the subject matter of this Agreement and the Easement Agreement and supersede all other agreements and understandings, whether written or oral, with respect to the matters contained in this Agreement and the Easement Agreement, including any letters of intent, term sheets or similar proposals exchanged by the Parties.

14.14 Survival. Notwithstanding anything to the contrary contained herein, all provisions of this Agreement that must survive the expiration or earlier termination of this Agreement and the Easement Agreement in order to give full force and effect to the intent of the Parties shall only continue in effect after expiration or termination until:

(a) As to provisions of Sections 3.4, 3.5 and 14.4, for the time periods specified in those sections; and

(b) As to all provisions in this Agreement or the Easement Agreement, including but not limited to Section 12.4, for the length of time and to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to expiration or termination and, as applicable, to provide for final billings and adjustments related to the period prior to expiration or termination, repayment of any money due and owing to either Party pursuant to this Agreement, and the indemnifications specified in this Agreement, subject to any applicable statute of limitations.

14.15 Buyer Financing. Seller acknowledges and agrees that Buyer may collaterally assign this Agreement to a financing source, and if required, Seller hereby agrees that it shall execute a consent to the Buyer's collateral assignment of this Agreement and the Easement

Agreement to any such financing source and otherwise provide cooperation or assistance in an efficient and timely manner in connection with Buyer's efforts to obtain financing for the Project.

14.16 Further Assurances. The Parties agree to provide such information, execute and deliver any instruments and documents and to cooperate and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and the Easement Agreement and which do not involve the assumption of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and the Easement Agreement and to carry out the intent of the Parties.

14.17 Headings, Captions. All indexes, titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning, content or scope of this Agreement and the Easement Agreement.

14.18 Incorporation by Reference. The recitals set forth on the first few pages of this Agreement, as well as all Exhibits attached hereto, are hereby incorporated into this Agreement by this reference and expressly made a part of this Agreement and the Easement Agreement.

14.19 Rights Cumulative. Except as otherwise provided in this Agreement or the Easement Agreement, (i) rights and remedies available to Seller and/or Buyer as set forth in this Agreement and the Easement Agreement shall be cumulative with and in addition to, and not in limitation of, any other rights or remedies available to such parties at law and/or in equity, and (ii) any specific right or remedy conferred upon or reserved to the Seller and/or Buyer in any provision of this Agreement or the Easement Agreement shall not preclude the concurrent or consecutive exercise of a right or remedy provided for in any other provision hereof.

14.20 Joint Preparation. The Parties have jointly prepared this Agreement and the Easement Agreement, with access to counsel, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement and the Easement Agreement or any part hereof. Because both Parties have participated in the negotiation and drafting of this Agreement and the Easement Agreement, the usual rule of contract construction that resolves ambiguities against the drafter shall not apply.

14.21 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, taken together, shall constitute only one legal instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than one counterpart.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered as of the date first set forth above.

SELLER

BUYER

By: _____
Name:
Title:

By: _____
Name:
Title:

EXHIBIT A

INSURANCE

The Parties shall not commence work under this Agreement -until they have obtained the insurance required under this Exhibit A. All coverage shall be with insurance companies licensed and ~~authorized~~admitted to do business in the Commonwealth~~State~~ of Pennsylvania. All coverages shall be with insurance carriers reasonable acceptable to the Parties.

1. Workers' Compensation Insurance: The Parties shall procure and maintain during the life of this Agreement, Workers' Compensation Insurance, including Employers' Liability Coverage, in accordance with all applicable statutes of the Commonwealth~~State~~ of -Pennsylvania.

2. Commercial General Liability Insurance: The Parties shall procure and maintain during the life of this Agreement, Commercial General Liability Insurance with limits of liability not less than \$10,000,000.00 per occurrence and aggregate combined single limit, Personal Injury, Bodily Injury, and Property Damage. The Parties shall name each other as "Additional Insured"/Covered Contract on said coverage. Thirty (30) days' notice of cancellation shall apply to this policy. The Parties acknowledge that Buyer currently maintains Commercial General Liability Insurance with limits of liability not less than \$3,000,000.00 and is consistent with the requirements of this paragraph for the Buyer's Facilities. Buyer's Commercial General Liability Insurance shall remain in effect and at the same limit until Buyer commences construction of the Buyer's Facilities whereupon Buyer shall procure and maintain Commercial General Liability Insurance with limits of liability not less than \$10,000,000.00.

3. Motor Vehicle Liability: The Parties shall procure and maintain during the life of this Agreement Motor Vehicle Liability Insurance, including No-Fault Coverages, with limits of liability not less than \$3,000,000.00 per occurrence combined single limit, Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

4. Additional Insured/Covered Contract: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include the following as *Additional Insureds/Covered Contract*: Buyer and Seller.

~~5. Cancellation Notice: Workers' Compensation Insurance, Commercial General Liability Insurance, and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following, unless insurer is unwilling to provide such endorsement: On behalf of Buyer "It is understood and agreed that Thirty (30) days Advance Written Notice of Cancellation, _____ and/or _____ Non-Renewal _____ shall _____ be _____ sent _____ to: _____, Buyer shall nevertheless be obligated to provide the same notification to the Seller as would have been required in such endorsement." On behalf of Seller, "It is understood and agreed that Thirty (30) days Advance Written Notice of Cancellation, _____ and/or _____ Non-Renewal _____ shall _____ be _____ sent _____ to: _____ . If an insurer is unwilling to provide such endorsement, Buyer shall nevertheless be obligated to provide the same notification to the Seller as would have been required in such endorsement."~~

6. Pollution --Liability: The Parties shall procure and maintain during the life of this Agreement, a Pollution Liability Policy with limits of liability not less than \$5,000,000.00 per aggregate limit for Personal Injury, Bodily Injury, and Property Damage. The Parties acknowledge that Buyer currently maintains Pollution Liability Insurance with limits of liability not less than \$3,000,000.00 and is consistent with the requirements of this paragraph for the Buyer Facilities. Buyer's Pollution Liability Insurance shall remain in effect and at the same limit until Buyer commences construction of the Buyer Facilities whereupon Buyer shall procure and maintain Pollution Liability Insurance with limits of liability not less than \$5,000,000.00. The Parties shall name each other, to the extent possible, as "Additional Insured" on said coverage.

7. Proof of Insurance Coverage/Certificates of Coverage: Upon request the Parties shall provide each other, customary insurance certifications and/or certificates of coverage as listed below:

- a. Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance;
- b. Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance;
- c. Two (2) copies of Certificate of Insurance for Pollution Liability.

8. If any of the above coverages expire during the Term of this Agreement, the Party with expired coverage shall deliver renewal certificates to the other Party at least ten (10) days after the expiration date.

9. Each Party shall be responsible for ensuring that its subcontractors working on the Property secure and maintain insurance coverages (including general liability insurance, auto liability insurance and workers' compensation insurance) which are reasonable and commensurate with the work being performed.

EXHIBIT C

LANDFILL GAS SPECIFICATIONS

Conforming Landfill Gas Specifications or "Specifications" shall be:

- (i) Methane content: 5037.0% minimum
- (ii) Oxygen content: 2.0% maximum
- (iii) Nitrogen content: 8.0% maximum
- (iv) H₂S 660 ppm maximum

EXHIBIT D

WELLFIELD AGREEMENT

Include items on

- Cooperation
- GCCS design review
- Excess wells
- Automated controllers and data collection

EXHIBIT E

CONTRACT PRICE AND CONTRACT PRICE ADJUSTMENTS

Contract Price

The Contract Price shall be:

Beginning on the ~~Commercial Operation~~Effective Date, as compensation for the sale of LFG delivered by Seller to Buyer and used by the Project to generate Gross Revenues, Buyer shall pay to Seller:

15% of Gross Revenues

Contract Price Adjustments for Conforming Landfill Gas:

The Contract Price Adjustments below apply only to Conforming Landfill Gas. The Contract Price Adjustments are calculated independently and the greater adjustment from the two adjustments shall apply for that Contract Month. The adjustments are not cumulative such that the maximum revenue share in any Contract Month is never more than 20%.

1. **Electricity Price Adjustment:** For each Contract Month, a calculation as provided below, interpolated as appropriate:

Gross Revenue / MWH delivered to Customer	% of Gross Revenue Share
$\leq \$100 / \text{MWH}$	15%
$\$100 \leq \$200 / \text{MWH}$	15% to 20%
$> \$200 / \text{MWH}$	20%

For the calculations above, if an RNG Facility or similar non-electric facility is operating instead of an Electricity Facility, the calculation of "Gross Revenue / MWH" would be based on the calculated or historic monthly heat rate of the Electricity Facility. By way of example, for an Electricity Facility with a 10 MMBTU/MWH heat rate, if the Contract Month Gross Revenue per MMBTU for an RNG Facility is \$15/MMBTU, the equivalent would be Electricity sold for \$150/MWh which results in a payment of 17.5% of Gross Revenues.

2. **Volume Adjustment:** For each Contract Month the total Conforming Landfill Gas used by Buyer's Facilities averages more than 1,500 scfm at 50% methane, the % Gross Revenue Share shall be 20% for that Contract Month.

Landfill Gas Collection System Payments

Beginning on the Commercial Operation Date, Buyer agrees to pay Seller fifty percent (50%), not to exceed five hundred thousand dollars (\$500,000), for the Seller's expenses related to the expansion or upgrades to the Landfill Gas Collection System. Such Landfill Gas Collection System expenses shall be (i) installed to increase the flow of Landfill Gas to Buyer's Facilities, (ii) agreed to in writing by Buyer, and (iii) validated by an invoice prior to reimbursement.

ISSUE PAPER

Issue: NextEra Renewable Fuels, LLC (NEER) Easement Agreement

Background: As a result of issuing an RFP and subsequently receiving four (4) responses, the Authority board approved in August selecting NextEra Renewable Fuels, LLC (NEER) as their preferred vendor to provide Landfill Gas (LFG) services. To build, maintain and operate the LFG power plant, NEER requires an easement on the portion of Authority property where the power plant and ancillary equipment will be located.

Discussion: The Authority and NEER have negotiated the terms of an Easement Agreement whereby the Authority will grant the needed lands to NEER to access, build and operate a 4.8 MW LFG plant.

Recommendation: It is recommended the Authority Board of Directors approves the Easement agreement with NEER materially in the form as noted in the attached agreement, and in consultation with the solicitor, approves the CEO signing the final agreement.

Approved: _____

James McLaughlin, Chairman

Date: September 20, 2023

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the "Easement Agreement") is made effective as of _____ (the "Effective Date"), by and between Delaware County Solid Waste ~~Authority~~ Authority ("Grantor"), and NextEra Renewable Fuels, LLC ("Grantee"). Each of Grantor and Grantee are sometimes referred to herein as a "Party" and collectively as the "Parties".

Preliminary Statement

Grantor operates a Landfill on the real property commonly known as Rolling Hills Municipal Solid Waste Landfill, more particularly described in Exhibit A attached hereto (the "Property"). Grantee desires to construct and operate a landfill gas to Energy facility ("Project"). Concurrently with this Easement Agreement, Grantor and Grantee are executing that certain Landfill Gas Purchase and Sale Agreement (the "Landfill Gas Agreement") regarding the purchase of Landfill Gas, as defined therein. The Parties wish to enter into this Easement Agreement for the purpose of allowing Grantee to develop, construct, commission, own, operate, manage and decommission all or a portion of the Project on the Property. Capitalized terms used, but not defined herein, shall have the meaning ascribed to them in the Landfill Gas Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee mutually agree as follows:

1. Grant of Easements. In accordance with and subject to the terms and conditions of this Easement Agreement, Grantor hereby creates, grants and declares in favor of Grantee and its permitted successors and assigns an exclusive and perpetual right and ~~easement to Grantee for~~ access, ingress and regress in and to that portion of the Property more particularly described in Exhibit B attached hereto (the "Easement Premises") for the Term, for the purpose of allowing Grantee to construct, operate, maintain, use, repair and modify the Project on the Easement Premises (the "Project"). Grantee's use of the Easement Premises shall include, but not be limited to construction, operation, and maintenance of the Project Facilities, the facilities comprising the Ancillary Easements (defined below) including without duplication for roads, buildings, fences, parking areas, pipelines, electric lines, other utility facilities, or any other type of improvement on, over, across, and under the Easement Premises in furtherance of the Project and more particularly depicted on Exhibit C attached hereto (the "Project Plans"). During the Term, Grantor and Grantee agree that Grantor shall have access to the Easement Premises at any time subject to Grantee's reasonable requirements with respect to safety and security, for any duration to the extent reasonably necessary to preserve or enforce Grantor's rights under the Landfill Gas Agreement.

