


**BOARD OF COUNTY COMMISSIONERS**

**DATE:** December 10, 2013  
**AGENDA ITEM NO.** 23

**Consent Agenda** ☐

**Regular Agenda** ☒

**Public Hearing** ☐

**County Administrator's Signature** 

**Subject:**

Amendment No. 6 - Waste to Energy Facility Operator Re-procurement  
Contract No. 045-143-P (LN)

**Department:**

Department of Environment and Infrastructure-  
Solid Waste/Purchasing

**Staff Member Responsible:**

David Scott-Robert Hauser/Joe Lauro

**Recommended Action:**

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD) APPROVE AMENDMENT NO. 6 FOR WASTE-TO-ENERGY FACILITY OPERATOR RE-PROCUREMENT SERVICES WITH GCS ENERGY RECOVERY OF PINELLAS, INC. (GCS), DOVER, DELAWARE.

IT IS FURTHER RECOMMENDED THAT AFTER PROPER EXECUTION OF THE AMENDMENT BY THE CONTRACTOR, THE CHAIRMAN SIGN THE AMENDMENT AND RELATED DOCUMENTS AND THE CLERK ATTEST.

**Summary Explanation/Background:**

On September 18, 2012, the Board approved Amendment No. 5 to transfer the Parent Guaranty from Veolia ES Pinellas, Inc. to GCS, the current operator of the Waste to Energy Facility. The County and GCS now mutually desire to voluntarily terminate the existing service agreement to allow for procurement of an operator. Due to the length of the process to procure a facility operator and ensure uninterrupted operations during the procurement process, both parties agree that amending the current agreement is the most advantageous until a facility operator can be selected. The accompanying Term Fact Sheet summarizes the principal terms of the proposed Amendment No. 6. The following outlines the primary changes resulting from this amendment:

- Shortens the term to expire on December 31, 2014
- Provides for a thirty (30) day termination for convenience to be exercised by the County on or after April 1, 2014
- Eliminates the existing compensation structure, including the sharing of revenues generated by facility operations with GCS
- Provides potential facility operator(s) with full access to the facility and all records
- Resolves presently existing and known disputes concerning this agreement

Upon execution of Amendment No. 6 by the Board, County staff will begin the procurement process for a facility operator.

Previous actions associated with this contract in reverse chronological order are:

- September 18, 2012 – Amendment No. 4 and 5 approved by the Board
- September 7, 2010 – Amendment No. 3 approved by the Board
- August 31, 2010 – Construction Change Order No. 1 approved by County Administrator
- September 8, 2009 – Amendment No. 2 approved by the Board
- April 8, 2008 – Amendment No. 1 approved by the Board
- January 23, 2007 – Award of Contract approved by the Board

**Fiscal Impact/Cost/Revenue Summary:**

There is no significant impact to the overall contract budget.

**Exhibits/Attachments:**

Contract Review  
Term Fact Sheet  
Amendment No. 6



**PURCHASING DEPARTMENT  
CONTRACT REVIEW TRANSMITTAL**

CATS  
NO.:43763

**PROJECT:** Amendment No. 6 - Waste to Energy Facility Operator Re-procurement

**BID NUMBER:** 045-143-P (JL)

**TYPE:** ☐ Purchase Contract ☒ Other: ☐ Construction-Less than \$100,000 ☐ One Time

In accordance with the policy guide for Contract Administration, the attached documents are submitted for review and comment.

Upon completion of review, complete Contract Review Transmittal and forward to next Review Authority listed. Please indicate suggested changes by revising, in RED, the appropriate section of the document reflecting the exact wording of the change.

**RISK MANAGEMENT:** Please enter required liability coverage on pages:

REVIEW SEQUENCE	REVIEW AUTHORITY	REVIEW DATE	REVIEW SIGNATURE	COMMENTS (Attach Separate page if necessary)	COMMENTS INCORPORATED
1.	<u>Purchasing Dept.</u> J. Lauro, Director C. Mancuso, Ass't. Director	11/26/13	<i>[Signature]</i>		
2.	<u>Requesting Dept.</u> R. Hauser, Director David Scott, Exec Director	11/25/13 11/26/13	<i>[Signature]</i>	approved - then cat. 16	

Using Dept please provide below information:

☐ Yes, funding for this requisition is using grant Funding. ☒ No, funding for this requisition is not using grant Funding.  
If grant funding is being used you must provide Purchasing with the exact clauses that need to be on attached document.