Grantor further creates, grants and declares in favor of ~~to~~ Grantee easements on, over, and across the Property more particularly described on Exhibit B attached hereto (collectively, the "Ancillary Easements") as follows (a) a non-exclusive easement for pedestrian, vehicular, and equipment access to and from the Project, including the right to construct roads, (b) a non-exclusive easement for pipelines to deliver Condensate to the Condensate Delivery Point, (c) an exclusive easement for constructing, installing, operating, maintaining, repairing, replacing, removing and inspecting Metering Equipment for the Landfill Gas Collection System at locations

and with specifications reasonably acceptable to Grantor, and (d) a non-exclusive easement to be located at a mutually acceptable location on the Property for the temporary storage and staging of tools, materials, and equipment and the parking of construction crew vehicles and temporary construction trailers during construction. Grantee shall have the right, at its sole cost and expense, to construct, maintain, use, repair and modify the Project on the Easement Premises and Property and perform all activities reasonably necessary or ancillary in connection with such use.

The easements granted by Grantor under this Section 1 constitute easements in gross, personal to and for the benefit of Grantee, its successors, and assigns, as owner of such easements, and the Parties expressly agree that such easements shall be transferrable in accordance with the assignment provisions of this Easement Agreement. The Parties expressly intend for all easement rights granted herein to be, and for this Easement Agreement to create easements in gross in Grantee, and neither such easements nor this Easement Agreement shall be appurtenant to any other property or interest.

2. Term of Agreement. The term of this Easement Agreement (the "Term") shall commence on the Effective Date and continue for the term of the Landfill Gas Agreement or until any earlier termination of the Landfill Gas Agreement, provided that the Removal Easement shall remain in effect as provided in Section 9.

3. Payment of Easement Fee. Grantee shall make an annual rental payment in the amount of One and No/100 Dollars (\$1.00) to Grantor (the "Easement Fee") in advance on the Effective Date and thereafter by January 1 each year of the Term. Grantee shall not be required to make any other payments to Grantor as rent or any other compensation for the Easement Premises or for the Easement.

4. Construction of the Project. Grantee's ability to utilize the Easement Premises for its Project is contingent upon obtaining all certificates, permits, licenses, waivers, variances, and other approvals that may be required by any governmental authority (the "Permits") to construct, operate, and maintain the Project. Grantor shall reasonably cooperate with Grantee in its effort to obtain such Permits, including signing documents. Grantee shall be responsible for obtaining, maintaining, and complying with the Permits and all Laws with respect to obtaining any Permits necessary or appropriate for construction of the Project.

5. Use, Operation, and Maintenance of the Project. At Grantee's sole cost and expense, Grantee shall at all times comply with all federal, state and local laws, statutes, ordinances, rules, regulations, judgments and other valid orders of any governmental authority with respect to Grantee's activities and the Grantee Facilities (having the same definition as "Buyer's Facilities") pursuant to this Easement Agreement and shall obtain all permits, licenses and orders required to use, operate, and maintain the Grantee Facilities. Grantee shall have the right, in its sole discretion, to contest by appropriate legal proceedings brought in the name of Grantee or in the names of both Grantee and Grantor where appropriate or required, the validity or applicability of the Property or Project to any law, ordinance, statute, order, regulation or the like now or hereafter made or issued by any federal, state, county, local or other governmental agency or entity. Grantor shall cooperate in every reasonable way in such contest, provided Grantee reimburses Grantor for its reasonable and actual out-of-pocket expense directly incurred in connection with such cooperation. Any such contest or proceeding, including any maintained in

the name of Grantor, shall be controlled and directed by Grantee, but Grantee shall protect Grantor from Grantee's failure to observe or comply during the contest with the contested law, ordinance, statute, order or regulation. Grantee is responsible for the cost of all utilities furnished to the Easement Premises and the Project and used by the Grantee throughout the Term, and for all other costs and expenses in connection with the Project's construction, use, operation, and maintenance.

6. Quiet Enjoyment. Grantor hereby covenants to Grantee that Grantee shall peaceably and quietly hold and enjoy the full possession and use of the Easement Premises during the Term. Notwithstanding any other part of this Easement Agreement but subject to the applicable notice and cure periods, the Parties agree that (a) Grantee would be irreparably harmed by a breach of the quiet enjoyment provisions of this Section 6, (b) an award of damages would be inadequate to remedy such a breach, and (c) Grantee shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 6.

7. Title to Property. Grantor hereby represents and warrants that it is the owner of and has good title to the Property free and clear of all claims, liens and encumbrances.

8. Title to Project. The Parties agree that all of the materials, equipment, and property comprising the Project (the "Improvements") are, and shall remain, the sole and exclusive property of Grantee, and that such Improvements shall remain personal property of Grantee notwithstanding the method or mode of its installation on, under or attachment to any real property. The Parties agree that any and all Improvements installed or constructed on the Property by Grantee (or any other party to serve the Project) are severed by agreement and will remain severed from the Property and will be considered as the personal property of Grantee. Grantor waives all lines[liens?] or rights, pursuant to statutory or common law, or claims it may have in the Improvements. Likewise, the Energy generated by the Project and any Environmental Attributes are owned exclusively by Grantee, and neither Grantor nor anyone claiming by or through Grantor has, or shall have any lien, security interest, or other encumbrance upon the Energy generated by the Project, its Environmental Attributes, or any other Project output or benefit.

9. Removal of the Project; Removal Easement. Grantee shall remove the Grantee Facilities from the Easement Premises to the standards described in Exhibit D within twelve (12) months of the expiration or termination of the Easement Agreement (the "Removal Period"), said timeframe being subject to the tolling provisions under the Landfill Gas Agreement. The Easement rights granted herein Grantor hereby grants to Grantee include a temporary easement over the Easement Premises and the Property for the purpose of removing the Grantee Facilities (the "Removal Easement") from the Property. The Removal Easement shall terminate at the end of the Removal Period. Grantee shall give Grantor reasonable prior notice of Grantee's completion of physical removal of the Grantee Facilities. The provisions of this Section 9 shall survive the termination or expiration of this Easement Agreement under the Grantee Facilities are removed.

10. Grantor's Right to Mortgage. Grantor may grant a mortgage(s), deed(s) of trust or other security instrument on all or part of its interest in the Property if the mortgagee enters into a subordination, non-disturbance, attornment agreement reasonably acceptable to Grantee (the "SNDA") providing for (i) the subordination of the rights and interests of Grantee to the mortgage, (ii) for mortgagee's agreement of non-disturbance of Grantee, (iii) such mortgagee agrees that the Easement Agreement shall remain in full force and effect, (iv) Grantee shall be permitted to

exercise all of its rights and remedies thereunder the Easement Agreement, and (iv) for attornment by Grantee to the mortgagee or its designee after any foreclosure of the mortgage. Any encumbrance by Grantor will not be deemed to give any such mortgagee (i) any greater rights than Grantor under this Easement Agreement, (ii) the right to cancel the Easement Agreement, or (iii) affect any Mortgage granted by Grantee as set forth in this Section 10.

If Grantor's interest in the Property is encumbered by a Mortgage prior to the recordation of the Memorandum of Easement, if requested by Grantee, Grantor will obtain and deliver to Grantee an SNDA from the applicable mortgagee in a form reasonably acceptable to Grantee and the lender (if any) evidencing compliance with the requirements of this Easement Agreement. Grantee may record any such agreement, whether related to an existing encumbrance or an encumbrance arising after the Effective Date, in the county land records.

11. Assignment by Owner. The burdens of this Easement Agreement and other rights contained in this Easement Agreement shall run with and against the Property and shall be a charge and burden thereon for the duration of this Easement Agreement and shall be binding upon and against Grantor and its successors and assigns. Grantor shall notify Grantee in writing of any sale, assignment or transfer of any of Grantor's interest in the Property, or any part thereof. Until such notice is received, Grantee shall have no duty to any successor Grantor, and Grantee shall not be in default under this Easement Agreement if it continues to make all payments to the original Grantor before notice of sale, assignment or transfer is received. Grantor shall obtain from any such purchaser, assignee or transferee a written assumption of Grantor's obligations under this Easement Agreement in a form satisfactory to Grantee.

Notwithstanding anything to the contrary in this Easement Agreement, whether express or implied, Grantor may only sell, transfer, or otherwise convey Grantor's interest in this Easement Agreement to a third party that is acquiring fee title to the Property.

12. Grantee Liens. Grantee shall not create or suffer to exist or be created any construction lien upon the interest of Grantor in the Easement Premises in connection with Grantee's construction, maintenance, use, repair or modification of the Project. If any such lien is filed against the interest of Grantor in the Easement Premises in violation of this Section 12, then Grantee shall, within thirty (30) days after the date Grantee receives written notice that such lien is filed, either pay or discharge any such lien, or provide to Grantor a bond or other security in an amount equal to one hundred percent (100%) of the amount asserted under such lien. Grantee shall have the right to contest such lien. Grantee shall defend, indemnify and hold harmless Grantor from and against any claim relating to lien or encumbrance covered under this Section 12.

13. Grantee's Right to Mortgage and Assign. Grantee may assign, mortgage, transfer or sublease this Easement Agreement or Grantee's interest in the Project to any person or entity, without the prior written consent of Owner, as follows: (i) to an Affiliate of Grantee; (ii) to any entity that acquires all or substantially all of Grantee's interest in the Project or the Project assets; (iii) Grantee may grant subleases, separate easements, co-easements, subeasements, licenses or similar rights to one or more assignees or other third parties (including easements and similar associated rights to construct, operate, and maintain Project), provided that in the case of this subpart (iii), Grantee is not released from its obligations under this Easement Agreement in connection with these grants; (iv) Grantee may collaterally assign all or any part of its interests

under this Easement Agreement; (v) Grantee may mortgage, grant or pledge its right, title or interest under this Easement Agreement and/or in the Improvements, to any lender as security for the repayment of any indebtedness and/or the performance of any obligation (“Mortgage”); or (vi) in conjunction with the Landfill Gas Agreement. Any other assignment will require Grantor’s prior written approval, which Grantor shall not unreasonably condition, delay, or withhold. Any permitted assignor hereunder will be released from all obligations under this Easement Agreement that accrue after the date of its assignment.

14. Grantee Lender Protections. Notwithstanding any other provision of this Easement Agreement:

a. A Grantee lender will have the absolute right to do one, some or all of the following: (i) assign its Mortgage; (ii) enforce its Mortgage; (iii) in the event of a default under its Mortgage: (a) acquire title (whether by foreclosure, assignment in lieu of foreclosure or other means) to this Easement Agreement; (b) take possession of and operate the Project or the Project; (c) assign or transfer this Easement Agreement to a third party; (d) exercise any rights of Grantee with respect to this Easement Agreement; or, (e) cause a receiver to be appointed to do any of the foregoing. Grantor’s consent will not be required for any of the foregoing or for any third party to acquire title via foreclosure or assignment in lieu of foreclosure; and, upon acquisition of this Easement Agreement by a lender or any other third party who acquires the same from or on behalf of the lender or via foreclosure or assignment in lieu of foreclosure, Grantor will recognize the lender or such other party (as the case may be) as Grantee’s proper successor, and this Easement Agreement will remain in full force and effect.

b. Grantor shall simultaneously notify Grantee and all lenders who have given advance notice of their interest in this Easement Agreement to Grantor, of any failure by Grantee to perform any Grantee obligations under this Easement Agreement, which notice shall set forth in reasonable detail the facts pertaining to such failure and specify a reasonable method of cure.

c. Each lender shall have the right, but shall not in any manner whatsoever be obligated, to cure the Grantee default within the same period of as set forth in the Landfill Gas Agreement as is given to Grantee plus, in each instance, the following additional time periods: (i) sixty (60) additional days in the event of any Monetary Default; and (ii) ninety (90) additional days in the event of any Non-Monetary Default; provided, however, that (a) such ninety (90) day period will be extended for the time reasonably required by the lender to complete such cure, including the time reasonably required for the lender to obtain possession of the Easement Premises (including foreclosure proceedings). Notwithstanding the foregoing, the lender will not be required to cure those certain defaults which are not reasonably susceptible of being cured or performed by Grantee (“Non-Curable Defaults”). Each lender will have the absolute right to substitute itself for Grantee and perform the duties of Grantee under this Easement Agreement or with respect to the Easement Premises for purposes of curing such default. ~~Grantor~~Owner expressly~~Grantor expressly~~ consents to such substitution, agrees to accept such performance, and authorizes each lender (and their respective employees, agents, representatives or contractors) to enter upon the Easement Premises and Property to complete such performance with all of the rights and privileges of Grantee under this Easement Agreement. Grantor will not seek to terminate this Easement Agreement before expiration of the cure periods available to each lender as set forth above. Further, (1) neither the bankruptcy nor the insolvency of Grantee, by themselves, will be grounds

for terminating this Easement Agreement as long as the Easement Fee and all other amounts payable by Grantee under this Easement Agreement are paid by a lender in accordance with the terms thereof and (2) Non-Curable Defaults will be deemed waived by Grantor upon the Lender's completion of foreclosure proceedings or other acquisition of the Easement Premises.

d. A lender that does not directly hold an interest in the Easement Premises, or that holds a Mortgage, will not have any obligation under this Easement Agreement before the time that such lender succeeds to absolute title to such estate; and such lender will be liable to perform obligations under this Easement Agreement only for and during the period of time that such lender directly holds such absolute title. Further, if a lender elects to (i) perform Grantee's obligations under this Easement Agreement, (ii) continue Grantee's operations on the Easement Premises and the Property, (iii) acquire any portion of Grantee's right, title or interest in the Easement Premises and Property or under this Easement Agreement, or (iv) enter into a new agreement as provided in this Easement Agreement, then such lender will not have any personal liability to Grantor in connection therewith, and Grantor's sole recourse in the event of default by such lender will be to execute against such Lender's interest in the Easement Premises, the Property, the Improvements and the Project. Moreover, any lender or other party who acquires the Project pursuant to foreclosure or an assignment in lieu of foreclosure will not be liable to perform any obligations under this Easement Agreement to the extent the same are incurred or accrue after such lender or other party no longer has ownership of the Project.

e. If this Easement Agreement is rejected pursuant to bankruptcy law or any other law affecting creditor's rights or is terminated for any reason (except for a termination by Grantee in its discretion), then, Grantor will, immediately upon written request from a lender, if made within ninety (90) days after such termination, rejection, or disaffirmance, and so long as such lender within this time-frame has cured any Monetary Default as provided for in this Easement Agreement, without demanding additional consideration, enter into a new agreement in favor of such lender, which new agreement will (i) contain the same covenants, agreements, terms, provisions and limitations as this Easement Agreement, (ii) be for a term commencing on the date of such termination, rejection or disaffirmance, and continuing for the remainder of the Term including any rights to extend the Term and (iii) enjoy the same priority as this Easement Agreement over any lien, encumbrance or other interest created by Grantor; and, until such time as such new agreement is executed and delivered, the lender may enter, use and enjoy the Property and the Easement Premises and conduct operations on the Easement Premises as if this Easement Agreement were still in effect. At the option of the lender, the new agreement may be executed by a designee of such lender, without the lender assuming the burdens and obligations of Grantee thereunder.

f. If Grantor has been given written notice of the name and mailing address of a lender, (i) Grantor will not agree to any material modification or amendment to this Easement Agreement and (ii) Grantor will not accept a surrender or termination of this Easement Agreement; in each such case without the prior written consent of each such lender.

15. Expansions of the Easement Premises; Additional Easements. If Grantee requires additional land or easement rights for the Project or if Grantee desires to construct other facilities, including but not limited to solar or wind energy generation facilities to complement the Project,

the Parties shall use reasonable best efforts to agree to terms regarding the grant of such additional real property rights under a separate agreement between the Parties.

16. Taxes. Grantee shall pay all real and personal property taxes, assessments and charges, general and specific, that may be levied or assessed by reason of Grantee's use of the Easement Premises, Grantee's easement interests under this Easement Agreement, or Grantee's use or ownership of the Project installed on the Easement Premises (collectively, "Taxes"). Grantor shall pay when due any taxes attributable to (a) improvements or facilities installed by Grantor or others (excluding Grantee) on the Property and (b) the underlying value of the Property; provided, however, that if the taxes against the underlying value of the Property are increased by reason of a change of use determination by a taxing entity or increased assessment of the Property resulting from Grantee's Project thereon, then Grantee shall pay the entire amount of such increase. If any taxes payable by Grantee under this Easement Agreement are levied or assessed in the name of Grantor as part of the real property taxes payable by Grantor, then, promptly after Grantor timely submits the real property tax bill to Grantee, Grantee shall reimburse Grantor for all such taxes payable by Grantee under this Easement Agreement in the amount due without interest or penalties; provided, however, if penalties and interest are incurred as a result of any failure or omission on Grantee's part, then Grantee shall be responsible for the same. It is a condition to Grantor's right to payment or reimbursement of any penalties or interest relating to Taxes under this Easement Agreement that Grantor submit the real property tax bill (and any other communication from any government authority regarding the same) to Grantee at least forty-five (45) days before the tax bill is due. Grantee's obligations under this Easement Agreement are subject to Grantee's right to contest the same as hereinafter provided. Grantee shall have the right, in its sole discretion and at its sole expense, to contest by appropriate legal proceedings (which may be brought in the name(s) of Grantor and/or Grantee where appropriate or required), the validity or amount of any assessments or taxes for which Grantee is responsible under this Easement Agreement. Grantor shall in all respects cooperate with Grantee in any such contest.

17. Condemnation. If during the Term, all or a portion of the Property, the Easement Premises, the Ancillary Easements, or the Project is taken for public use under any statute or by right of eminent domain or similar process such that in Grantee's sole judgment such condemnation or transfer renders the continued operation of the Project unfeasible (a "Taking"), then this Easement Agreement and the Landfill Gas Agreement shall terminate effective as of the date of condemnation. In the event of a Taking, both Grantor and Grantee shall appear together, each represented by its own counsel and at its sole cost and expense, in any proceedings or negotiations to settle and adjust any award on account of such Taking. It is acknowledged by Grantee that Grantor, as the real property owner, has the sole legal interest in the Property and that any condemnation award or settlement shall be solely awarded to Grantor. Notwithstanding the foregoing, Grantor acknowledges that Grantee has an interest in the Easement Premises, Ancillary Easements, and the Project and that if there is a Taking where Grantor is awarded a condemnation award or settlement that involves Grantee's interest, then Grantee shall be compensated for the value of such Taking only with respect to Grantee's interest in the Easement Premises, the Ancillary Easements, and the Project, and not the Property. Valuation to be determined by the Parties.

18. Default, Opportunity to Cure, and Remedies. Subject to the rights of any lender as provided in this Easement Agreement, each of the following events will constitute an "Event of

Default” by a Party (a) the failure or omission by a Party to pay amounts required to be paid pursuant to this Easement Agreement when due, and such failure or omission has continued for sixty (60) days after written notice from the other Party (a “Monetary Default”) or (b) the failure or omission by a Party to observe, keep or perform any of the other material terms, agreements or conditions set forth in this Easement Agreement, and such failure or omission has continued for ninety (90) days (or such longer period as may reasonably be required to cure such failure or omission, provided that cure has commenced and such Party is diligently proceeding to complete such cure) after written notice from the other Party (a “Non-Monetary Default”).

Subject to the rights of any lender as provided in this Easement Agreement, upon the occurrence of an Event of Default by Grantee, Grantor may enforce, by all proper and legal suits and other means, its rights under this Easement Agreement, including the collection of sums due under this Easement Agreement. Notwithstanding any part of this Easement Agreement or any rights or remedies Grantor has at law or in equity, Grantor will not (and hereby waives the right to) start or pursue any action to cancel, reform, rescind, or terminate this Easement Agreement. By this limitation, Grantor does not limit or waive its right to pursue damages or performance (as may be due) from Grantee as set forth in this Easement Agreement.

If Grantor fails to perform any of its obligations hereunder, including failure to perform with respect to any obligations secured by encumbrances against the Property, Grantee may offset against any amounts owing to Grantor hereunder any amounts paid by Grantee to cure such non-performance by Grantor and exercise any other remedies available under this Easement Agreement or Applicable Law.

19. Estoppel Certificates. Within ~~ten-thirty~~ (1030) days after receipt from Grantee or from any existing or proposed lender or assignee of this Easement Agreement, Grantor shall execute an estoppel certificate (a) certifying that this Easement Agreement is in full force and effect and has not been modified (or, if the same is not true, stating the current status of this Easement Agreement), (b) certifying that to the best of Grantor’s knowledge there are no uncured Events of Default under this Easement Agreement (or, if any uncured Events of Default exist, stating with particularity the nature thereof), and (c) containing any other certifications as may reasonably be requested. Any such statements may be conclusively relied upon by Grantee or any existing or proposed lender or assignee of this Easement Agreement. The failure of Grantor to deliver such statement within such time shall be conclusive evidence upon Grantor that this Easement Agreement is in full force and effect and has not been modified, and there are no uncured Events of Default by Grantee under this Easement Agreement.

20. Terms in Landfill Gas Agreement. The terms regarding environmental compliance (see Section 10 of the Landfill Gas Agreement), indemnification (see Section 11 of the Landfill Gas Agreement), representations and warranties (see Section 13 of the Landfill Gas Agreement), notices (see Section 14.1 of the Landfill Gas Agreement), insurance (see Section 14.2 of the Landfill Gas Agreement), Force Majeure (see Section 14.3 of the Landfill Gas Agreement), confidentiality (see Section 14.4 of the Landfill Gas Agreement), and dispute resolution (see Section 14.7 of the Landfill Gas Agreement), as set forth in the Landfill Gas Agreement, are incorporated herein by reference.

21. Governing Law. This Easement Agreement shall be interpreted and enforced in accordance with the laws of the ~~State of New York~~Commonwealth of Pennsylvania.

22. No Waiver. Failure or forbearance by any Party to exercise any of its rights or remedies under this Easement Agreement shall not constitute a waiver of such rights or remedies in that or any other instance. No Party shall be deemed to have waived any right or remedy resulting from such failure to perform unless it has made such waiver specifically in writing.

23. Counterparts; Amendment. This Easement Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, taken together, shall constitute only one legal instrument. No modification, amendment, or other change to this Easement Agreement shall be effective unless agreed to in a writing signed by each of the Parties.

24. Cooperation. The Parties recognize the need for continued integration of Buyer's Facilities with Seller's Facilities to enable Grantee to successfully operate, maintain, use, repair, and modify the Project at the Landfill. Each Party shall conduct its operations and provide reasonable assistance and cooperation to the other so as to reduce and minimize any unreasonable interference with the other Party's operations at the Landfill, including the reasonable modification of operations or procedures to the extent practicable, in order to avoid the imposition of additional burdens, whether financial or non-financial, on the other Party in the performance of its operations at the Landfill.

25. Memorandum or Short Form of Agreement. Concurrently with the execution of this Easement Agreement, the Parties shall execute and acknowledge a memorandum or short form of Easement Agreement for the purpose of, at Grantee's election, recording the same in the official records of the county where the Property is located. Grantee shall be responsible for all costs associated with such recording.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto have executed this Easement Agreement effective as of the Effective Date.