**Please check attached vendor list. Circle vendors you want bids mailed to. Add additional vendors with complete information (Name, Address, Phone and Fax)**

3.	<u>Risk Management Director</u> Attn: Virginia E. Holscher (Check applicable box at right)	11/26/13	<i>[Signature]</i>		HIGH RISK NOT HIGH RISK
4.	<u>BCC Finance</u> Attn: Cassandra Williams	11/26/13	<i>[Signature]</i>		
5.	<u>Legal</u> Attn: Joe Morrissey	11/26/13	<i>[Signature]</i>	Final not substantial revisions and binding to be filed	
6.	<u>Legal</u> Attn: Miles Belknap				
7.	<u>Asst. County Administrator</u> Attn: M. Woodard	11/26/13	<i>[Signature]</i>		

**RETURN ALL DOCUMENTS TO PURCHASING**

Make all inquiries to: \_\_\_\_\_ at Extension \_\_\_\_\_  
In order to meet the following schedule, please return your requirements to Purchasing by:

**TENTATIVE DATES**

Bid Mail Out:  
Bid Opening:  
Purchasing Director Approval:

## TERM FACT SHEET

### **Pinellas County / GCS Energy Recovery of Pinellas, Inc.**

#### **Amendment No. 6 to the Service Agreement**

This Term Sheet summarizes the principal terms of a proposed Amendment No. 6 ("Amendment No. 6") to the Service Agreement dated January 23, 2007, as amended by Amendment Nos. 1-5 (the "Agreement"), between Pinellas County (the "County") and GCS Energy Recovery of Pinellas, Inc. ("GCS") (together, the "Parties") for operation and maintenance of the County's waste-to-energy facility (the "Facility"). This Term Sheet is intended solely as a basis for further discussion and is not intended to be and does not constitute a legally binding obligation. No other legally binding obligations will be created, implied, or inferred until a document in final form entitled the "Amendment No. 6 to the Pinellas County Resource Recovery Facility Service Agreement," is executed and delivered by the Parties. Capitalized terms used herein shall have the meanings ascribed to such terms in the Agreement.

1. Term of Agreement. Subject to earlier termination, the Term of the Agreement shall be amended to expire at midnight on December 31, 2014; provided, however, the Agreement may be terminated at the convenience and in the sole discretion of the County and at no cost, expense or other damage or penalty to the County, effective on and after April 1, 2014 upon thirty (30) days prior written notice from the County to GCS.
2. Payment Provisions.
  - a. *Changes to Agreement*. The existing Processing Fee and all revenue sharing provisions in the Agreement will be eliminated. The County will enjoy and be entitled to all such revenues. Payments to GCS shall be those specified in Section 2.b. below. All payments due for services rendered prior to the effective date shall be paid in accordance with the terms of the Agreement.
  - b. *Proposed Payment Provisions*: The new payment provisions are as follows:
    - **Salary and benefits of GCS Facility employees**: Actual cost plus 12.5% Markup, predicated on current payroll costs plus reasonable annual wage and salary increases up to but not exceeding 3%.
    - **Spare parts, Utilities, Reagents, routine maintenance supplies and parts, Insurance**: Actual cost (as a Pass Through Cost).
    - **Subcontractors, other than those relating to the November and December 2013 Facility outage (for work not otherwise capable of being performed by GCS Facility employees)**: Actual cost, subject to Cost Substantiation, plus 5% markup.
    - **Work performed during scheduled and unscheduled outages (other than the November and December 2013 Facility outage), Repairs or Replacements of**

**a capital nature and Capital Projects, in each case, not included above in this Section 2.b: Actual Cost plus 5% markup.**