GRANTOR:

GRANTEE:

By:

By:

Name:

Name:

Title:

Title:

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B
LEGAL DESCRIPTION OF THE EASEMENT PREMISES
AND THE ANCILLARY EASEMENTS

Easements shall include:

(The Parties intend to replace the above/attached drawing with a metes and bounds drawing or legal description once prepared)

EXHIBIT C
DEPICTION OF THE PROJECT PLANS

EXHIBIT D
REMOVAL OF GRANTEE FACILITIES

Removal of the Grantee Facilities include:

Removal of all above ground equipment including

- Electricity Facility, RNG Facility or any Energy facility owned by Grantee
- Buildings, if added by Grantee
- Storage containers
- Above ground conduits, piping or other equipment for conveying Energy or housing electrical or other equipment

Safely secure all ground level or below ground equipment including

- Concrete pads, conduits, piping or other equipment for conveying Landfill Gas, Energy or housing electrical or other equipment

ISSUE PAPER

Issue: SCS Engineers Agreement for Transfer Stations Development

Background: As a result of issuing an RFP and subsequently receiving three (3) responses, the Authority board approved in August selecting SCS Engineers as their consultant to assist in the development of two new transfer stations.

Discussion: The Authority and SCS have negotiated a consulting agreement to manage the terms of the consulting services to be provided to the Authority from SCS.

Recommendation: It is recommended the Authority Board of Directors approves the agreement with SCS in materially the form as noted in the attached agreement, and in consultation with the solicitor, approves the CEO signing the agreement.

Approved: _____

James McLaughlin, Chairman

Date: September 20, 2023

**AGREEMENT BETWEEN SCS AND CLIENT
FOR PROFESSIONAL SERVICES**

THIS AGREEMENT (hereafter "Agreement") is made by and between Delaware County Solid Waste Authority (DCSWA) (hereafter "Client"), and Stearns, Conrad and Schmidt Consulting Engineers, Inc. dba SCS Engineers and/or SCS Field Services (hereafter "SCS").

WHEREAS, Client intends to engage SCS to perform professional services for a project known as Permitting, Design, Engineering and Construction Management Services for Two Replacement Transfer Stations (hereafter "Project").

NOW, THEREFORE, Client and SCS do hereby agree as follows:

ARTICLE 1--SCOPE OF SERVICES. SCS shall provide professional services (hereafter "Services") as set forth in Attachment A, in accordance with the terms and conditions of this Agreement. Unless expressly stated therein, the scope of work does not include testimony or responding to subpoenas. In the event SCS receives a subpoena or other legal order for the production of project records or testimony, the client agrees to pay for all time and expenses of SCS related thereto.

ARTICLE 2--RESPONSIBILITIES OF THE CLIENT. Client will:

- 2.1 Provide all criteria and full information as to its requirements for the Project.
- 2.2 Furnish SCS with data, reports, surveys, and other materials and information required for the Project, except such of the foregoing as are included in the Services to be provided by SCS.
- 2.3 Secure rights to develop all land and rights-of-way as required for the Project, within six months of the date of execution of this agreement.
- 2.4 Provide access to the Project site and make all provisions for SCS to enter upon public and private lands as required for SCS to perform its Services under this Agreement.
- 2.5 Examine all studies, reports, sketches, construction costs, specifications, drawings, proposals and other documents presented by SCS to Client, and promptly render in writing Client's decisions pertaining thereto within seven (7) business days or, if additional time is needed, within a period mutually agreed upon.
- 2.6 Give prompt written notice to SCS whenever Client observes or otherwise becomes aware of any defect in the Services rendered by SCS.
- 2.7 Furnish to SCS, prior to execution of this Agreement, a copy of any design, construction or other standards Client requires SCS to follow in performing Services under this Agreement.
- 2.8 Provide to SCS all budget requirements, if any, applicable to the Services and the Project.

ARTICLE 3--CHANGES IN THE SERVICES.

- 3.1 Changes may be made to the Services. Client may order additional Services upon the written agreement of SCS. Client may delete previously ordered Services by written notice to SCS.
- 3.2 The provisions of this Agreement, with an equitable adjustment in SCS' compensation and schedule, shall apply to all agreed upon written changes in the Services.

3.3 All changes to the Services shall be made pursuant to the Change Order form set out in Attachment B.

3.4 In the event Client directs SCS to perform changed Services without executing a Change Order in the form set out in Attachment B, SCS shall be compensated for the changed Services in accordance with SCS' then current standard rates as set out in Attachment C, unless otherwise agreed in writing by the Parties.

ARTICLE 4--PROJECT SCHEDULE.

4.1 The parties will mutually agree upon a schedule for performance of the Services ("Project Schedule").

4.2 SCS will begin performance of the Services upon Client's performance of all such Client responsibilities, as set out in Article 2, which are reasonably required in order for SCS to begin and perform the Services in accordance with the Project Schedule.

ARTICLE 5--COMPENSATION. For the Services as set forth in the Scope of Services, Attachment A hereto, SCS shall be compensated as set forth below. Changes to the Services under Article 3 shall be compensated at SCS' then current standard rates as set out in Attachment C unless otherwise agreed in writing by the parties.

5.1 SCS will be compensated for time and expenses in accordance with SCS' standard rates in effect at the time of performance. Copies of SCS' current rates are attached in Attachment C. These rates are subject to adjustment on January 1 and June 30 of each year.

5.2 SCS will be compensated in the lump sum amount of \$ _____.

5.3 Other: SCS will be compensated as follows:

ARTICLE 6--PAYMENT. Payment for Services rendered by SCS shall be in accordance with the following:

6.1 Invoices will be submitted by SCS every month and will indicate, for time and expenses compensation, both the time and expenses incurred during the billing period.

6.2 Client will pay the sum of \$0.00 upon execution of this Agreement as a professional retainer. This sum shall be applied as a credit to Client on SCS' final monthly invoice for Services under this Agreement.

6.3 Payments for invoices issued by SCS are due and payable upon receipt.

6.4 Payments due SCS under this Agreement shall be subject to a service charge of one and one-half (1-1/2) percent per month for invoices not paid within forty-five (45) days after the date of receipt of invoice.

6.5 If Client does not make timely payments, SCS may suspend performance of its Services on the basis of non-performance on the part of Client, provided SCS notifies Client in writing of non-performance and allows seven (7) days from the date of such notice for Client to make such payment. When all amounts due are paid and adequate assurances of payment are given for all Services which have been rendered but not yet invoiced, as well as all future Services, SCS will continue its Services.

6.6 Client agrees to pay all costs and expenses of SCS, including reasonable attorney fees, arising out of or in connection with collecting amounts for which Client is responsible pursuant to this Agreement.

ARTICLE 7--INSURANCE. SCS shall, during the performance of this Agreement, keep in force Workers' Compensation Insurance, including Employer's Liability Insurance for its employees, and Commercial General Liability Insurance with a combined minimum limit of \$1,000,000 for bodily injury and property damage.

ARTICLE 8--LIMITATION OF LIABILITY.

This Article 8 states the agreement of the parties with respect to allocation of the risks inherent in the type of project undertaken herein. The parties agree that SCS' liability under this Agreement and for the Project shall be limited to the amount covered, if any, by SCS' liability insurance then in effect up to \$1,000,000, or the amount of SCS' total fees hereunder (whichever is greater).

ARTICLE 9--RELEASE AND INDEMNIFICATION.

9.1 It is understood and agreed that, in seeking the Services of SCS under this Agreement, the Client may be requesting SCS to undertake obligations for the Client's benefit involving the presence or potential presence, or release or potential release to the environment, of hazardous substances and other contaminants. Therefore, Client agrees that SCS will not be responsible for, and, to the fullest extent permitted by applicable law, does hereby release, hold harmless, indemnify, and defend SCS from and against any and all claims, losses, damages, liability and costs, including but not limited to costs of defense, arising out of or in any way connected with the presence, discharge, release or escape of hazardous substances or contaminants of any kind, excepting only such liability as may arise out of the sole negligence of SCS.

9.2 Except as provided in Article 9.1 above, and to the extent provided in Article 8 above, SCS shall indemnify and hold harmless Client from and against any liabilities, claims and causes of action which Client may suffer as a result of negligent acts, errors, or omissions, or the willful and reckless disregard of obligations under this Agreement on the part of SCS or SCS' agents, employees or subcontractors in the performance of this Agreement, excepting such liability as may arise out of Client's negligence.

ARTICLE 10--GENERAL PROVISIONS.

10.1 SCS will perform its Services hereunder, as specified in Attachment A, in a timely manner. SCS is not responsible for delays occasioned by factors beyond its control, nor by factors which could not reasonably have been foreseen at the time this Agreement was executed.

10.2 SCS shall be entitled to rely on information provided by Client. SCS shall be entitled to an equitable adjustment in the price and schedule if conditions differ materially from information provided by the Client, or differ materially from what reasonably could have been anticipated given the nature of the Services.

10.3 SCS shall perform its Services in accordance with the professional standards applicable to the Services provided (i.e., engineering, planning, consulting or others), at the time such Services are rendered. SCS makes no other warranty, either expressed or implied, as part of this Agreement.

10.4 SCS shall not disclose, or permit disclosure of any information designated by Client as confidential, except to its employees and other consultants who need such information in order to properly execute the Services of this Agreement. This provision shall not apply to information which: (1) has been published and is in the public domain, (2) has been provided to SCS by third parties who have the legal right to possess and disclose the information, (3) was in the possession of SCS prior to the disclosure of such information to SCS by Client, (4) is required by law or any governmental agency to be disclosed, including, without limitation, pursuant to the Pennsylvania Right to Know Law, or (5) would require disclosure to comply with the ethical obligations of SCS to protect the public.

10.5 Statements made by SCS concerning probable construction costs and detailed cost projections represent SCS' judgment with respect thereto. It is recognized, however, that SCS has no control over actual site conditions, the cost of labor, materials, or equipment, a contractor's methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, SCS cannot and does not represent or guarantee that bids or ultimate Project costs will not vary from any statement of probable construction cost or other cost projection prepared by SCS.

10.6 All drawings, specifications, reports, notes and data developed pursuant to this Agreement are instruments of service, and as such the original documents are and remain the property of SCS.

10.7 If construction at the site is to be performed by a person other than SCS, Client agrees to require such person to assume sole and complete responsibility for job site conditions during the course of construction, including safety of all persons and property. SCS shall have no responsibility for site health and safety for anyone other than its own employees and its subcontractors, unless SCS expressly has agreed to provide such services. Client agrees SCS shall not be responsible for and, to the extent permitted by applicable law, does hereby release, hold harmless, indemnify and defend SCS from and against all claims, losses, damages, liability and costs, including costs of defense thereof, arising out of or in any way connected with performance of construction work by persons other than SCS and its subcontractors.

10.8 To the extent specifically provided in the Services, SCS will be available for advice and consultation, and will monitor on a limited basis construction work performed by persons other than SCS. SCS accepts no responsibility and makes no warranty whatsoever that construction work performed by other persons meets the design specifications (this being the sole responsibility of Client) unless the Services provides specifically for SCS to assume such responsibility. In no event shall SCS be responsible for the means, method or manner of performance of any persons other than SCS or its Subcontractors.

10.9 At no time shall title to hazardous substances, solid wastes, petroleum contaminated soils or other regulated substances pass to SCS, nor shall any provision of this Agreement be interpreted to permit or obligate SCS to assume the status of a "generator," "owner," "operator," "transporter," "arranger," or "treatment, storage or disposal facility" under state or federal law.

ARTICLE 11—TERM; TERMINATION OF AGREEMENT. This Agreement shall commence upon the Effective Date and shall remain effective until terminated by either party upon thirty (30) days written notice to the other party without cause; by mutual written agreement of the parties; or by either party with five (5) days' written notice to the other in the event of continuing substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party, following notice of substantial failure and opportunity to cure to be completed within five (5) business days of such notice. If this Agreement is terminated, SCS shall be paid for all Services performed by SCS to the effective date of termination. The indemnities of Article 9 and Article 10 shall survive any termination of this Agreement.

ARTICLE 12--DELEGATION OF DUTIES; ASSIGNMENT; SUCCESSORS. Neither party shall delegate its duties under this Agreement without the written consent of the other party. Each party binds itself to the successors, administrators and assigns of the other party in respect of all covenants of this Agreement.

ARTICLE 13—INDEPENDENT CONTRACTOR STATUS. The parties acknowledge and agree that SCS is an independent contractor. Nothing in this Agreement shall be regarded as creating any relationship, whether as employer-employee, joint employer, as a joint-venture, partner or shareholder between the parties, other than as set forth herein as an independent contractor performing certain services. Neither this Agreement nor the services rendered hereunder shall result in SCS being deemed an "employer" or similar party responsible for decisions affecting employees of Municipality under any federal, state or local law or regulation, including, but not limited to, the Family Medical Leave Act, the Age Discrimination in Employment Act and the Americans with Disability Act.

ARTICLE 14--EXTENT OF AGREEMENT. This Agreement represents the entire and integrated agreement between Client and SCS and supersedes all prior negotiations, representations, or agreements, either written or oral, for Project. In the event any provision of this Agreement is determined to be invalid, the remaining provisions of this Agreement shall continue in full force and effect.

ARTICLE 15 - GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to its conflict of laws provisions.

ARTICLE 16 -- PARTIES TO AGREEMENT. For the purposes of this Agreement, the term "SCS

Engineers” shall mean SCS Engineers P.C. for projects in North Carolina, and Stearns, Conrad and Schmidt Consulting Engineers, Inc. for all other projects.

ARTICLE 16 – NOTICES. Any notice required to be given under this Agreement shall be deemed given if it is in writing and sent either by certified U.S. mail, return receipt required, recognized overnight delivery service or by hand delivery, as follows:

If to SCS:

SCS Engineers
22 Denver Road, Suite E
Denver, PA 17517
Attn: Denise Wessels, PE, BCEE
Email: dwessels@scsengineers.com

With a Copy to:

SCS Engineers
15521 Midlothian Turnpike, #305
Midlothian, VA
Attn: Robert Dick, PE, BCEE
Email: bdick@scsengineers.com

If to Client:

Delaware County Solid Waste Authority
610 E Baltimore Pike
Media, PA 19063
Attn: Chief Executive Officer
Email: BStayer@dcswa.net

With copy to:

Michael P. Clarke, Esquire
Rudolph Clarke, LLC
7 Neshaminy Interplex, Suite 200
Trevose, PA 19053

ARTICLE 17 – HEADINGS. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

ARTICLE 18—NO THIRD PARTY BENEFICIARY. Except as expressly provided for herein, nothing in this Agreement is intended to confer upon any person who is not a party hereto any rights or remedies of any nature whatsoever under or by reason of this Agreement.

ARTICLE 19 – COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of last date written below.

DCSWA:

**STEARNS, CONRAD AND SCHMIDT
CONSULTING ENGINEERS, INC.:**

SIGN: _____

SIGN: Robert E. Dick

PRINT NAME: _____

PRINT NAME: Robert E. Dick

TITLE: _____

TITLE: Senior Vice President

DATE: _____

DATE: September 13, 2023

SCS Project No. _____

ATTACHMENT A

Scope of Services

D Scope of Services and Schedule



Our **approach** and **technical plan** for accomplishing the work is described in the following tasks, with a detailed schedule provided at the end of this section:

- Task 1:** Solid Waste Data Review, Projections, and Facility Sizing
- Task 2:** Develop Conceptual Plans and Traffic Observations
- Task 3:** Public Meeting
- Task 4:** Develop Facility Master Plan
- Task 5:** Field and Geotechnical Surveys/Studies
- Task 6:** Preliminary Design Plans and Opinion of Cost for Transfer Station
- Task 7:** Final Design Plans and Specifications for each Transfer Station
- Task 8:** Permit Applications and Regulatory Coordination
- Task 9:** Bid-Phase Engineering Services
- Task 10:** Meetings and Project Administration
- Task 11:** Contract Administration During Construction (Additional Task)

We will work closely with your local land development consultant to coordinate our efforts with them.

D Scope of Services and Schedule

TASK 1 | SOLID WASTE DATA REVIEW, PROJECTIONS, AND FACILITY SIZING

To assess infrastructure and sizing needed to manage the County's solid waste, it is imperative to **project the amount and types of waste** that will be annually **generated, recovered, and disposed**. We will **model population growth**, identify new single-family and multi-family housing developments, and **assess** housing development **policies that could impact waste streams**. Large commercial development will also be considered.

SCS will look to the County's planning department for population projections to be consistent with the County's other planning strategies. We can also accommodate a range of projections to **plan for high, medium, and low growth scenarios**. The per capita waste generation rates for the past several years will be developed and correlated with future growth to model total waste generation. We will **estimate individual waste** and single stream **recycling tonnages**, and explore **residential versus commercial drop-off of recyclables** so that we can make **recommendations for the size** of the facility to accommodate all waste streams. Further, we will make **projections for HHW and e-waste quantities**, and **organic materials** that could be composted.

Using our solid waste facility operational and design expertise, we will derive **critical parameters** related to:

- average ton per hour (peak day)
- traffic maneuvering and unloading positions
- building sizing (transfer stations, HHW/e-waste)
- tipping floor storage
- load-out space
- public-drop off area
- queuing distance

Using this information, we will work with Authority personnel to **establish sizing requirements** for the transfer station buildings, public drop-off areas, and HHW/e-waste facility. We anticipate this to be an iterative process that will include the following **collaboration**:

- Based on the projected future waste generation rates, **preliminarily size transfer station building, public drop-off, HHW/e-waste, and compost facilities**.
- Work with DCSWA personnel to **conduct a space needs** and building/site programming analysis so that all desired amenities are included.
- Work with the DCSWA and County stakeholders to **define preferred expandability goals** for the transfer station and accessory facilities and/or buildings.
- **Develop concept layouts** for each transfer station location as outlined in Task 2.

During the Project Kick-off meeting, we will interview DCSWA staff and review current offices to develop a building program for the new Office Building to confirm the building area and approximate footprint.

We understand that the Authority does not anticipate the need for an increase in the permitted capacity as part of this scope since it is anticipated that the expected peak daily rate will be less than the currently permitted maximum daily rate; however, a PADEP Major Permit modification will be necessary due to the proposed changes to the facility.



D Scope of Services and Schedule

TASK 2 | DEVELOP CONCEPTUAL PLANS AND TRAFFIC OBSERVATIONS

SUBTASK 2.1 | CONCEPTUAL PLANS

Conceptual planning is an iterative process geared towards **developing facilities**. Our experience has shown that **ongoing communication is imperative** so that outcomes are best-suited to your needs.

We will use ground and aerial survey (provided to us), the CEC feasibility study, traffic counts (Subtask 2.2), and site visits to **evaluate proposed locations** to meet the desired expanded waste transfer operations. We will rely on our experience at other facilities to **consider alternative** waste transfer processing, storage, vehicle loading and unloading methods, customer safety and more. We will **take into consideration that the Authority prefers** that transfer vehicles continue to be top-loaded. Concept planning will also include **evaluating relocating** scales, scalehouse, and maintenance facilities.

We believe it likely that PADEP will require a **Traffic Impact Analysis** due to the significant change in proposed site operations, types of vehicles accessing the facility (e.g., homeowners or commercial compost vehicles), and/or potential changes to the facility entrance/exits. **Traffic Studies are outlined in Subtask 2.2.**

In addition to incorporating the Authority's input, we will **work with the local land development consultant** on proposed locations for stormwater management features as their experience with the local municipalities' desires will be valuable.

Conceptual Plans, colorized for ease of understanding, will **include provisions for** the following, at a minimum:

- **Drop-off** of public waste
- **Receipt, storage, loading and transfer** of single stream recyclables
- **Yard waste**
- Other **materials and/or services** as recommended by the SCS, Authority, or County
- Considerations for the **retrofit of existing facility** components and **how they could be used** to expand facility services
- **Potential relocation** of the existing scale, scale house and maintenance facilities
- **Green stormwater management** features
- **Provisions for residential drop-off** of waste
- **Top-Load** type loadout configuration
- **Vehicle parking** with provisions for electric vehicle charging stations
- Outdoor "**Green Space**" for users and facility staff
- **Options for building types** (pre-engineered metal vs masonry and steel field assembled)
- Drive-Through **HHW and E-Waste Facility** (Transfer Station #3 only)
- Approximate 3,000 SF **Office and Administrative Building** (Transfer Station #3 only)

D Scope of Services and Schedule

SUBTASK 2.2 | TRAFFIC STUDY

As indicated above, we believe PADEP will require traffic studies be completed. If PADEP does not require traffic studies for permitting, then these services will not be completed and the fees would not be charged. Traffic studies would be completed as follows, with differences between the two facilities noted:

1. **Conduct traffic counts** at existing site driveways for up to 12 hours to establish existing traffic volumes/patterns as well determine site peak periods (see next task).
2. After collecting and reviewing Task 1 findings, **conduct additional existing weekday commuter peak period** (7-9 AM, 4-6 PM) or site peak period (if different than commuter peaks) traffic counts at the following nearby off-site intersections:

Transfer Station #1

- Concord Rd & Green St
- Concord Rd & McDonald Blvd

Transfer Station #3

- Reed & (1) Sproul, (2) Redhill, (3) Marpit, (4) Eagle
- Sussex & Marpit
- W Springfield & Eagle

3. **Determine existing weekday commuter peak hour** traffic volumes and levels of service at said intersections and driveways.
4. **Estimate site trip generation** based on a collaborative effort between FTA, SCS, and the Authority.
5. **Estimate site trip distribution** based on existing **travel patterns** as well as a collaborative effort between FTA, SCS, and the Authority.
6. Project study area **traffic volumes/levels of service** for future conditions both with and without site traffic at the study area intersections and site driveways.
7. **Evaluate the need for traffic management upgrades** at each facility as follows:

Transfer Station #1

- Auxiliary turn lanes at site driveways
- Traffic signalization at the intersection of Concord Rd/Incinerator Rd

Transfer Station #3

- Auxiliary turn lanes at site driveways

8. Review study area **crash history** investigations.
9. **Prepare written report** to be included with Form D (Task 8).



TASK 3 | PUBLIC MEETING

SCS understands that the **design process must be communicated** to residents, neighboring property owners, and key stakeholders. We will **lead a public meeting** for each transfer station held at a location established by the Authority (2 meetings total).

To facilitate communication, SCS proposes to **work with your staff** so that materials are distributed to stakeholders in a timely manner for review prior to meetings. Meetings with stakeholders will generally cover the following topics:

- **Project process, goals, and objectives**
- **Existing waste types/volumes and projections**
- **Existing site conditions** to depict the current situation
- **Potential facility layout options** to facilitate discussion about access, traffic patterns, customer experience, and overall operations.

We will **document resident concerns** and input, noting name, address, and specific comment and/or concern. Minutes from this meeting will be finalized in coordination with your staff.

We propose **Ms. Stacey Demers, LEED AP**, and **Ms. Denise Wessels, PE, BCEE** to facilitate the meetings. They both have experience with the public participation process. Our in-house graphic designer, Meaghan Ridgway, will work closely with them to create **supporting visual material** to help in public understanding and discussion.

D Scope of Services and Schedule

TASK 4 | DEVELOP FACILITY MASTER PLAN

Master planning is essentially a visioning process involving the capacity to “see” the future existence of the proposed facility and **assess conditions** that may need to be **addressed to achieve successful outcomes** of the Authority’s objectives. SCS is adept at master planning exercises and our expertise of developing trends in the waste and recycling industry will enable us to prepare potential scenarios for consideration.

The Master planning exercise will be **on-going throughout** the project work efforts beginning with Task 1 and will culminate with site layouts that provide flexibility, adaptability, resiliency, and delivery of superior service to your customers.

We will expand on the Conceptual Plans developed in Task 2 to develop Master plans. Master Plans will incorporate Authority feedback and **key aspects of the County’s Sustainability and Zero Waste Plans** (10-Year Municipal Solid Waste Management Plan). As before, we will also incorporate input from the local land development consultant on locations for stormwater management features.

The Master Plan will include **recommendations for feasible site improvements**, provide **conceptual cost estimates** for each facility, and provide a suggested plan for implementation, including necessary engineering and construction timelines and milestones.

SCS understands that each site has existing smokestacks that are no longer in use and require demolition. SCS will **evaluate the environmental requirements and processes** for decommissioning, demolition, removal, and disposal of these smokestacks and identify opportunities for their, as well as other demolition materials, re-use as fill material. These demolition, removal, and re-use efforts will be incorporated into the construction and environmental management components of the final bid packages for each site.

As we understand the Authority’s desire to reuse as many existing components of the facility as possible, we will identify potential re-use opportunities and include recommendations.

A **Master Plan Design Morandum will be prepared**, including, but not limited to, the following:

- **Master Site Plans for each facility site** (draft and final) to depict layout of transfer station, entrance/exit, scales/scalehouse, truck parking areas, HHW/e-waste facility (TS#3), office (TS#3), composting area (possibly TS#1), leachate collection and management and stormwater management features
- **Schematic building plans incorporating DCSWA’s preferred building type(s).** Conceptual elevations for buildings will be prepared and outline specifications for the building materials, interiors and building systems will be submitted.
- **Preliminary Cost Estimates** for each facility site at ultimate build-out (draft and final)
- **Summary of permitting, environmental requirements for smokestack demolition, removal, and disposal**
- **Potential re-use options for smokestack and other demolition materials**
- Opportunities for **re-use of existing facility components**
- Summary of **potential site improvements** and future facility activities
- Summary of **engineering and construction timelines**

D Scope of Services and Schedule

TASK 5 | FIELD AND GEOTECHNICAL SURVEYS/STUDIES

SUBTASK 5.1 | BORING INVESTIGATION AND LABORATORY TESTING

Our subcontractor, **Hillis-Carnes Engineering Associates, Inc.** (HCEA), will complete **subsurface exploration** and **geotechnical engineering** services at each transfer station facility. To minimize costs, we have assumed that this work will be completed after the proposed footprint for each transfer station building and office building at Transfer Station #3 are established.

To **accomplish this work**, HCEA will:

1. **Consult available published** geologic and project references.
2. **Explore and test in situ conditions** at boring locations.
3. **Perform laboratory tests** on representative samples of soil.
4. **Analyze the results** of office, field, and laboratory studies.
5. **Develop design criteria** for foundations and related geotechnical considerations.

Field Exploration and Laboratory Testing

HCEA will **complete 6 Standard Penetration Test (SPT)** soil borings per transfer station site and one additional boring at the location of the proposed office building (13 locations total). We have assumed the borings will be drilled 25 to 30 feet below existing site grades depending upon subsurface conditions. Actual boring depths will be based on the subsurface conditions encountered during the investigation and may be more or less than those proposed.

Boring locations will be field-located by measuring and estimating distances from existing site features. Where feasible, existing ground surface elevations of the borings will be estimated from topographic survey information provided to us by others.

Samples of the subsurface materials will be obtained using a split barrel sampler and the SPT Procedure per ASTM D 1586. Soil samples will typically occur at 2-foot and 5-foot intervals. If unusual subsurface conditions are encountered or if more detailed information is required within certain depth intervals, then additional split barrel sampling will be performed.

Laboratory testing will be performed to **establish the physical and strength characteristics** and **design parameters of the soils**. Laboratory testing will generally include, as a minimum, classification tests, Atterberg Limit tests, and natural moisture content tests (See **Exhibit 4**). Please note that more sophisticated laboratory testing may be necessary to properly evaluate the properties of cohesive soils.

Exhibit 4. Geotechnical Laboratory Testing

Laboratory Testing	# Samples - Transfer Station #1	# Samples - Transfer Station #2
Moisture Content (ASTM D 2216)	12	14
Atterberg Limit (ASTM D4318)	12	14
Sieve Analysis (ASTM D422)	12	14

Report

A **geotechnical engineering report will be prepared** for each facility, including boring logs and laboratory test results. The reports will establish **recommendations for geotechnical design and construction**.

D Scope of Services and Schedule

SUBTASK 5.2 | SUBSURFACE UTILITY LOCATING

Since we understand that there are **not accurate as-built records readily available**, we have **included this subtask for our subsurface utility engineer (SUE) to search for underground utilities**. GPRS will attempt to trace utilities for which structures are visible from the work area. **Utilities will be marked** on the surface using spray paint or other appropriate means. To assist them, we **will provide available drawings** and utilities known by the Authority to be entering the work area for which there are no apparent surface features or structures that are visible.

The following equipment will be used for this investigation:

Underground Scanning GPR Antenna. This GPR Antenna uses frequencies ranging from 250 MHz to 450 MHz and is mounted in a stroller frame that rolls over the surface. Data is displayed on a screen and marked in the field in real-time. The surface needs to be reasonably smooth and unobstructed to obtain readable scans. Obstructions such as curbs, landscaping, and vegetation will limit the efficacy of GPR. The total effective scan depth can be as much as eight feet or more with this antenna but can vary widely depending on the soil conditions and composition. Some soil types, such as clay, may limit maximum depths to 3 feet or less. As depth increases, targets must be larger to be detected, and non-metallic targets can be challenging to locate. The depths provided should always be treated as estimates as their accuracy can be affected by multiple factors.

Electromagnetic Pipe Locator. This receiver can passively detect the signals from live AC power or radio signals traveling along some conductive utilities. Operators can connect a transmitter directly to accessible metallic pipes, risers, or tracer wires to generate a current at a specific frequency. The receiver can then detect the resulting signal along the pipe or tracer wire. Various factors may impact this device's effectiveness, including (but not limited to) access to the utility, conductivity, grounding, and interference from other utilities. The depths provided should always be treated as estimates as their accuracy can be affected by multiple factors.

Traceable Rodder. The rodder consists of a copper wire encased in fiberglass. This device is pushed through a pipe with direct access, such as a sewer line at a cleanout or a storm drain catch basin. Operators then induce a current on the wire and trace the signal from the surface. The maximum traceable depth is 10 feet depending on the soil conditions, and the maximum distance is 200 feet. Inserting the rodder into deeper pipes within manholes may not be feasible depending on site conditions. GPRS will not access electrical conduits. The signal is not detectable through metallic pipes.

GPS. This handheld unit offers accuracy down to 4 inches; however, the accuracy achieved will depend on the satellite environment at the time of collection and is not considered survey-grade. Features can be collected as points, lines, or areas and then exported as a KML/KMZ or overlaid on a CAD drawing.



D Scope of Services and Schedule

TASK 6 | PRELIMINARY DESIGN PLANS AND OPINION OF COST FOR TRANSFER STATION

Building upon work completed through Task 5 and feedback from the Authority and other stakeholders, **SCS will develop preliminary design plans** for the construction proposed at each transfer station facility. We will **look to accommodate adequate space for each waste stream** to accommodate **future growth** and **resident safety** when dropping off materials.

Preliminary plans **will address grading, stormwater management, contact water/leachate management, sanitary needs/provisions, parking, traffic patterns, potential impacts** to adjoining property owners and mitigation required, and **legal or zoning matters** (e.g., additional easements, etc.) needed to construct each project. We will develop and refine the building plans, elevations, structural and Mechanical/Electrical/Plumbing and Fire Protection (MEP&FP) systems, and materials. D&B will also complete a Building Code review to verify the compliance of the proposed designs. We will work with you to identify desired amenities, including those not identified through the conceptual layout process. It is anticipated the preliminary design plans will be developed to an approximate 40% design level which will be sufficient quality and size for public presentation purposes, and will incorporate plans developed by the local land development consultant.

The design team will **consider LEED requirements to inform and guide the design process** where appropriate. In addition to the green stormwater infrastructure, outdoor green spaces, and electrical vehicle chargers called for in the RFP, LED light fixtures (now part of standard specifications) will be combined with energy-efficient lighting controls. The potential for applying roof-mounted Photovoltaic (PV) panel systems, designed by others, may also be considered given the large roofs and open sites.

The use of **thermally-enhanced and sustainable building envelope elements** (reflective roofing, high recycled content materials, etc.), the selection of **locally-sourced products**, and the cut and fill of soil to eliminate off-site disposal and **minimize and recycle construction waste** may all be used. Other sustainable efforts including **creative natural ventilation** strategies, reduced refrigerant cooling systems, Energy Recovery Ventilators and advanced occupancy and air quality-based control strategies, along with water efficient plumbing fixtures with automatic controls, **energy-efficient** point of source water heaters, the use of drinking water filtration systems to reduce plastic bottle use, and other LEED-inspired sustainable design elements will be considered.

Working to **balance costs with sustainable operations**, we will **incorporate LEED design principles** to evaluate construction materials, energy usage, and lighting. Our design process will consider the following:

- **Minimizing site disturbance** during construction to conserve existing natural areas and protect trees to provide habitat and promote biodiversity.
- **Diverting construction waste** from landfills.
- **Implementing a thorough Indoor Air Quality (IAQ)** management plan to promote the well-being of construction workers and building occupants.
- **Selecting wood that meets the requirements** of the Forest Stewardship Council (FSC) certification program.
- **Using construction materials with high-recycled content** that are locally manufactured, which reduces the use of fossil fuels for their transportation.
- **Landscaping with native**, drought-tolerant plants that help absorb rainwater and prevent erosion.
- **A rainwater collection** cistern to capture water from the transfer facility roof for toilet flushing and floor cleaning.

Based on these preliminary plans, we will **develop a preliminary opinion of cost for construction** of each facility. The opinion of cost will **include detailed costs for earthwork, utilities, structural components, stormwater management estimate, erosion & sediment control estimate, flatwork** such as pavement, and **QA/QC testing**.

Deliverables under this task will include:

- Preliminary Design Plans (draft and final)
- Preliminary Cost Estimate (draft and final)

D Scope of Services and Schedule



TASK 7 | FINAL DESIGN PLANS AND SPECIFICATIONS FOR EACH TRANSFER STATION

Feedback from Task 6 and information gathered in previous tasks to **develop final design plans and specifications for each site** which incorporate plans from the local land development consultant, including revised final cost estimates. It is anticipated that **final design plan milestones** will include **review by the Authority** at the 30, 60 and 90 percent complete stage. Feedback from these reviews will be implemented into a 100 percent design package.

Final design plans will include **comprehensive design elements** for sitework, stormwater management measures, erosion and sediment control measures, structural design, (including relocation of scales and scale house), mechanical, electrical, plumbing, fire protection and an **estimated schedule for construction**. Design plans will include the phased development of each site to allow continued operation of each transfer station until the new transfer station is ready for the receipt of waste. D&B will indicate outlet locations per your directives, call for conduit with draglines in partitions, data cable to server locations, and power for servers based upon equipment/design information from you or your IT, data or security system consultants.

Construction plans **will include demolition and repurposing of facilities**. Salvage value will be included in bidding of any demolition work, meaning the value would be credited to the contractor.

It is anticipated that the development process for these **final design plans will, at a minimum, include the following efforts:**

- **Review of feedback from Authority staff and stakeholders**
- Develop final design plans and specifications **based on the preliminary design developed** in Task 6
- Continue working with D&B to **finalize structural, MEP&FP design plans**
- **Incorporate local consulting firm's design plans**
- Submit final design plans to the **Authority and staff for final review**
- **Make revisions** necessary to obtain **final approval by the Authority**

Deliverables:

- **Design Plans** at 30, 60, 90 and 100% milestones for each facility (in electronic format)
- **Design Specifications** at 90 and 100% milestones for each facility (in electronic format)
- **Final Cost Estimate** at 100% milestone for each facility (in electronic format)

D Scope of Services and Schedule

TASK 8 | PERMIT APPLICATIONS AND REGULATORY COORDINATION

The majority of the work in this task will be related to **preparing the necessary solid waste permit applications** (Subtask 8.1). Depending on the proposed services to be offered and whether there will be potential impacts to stormwater, we have **included an optional subtask** to prepare a Notice of Intent for a NPDES General Permit for Discharges of Stormwater Associated with Industrial Activity (PAG-03). We have assumed that Chapter 102 and Chapter 105 permits, and Building Permit would be procured by the local land development consultant if required.

Please note that meetings related to permitting are included in **Task 10**, as requested in the RFP.

SUBTASK 8.1 | SOLID WASTE MAJOR PERMIT MODIFICATION APPLICATION

The following is a **listing of forms and documents that will be prepared** to complete the Major Permit Modification Application for each Transfer Station.

Summary

SCS will prepare a **permit application summary** to include the following information:

- **Introduction**
- **Background**
- **Scope of the Application:** briefly describe modifications addressed in the application
- **Design Synopsis:** to include each major component of the transfer station

General Information Form (GIF)

SCS will prepare the GIF based on prior submissions. The **GIF provides overall facility information** and a series of questions to ascertain whether other PADEP permits may be required. We note that the GIF now includes a review for Environmental Justice implications, which will be applicable to Transfer Station #1.

Form A, Application for Municipal Waste Permit

Form A will be prepared along with the associated public notification and 8 ½-inch by 11-inch site location map. We will **prepare the newspaper notice** and provide it to you for publication. We will also **develop contiguous landowner notices** and mail them. Copies of the letters and proof of delivery will be included as an attachment to Form A.

Form B, Professional Certification and Form B1, Application Form Certification

Forms B and B1 will be completed, signed and sealed by a Pennsylvania Registered Professional Engineer and Registered Geologist, as applicable.

Form HW-C, Compliance History

SCS will include Form HW-C prepared by DCSWA personnel or its legal representative.

Form D, Environmental Assessment

Form D will be completed **using available information from the previous permit applications and the CEC Feasibility Study** as much as possible. Investigations (e.g., wetlands delineation) will be included as attachments. Work on Form D will include results of screening using the Pennsylvania Natural Diversity Inventory Environmental Review Tool (PNDI ER Tool) with results submitted as an attachment.

D Scope of Services and Schedule

Anticipated attachments, as applicable, to the Form D include:

- Narrative
- PNDI Screening Results
- USGS Peak Acceleration Map
- Wetlands Delineation (previously completed by CEC)
- Township Zoning Ordinances
- County and Township Land Use Plans
- Zoning Notices and Municipal Responses
- Harms/Benefits Analysis
- Delaware County Solid Waste Management Plan
- Waste Disposal Agreements and Ordinances
- Municipal Agreements
- Traffic Impact Study (if needed)

Form E, Contractual Consent of Landowner

SCS will include Form E prepared by DCSWA personnel or its legal representative.

Form G(A) Air Resources Protection – Dust Emissions Estimate and Control Plan

Form G(A) will be completed with information provided by the Authority on **numbers and weights of vehicles hauling** waste, and length of proposed paved and unpaved roadway.

Form I, Soil Erosion and Sedimentation Control

We will complete Form I with **surface water management** and **E&S control calculations** as an attachment. This section will include a discussion on stormwater management and E&S control features such as culverts, channels, and sedimentation ponds. We have assumed that the local engineering firm retained by the Authority for site development permitting will design the erosion and sediment control features and these will be provided to us for inclusion in Form I. Per solid waste regulations, their calculations must be based on a 24-hour precipitation event with a frequency of occurrence once in 25 years.

Form L, Contingency Plan

We will update the existing **Preparedness, Prevention and Contingency (PPC) Plan** and include it as an attachment to Form L. We will provide the Authority with recommended changes and updates.

Form O, Transfer Facilities

We will **prepare an update to the existing Operations Plan** which addresses waste acceptance, equipment, personnel training, operating hours, access, access control, nuisance minimization and control, and litter control.

Form X, Radiation Protection Action Plan

Form X and the **approved Radiation Protection Action Plan** will be **updated related to the new site layout**.

We have assumed no changes will be made to the radiation monitoring equipment besides relocating them to the new scalehouse location.

D Scope of Services and Schedule

Form 1, Facility Plan

SCS will complete Form 1 with updated information from the previous permit applications to include **waste type, capacity, daily waste quantities, facility life and size.**

Form 28, Closure/Post-Closure Land Use Plan

SCS will prepare Form 28 based on information submitted with the previous permit application and include updated **bonding worksheets using quotes from vendors or industry standard references** such as RS Means.

Form 5, Map Requirements

We anticipate **preparing a site plan** to include the following:

- Municipality(ies)
- Property boundary
- Topography
- Limits of the expanded solid waste permit boundary
- Facility layout including roads, scales, buildings, and fencing
- Nearby surface water bodies and 100-year floodplain boundaries
- Utility Lines (e.g., power, water, sewer)
- Stormwater management system (designed by Others)
- Designated area for isolating radioactive waste
- Location of radioactive monitoring equipment

SUBTASK 8.2 | NPDES GENERAL STORMWATER PERMIT

Should it be necessary due to planned activities and/or PADEP input, SCS will **prepare the Notice of Intent (NOI)** for a NPDES General Permit for Discharges of Stormwater Associated with Industrial Activity and submit it to PADEP via OnBase for review. The NOI will include the following:

- **PAG-02 NOI Form** 3800-PM-BCW0083b
- **Site Plan** and **Topographic Map**
- **PPC Plan completed** under Subtask 8.1
- **Compliance History provided to us by the Authority** or its legal representative

We have not included any field or laboratory testing of streams or stormwater.

Deliverables:

We will provide a digital copy (PDF) of each permit application (solid waste and NPDES) to the Authority at the 50 and 90 (pre-final) percent complete stages for review and comment. Final PDF documents (100 percent) will be completed and submitted to you within 30 days of receiving comments. We will upload the application via OnBase for submission to PADEP and will prepare hard copies for submission to respective municipalities and counties as required. Electronic files of permit and drawing documents will be provided in PDF, Word and AutoCAD, as applicable

D Scope of Services and Schedule

TASK 9 | BID-PHASE ENGINEERING SERVICES

Project Manual

Unless otherwise preferred, **SCS will prepare technical specifications** in Construction Specifications Institute (CSI) format and include **project specific** editing of EJCDC front-end documents, for which we are fully licensed, including preparation of the Notice to Bidders, Bid Form, Agreement and the Supplementary Conditions. We will coordinate the Division 1, General Requirements section, with general contract conditions and other front-end documents, to avoid redundancies and inconsistencies as much as possible.

We will prepare the bid form for unit price bidding, with estimated quantities and with applicable Pennsylvania prevailing wage. The measurement and payment specification section will be **developed to avoid conflicts and difficulties** in interpreting how an item is paid or measured. Units will be selected so that the Authority pays an appropriate amount for the work completed by the Contractor.

We will **assemble reports and drawings of site conditions, and identifying technical data in reports and drawings** upon which bidders may rely during their proposal preparation.

Bidding

SCS will **assist the Authority in bidding and selection** of the construction contractor including:

1. Assist with the **advertisement for bid**.
2. **Furnish a copy of the bid drawings** in a digital format suitable for the use of bidders. The digital documents will be detailed so bidders can calculate and quantify the work using readily available estimating software programs.
3. **Conduct pre-bid meeting**, including assembly of notes for addenda.
4. **Assist in the bid opening**, evaluation of bids and recommendation to the Authority of lowest responsible bidder.
5. **Assist in the Notice of Award**, review required Agreement documents from the Contractor, Notice to Proceed.

Negotiations with contractors requiring site visits and/or other meetings are not included, but can be provided upon request.

Conformed Project Manual

Upon completion of the bidding phase, we will **prepare a conformed set of the project documents** which includes the latest versions of each document in the project manual, for use during construction.



D Scope of Services and Schedule

TASK 10 | MEETINGS AND PROJECT ADMINISTRATION

This task includes meetings and project administration costs necessary to complete the project. We have included the following meetings in our proposal, assumed to be held in person at your office unless otherwise indicated. **Meetings related to Task 11 (Contract Administration During Construction) are not included in this task.**

Kick-Off Meeting

At the kick-off meeting, **we will introduce our team members and confirm project goals and schedules with you.** We will also request documents needed to complete the work. During this meeting, we will interview DCSWA staff and review their current offices to develop a building program for the new Office Building.

Conceptual Plan Review Meeting (Task 2)

Upon completing Task 2, we will meet with you to **review conceptual plans and options** that have been developed for each facility. We have assumed that you will select a preferred concept plan for each facility so we can move forward with the master planning process. One combined meeting is included in our budget.

Public Meeting (Task 3)

Two public meetings will be held as described in Task 3. Two separate meetings are included in our budget.

Facility Master Plan Review Meeting (Task 4)

Upon completing Task 4, we will meet with you to **review the proposed master plan** for each facility. Two separate meetings are included in our budget.

Preliminary Design Review Meeting (Task 6)

Upon completing the preliminary design for each facility, we will **meet with you to review** them and the preliminary cost estimates. Two separate meetings are included in our budget.

Final Design Review Meetings (Task 7)

We will meet with you at the 30, 60, and 90 percent **complete intervals to go over the final designs.** We have assumed that we will go over the solid waste permit applications at these meetings. Since we have assumed that the final design process will be staggered for the two facilities, we have included three meetings for each (six meetings total) in our budget.

PADEP Pre-Application Meeting (Task 8)

We have included time to **prepare and participate in one pre-application meeting** to be held at the Authority's offices or PADEP SERO to go over permitting for both facilities. One combined meeting is included in our budget.

Local Municipality Involvement Process (LMIP) Meeting (Task 8)

The Major Permit Modification will trigger the requirement for an **LMIP meeting with local municipalities.** We have included time to prepare and participate in an LMIP meeting for each facility. Two separate meetings are included in our budget. We note that PADEP may require a public meeting and/or hearing depending on their preference or level of public interest although we have not included them at this time.

Pre-Bid Meeting (Task 9)

SCS will **conduct the pre-bid meeting** for each facility to be held at a venue selected by the Authority. One meeting is included in our budget.

D Scope of Services and Schedule

TASK 11 | **CONTRACT ADMINISTRATION DURING CONSTRUCTION (ADDITIONAL TASK)**

As requested during the June 12th clarification call, we have **included this additional task**, that was not listed in the RFP, to provide Contract Administration during Construction. Our understanding is that construction management and on-site observation services, including preparing the Form 37 (Certification of Facility Construction Activity), will be issued under a separate RFP.

Our proposed scope of work under this task is outlined below; however, **we can adjust this scope and budget to better meet your needs and expectations after discussions with you**. We also note that our schedule is dependent on the Contractor's schedule and quality of their submittals. For budgeting purposes, we have ballparked up to an average of 6 hours per week over during the construction period (57 weeks) and monthly in-person attendance at construction progress meetings (13 meetings). Other progress meetings will be remotely attended.

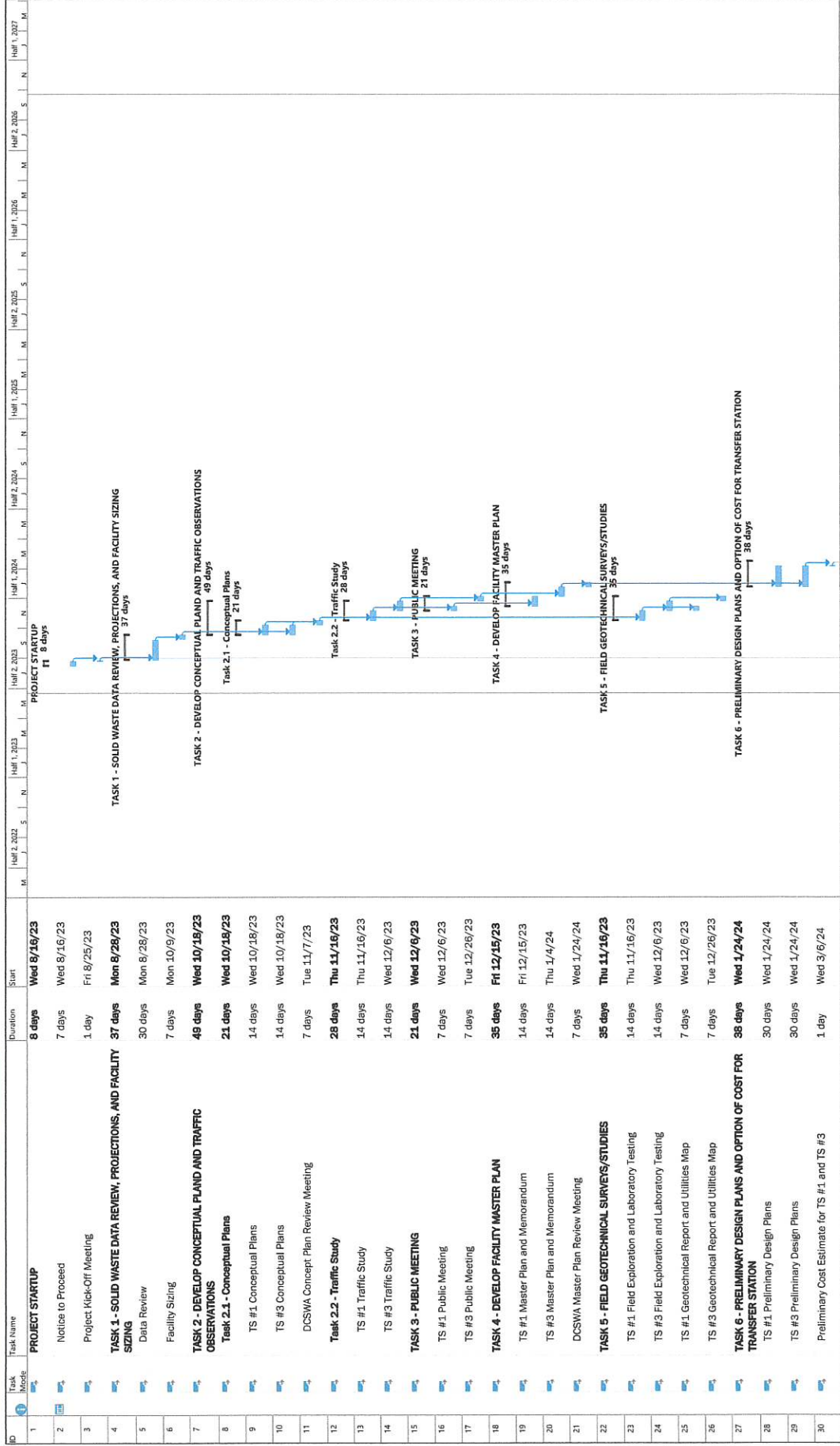
SCS will provide the following scope of services:

1. **Organize and administer the Pre-Construction Meeting** and subsequent **Progress Meetings**.
Prepare and distribute **meeting minutes**.
2. Review and approve **Contractor submittals**.
3. **Review Pay Applications** and provide recommendations to the Authority.
4. **Review and respond to requests** for clarification/interpretation.

PROJECT SCHEDULE

Our proposed project schedule on the next two pages includes the tasks outlined above, and intermediate tasks necessary to perform the work. Although our schedule does not match the schedule provided in the RFP, it shows construction starting in Spring 2025 with completion of construction by Fall 2026 which we believe achieves your ultimate timeline goals. We felt it necessary to extend the time allowed to sufficiently plan and design the facilities; however, we can adjust this schedule as needed to align with your goals at the Kick-off Meeting.

D Scope of Services and Schedule



D Scope of Services and Schedule

ID	Task Name	Task Mode	Start	Duration	Start	Half 1, 2023	Half 2, 2023	Half 1, 2024	Half 2, 2024	Half 1, 2025	Half 2, 2025	Half 1, 2026	Half 2, 2026	Half 1, 2027	Half 2, 2027
31	Preliminary Design Review Meeting	ME	Thu 3/7/24	7 days	Thu 3/7/24										
32	TASK 7 - FINAL DESIGN PLANS AND SPECIFICATIONS FOR EACH TRANSFER STATION	ME	Thu 3/7/24	224 days	Thu 3/7/24										
33	TS #3 30% Design and Review Meeting	ME	Thu 3/7/24	28 days	Thu 3/7/24										
34	TS #3 60% Design and Review Meeting	ME	Tue 4/16/24	28 days	Tue 4/16/24										
35	TS #3 90% Design and Review Meeting	ME	Fri 5/24/24	28 days	Fri 5/24/24										
36	TS #3 Final Design Plans and Specifications	ME	Wed 7/3/24	28 days	Wed 7/3/24										
37	TS #1 30% Design and Review Meeting	ME	Mon 8/12/24	28 days	Mon 8/12/24										
38	TS #1 60% Design and Review Meeting	ME	Thu 9/19/24	28 days	Thu 9/19/24										
39	TS #1 90% Design and Review Meeting	ME	Tue 10/29/24	28 days	Tue 10/29/24										
40	TS #1 Final Design Plans and Specifications	ME	Fri 12/6/24	28 days	Fri 12/6/24										
41	TASK 8 - PERMIT APPLICATIONS AND REGULATORY COORDINATION	ME	Mon 3/18/24	91 days	Mon 3/18/24										
42	Subtask 8.1 - Solid Waste Major Permit Modification Application	ME	Mon 3/18/24	91 days	Mon 3/18/24										
43	PADEP Pre-Application Meeting	ME	Mon 3/18/24	1 day	Mon 3/18/24										
44	TS #3 Draft SW Permit Modification Application	ME	Tue 3/19/24	30 days	Tue 3/19/24										
45	TS #1 Draft SW Permit Modification Application	ME	Tue 3/19/24	30 days	Tue 3/19/24										
46	TS #3 Final SW Permit Modification Application to PADEP	ME	Tue 4/30/24	30 days	Tue 4/30/24										
47	TS #1 Final SW Permit Modification Application to PADEP	ME	Tue 4/30/24	30 days	Tue 4/30/24										
48	TS #3 LMIP Meeting	ME	Tue 6/11/24	30 days	Tue 6/11/24										
49	TS #1 LMIP Meeting	ME	Tue 6/11/24	30 days	Tue 6/11/24										
50	Subtask 8.2 - NPDES General Stormwater Permit	ME	Mon 3/18/24	14 days	Mon 3/18/24										
51	TS #3 NPDES Permit	ME	Mon 3/18/24	14 days	Mon 3/18/24										
52	TS #1 NPDES Permit	ME	Mon 3/18/24	14 days	Mon 3/18/24										
53	TASK 9 - BID-PHASE ENGINEERING SERVICES	ME	Wed 1/15/25	62 days	Wed 1/15/25										
54	Pre-Bid Meeting	ME	Wed 1/15/25	2 days	Wed 1/15/25										
55	Bid-Phase	ME	Fri 1/17/25	60 days	Fri 1/17/25										
56	TASK 10 - MEETINGS AND PROJECT ADMINISTRATION	ME	Fri 8/25/23	825 days	Fri 8/25/23										
57	Project Management	ME	Fri 8/25/23	825 days	Fri 8/25/23										
58	TASK 11 - CONTRACT ADMINISTRATION DURING CONSTRUCTION	ME	Fri 4/11/25	400 days	Fri 4/11/25										
59	TS #3 Construction	ME	Fri 4/11/25	400 days	Fri 4/11/25										
60	TS #1 Construction	ME	Fri 4/11/25	365 days	Fri 4/11/25										

Appendix A

Cost Proposal

Appendix A COST PROPOSAL

COST PROPOSAL

Our Cost Proposal is based on the following assumptions:

The Authority will pay all permit and application fees.

Erosion and Sediment Control and Stormwater Management design will be completed by a separate local engineering firm retained by the Authority.

Topographic and ground surveying services are not included.

This proposal covers up to receiving "Administrative Completeness" from PADEP." Due to the variability in reviewers, we are not able to estimate the effort to respond to technical deficiency comment letters. A cost estimate to respond to PADEP comments can be provided once received.

Work to obtain easements, zoning variances, and waivers related to the solid waste management regulations related to setbacks, and other legal matters will be completed by others.

A single bid package will be prepared to encompass all construction at each transfer station facility.

Our efforts include permit-level design for locating the scales, scalehouse and maintenance facilities. Although our scope includes sizing and locating a potential compost management facility, we have not included preliminary or final design in our costs. If this service is desired, we would be happy to adjust our scope and budget or prepare a separate proposal.

ARCHITECTURE/MEP

The Transfer Stations will be pre-engineered metal buildings with concrete and masonry bases. The two transfer station buildings will be the same building type with similar plans.

The HHW and Office Buildings will be either pre-engineered metal buildings or wood or steel frame or masonry type custom site-built structures.

Only the Transfer Stations and HHW Facility will have fire sprinkler and alarm systems.

GEOTECH INVESTIGATION

Since it is not anticipated hard rock will be encountered within the proposed boring depths drilling does not include rock coring.

HCEA will not be responsible for damage to any private utilities or other underground structures not marked by the PA One Call or the SUE.

Boreholes will be backfilled with auger cuttings at the completion of field operations and measurement of the water levels. Any excessive soil cuttings that do not go back into the borehole will be moved outside of the pavement shoulder.

There will be no special conditions or restrictions on our field activities such as drilling permits, traffic or pedestrian control, limited or restricted working hours, limited access, environmental monitoring, or safety requirements beyond level D PPE.

Attendance at safety training or project meetings is not included.

Boring locations will be clear, relatively level and accessible for drill equipment.

SUBSURFACE UTILITY LOCATING

The areas should be laid out, marked, and cleared of obstructions prior to arrival.

ATTACHMENT B

**CHANGE ORDER PURSUANT TO AGREEMENT
BETWEEN SCS ENGINEERS AND CLIENT FOR PROFESSIONAL SERVICES**

CHANGE ORDER _____

1. Scope of Services to be Changed:

2. Schedule to be Changed:

3. Compensation to be Changed:

4. Special Provisions:

5. Agreement by the Parties: The parties have caused this Change Order to be executed by their duly authorized representatives.

SCS ENGINEERS:

CLIENT: _____

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

SCS Project No. _____

ATTACHMENT C

Current Fee Schedule

FEE SCHEDULE

April 1, 2023	Rate/Hour
Project Director II	\$260
Project Director I	\$230
Senior Project Advisor.....	\$230
Project Manager II.....	\$180
Project Manager I.....	\$170
Senior Project Professional II	\$160
Senior Project Professional I	\$150
Project Professional II	\$145
Project Professional I.....	\$135
Designer.....	\$135
Staff Professional II.....	\$125
Staff Professional I.....	\$115
Senior Technician.....	\$110
Associate Staff Professional II.....	\$110
Associate Staff Professional I.....	\$100
Technician	\$85
Administration	\$70

General Terms:

1. The hourly rates are effective through March 31, 2024. Work performed thereafter is subject to a new Fee Schedule.
2. The above rates include salary, overhead, administration, and profit. Costs for job related travel (current automobile mileage rate is \$0.655 per mile, or current IRS rate) and subsistence, computer and administration fee (\$5.00 per billable hour for non-field work), equipment, supplies, etc., are billed at actual cost plus 15 percent. Costs for outside consultants, laboratory and subcontractors are billed at actual cost plus 8 percent.
3. Charges for equipment usage, including SCS fleet vehicles, will be invoiced in accordance with SCS's Equipment Rates schedule, plus 15 percent.
4. Invoices will be prepared monthly for work in progress, unless otherwise agreed. Invoices are due and payable upon receipt. Invoices not paid within 30 days are subject to a service charge of 1.5 percent per month on the unpaid balance.
5. Payment of SCS invoices for services performed will not be contingent upon the client's receipt of payment from other parties, unless otherwise agreed to in writing. Client agrees to pay legal costs, including attorney's fees incurred by SCS in collecting any amounts past due and owing on client's account.
6. Rates for Senior Executives and Principals of the firm and special situations, such as litigation support and expert testimony, are negotiated on a project-specific basis.