*c. Performance-Based Incentives.*

- i. *Capacity Incentives Adjustment:* For each full 1% that the total capacity factor (as defined in the Power Purchase Agreement and calculated on a rolling annual average basis) increases above 75%, the percentage Markup (i.e., salary and benefits of GCS Facility employees only) paid to GCS per this Section 2 shall be increased by 1% commencing with the Billing Month (and continuing) after the Billing Month in which such increased percentage was achieved. Conversely, for each full 1% that such total capacity factor decreases below 75%, the percentage of such Markup paid to GCS per this Section 2 shall be reduced by 1% commencing with the month (and continuing) after the month in which such decreased percentage occurred. Such total capacity factor and increased or decreased payments to GCS shall be calculated on a Billing Month basis.
  - ii. *Environmental Performance.* For each month in which there are no exceedances of the air emissions standards or other conditions in the Permits, whether or not regulatory action is taken, the percentage Markup (i.e., salary and benefits of GCS Facility employees only) paid to GCS shall be increased by 1% for the month in which no such exceedances occurred.
  - iii. For purposes of clarity, the increases and decreases referenced in clause (i) are cumulative and the increases in clause (ii) are not.
- c. *Cost Verification.* GCS shall provide the County and its representatives full and complete access to review (at the Facility) and make copies of all books, records and data (including salary/benefits) relative to the Facility, and all costs will be subject to audit and repayment of any amounts deemed improper under Amendment No. 6 and the Agreement.
- d. *Outage Costs.* Direct Costs (exclusive of markup) for Subcontractors engaged by GCS for services relative to the Facility outage occurring during November and December 2013 and for parts and supplies purchased solely for work performed during such Facility outage, subject to the exception noted below, shall be reimbursed by the County based on Cost Substantiation, with the exception of those costs for curing items on the consultants inspection list having a required completion date on or before October 31, 2013 other than Work related to the auxiliary burners. The County shall reimburse such outage costs promptly to GCS following receipt of Cost Substantiation, including an executed Affidavit and Release in the form and substance of Schedule 21.
- e. *Payment Methodology.* On or before execution of Amendment No. 6, GCS shall propose to the County an itemized budget for all routine monthly expenses associated with the Facility, including employee salary, wages and benefits, Utilities, Reagents, and insurance premiums based on historical annual expenses. The County shall review the same and, unless otherwise disputed, the Parties shall agree on a final monthly budget within fifteen (15) Days following the effective date of Amendment No. 6 (the "Final Approved Budget"). GCS shall submit an invoice to the County on or after the first day of each Billing Month for the amount specified for that Billing

Month as provided in the Final Approved Budget. There will be a true-up each sixty (60) Days, as necessary, to reconcile for variation between actual and budgeted costs specified in the Final Approved Budget for the prior Billing Month(s). Any shortfall will be paid promptly by the County after receipt by the County of a properly formatted invoice, consistent with the required documentation, and any savings realized shall be credited towards the following Billing Month's payment due from the County (or, if the Agreement has expired or is terminated, such credit shall be promptly paid by GCS to the County within thirty (30) Days following expiration or termination of the Agreement). Invoices, including Cost Substantiation, for non-routine expenses for work agreed upon in writing by the Parties, such as Subcontractors, Equipment, parts, etc. shall be submitted to the County for reimbursement upon completion of the agreed upon work, or at designated milestones, including an executed Affidavit and Release in the form and substance of Schedule 21, and the County shall promptly pay the same.

f. All payments made or to be made by the County shall be in conformance with Local Government Prompt Payment Act.

3. Existing Bonds and Letters of Credit; New Letter(s) of Credit. The existing bonds and letters of credit shall remain in full force and effect until Amendment No. 6 is executed by both Parties. After the execution of Amendment No. 6 and thereafter throughout the Term, GCS shall have the obligation to maintain in favor of the County irrevocable letter(s) of credit totaling the amount of six million (\$6,000,000) and issued by Qualified Financial Institutions.
4. Insurance. Insurance shall be procured and maintained by GCS as provided for in Section 11 (other than Section 11.4 and 11.5, which are to be revised consistent with this Term Sheet) and Schedule 11 of the Agreement, except GCS shall be liable for deductibles on County-required insurance for all events due to Contractor Fault or negligence.
5. County Involvement in Decision Making. The County may provide, at its expense, monitoring of GCS' O&M activity and compliance with the scope and adequacy of activities reflected in the Final Approved Budget. The Parties shall agree on a performance monitoring plan so as not to disrupt proper and normal O&M activities and GCS shall cooperate with the County in all reasonable respects. The County and its consultants shall have direct involvement in decision making for Facility operation, maintenance, Repair or Replacement and Capital Projects, including having one or more staff persons or consultants, or both, at the Facility at whatever hours the County decides, which such person(s) and hours may be changed from time to time at the County's sole discretion. Such person(s) shall be engaged (privy to all discussions, information, data, policy formation, priority planning activities, operation, maintenance and Repair or Replacement planning and decision-making meetings and activities, etc.) by Facility management and invited and permitted to attend all management, operation, maintenance, Repair or Replacement and Capital Project meetings of any type or nature and shall be provided reasonable advance notice of such meetings. All Repairs or Replacements of a capital nature that are proposed to be or are performed by GCS or Subcontractors shall be subject to the prior written approval of the County. GCS shall work cooperatively with the County and its representatives in determining operation, maintenance, Repair or Replacement and Capital Project priorities and GCS shall undertake, or direct or cause the undertaking or direction of, such matters and projects as instructed by the County, its Consulting Engineer, or other authorized representatives of the County.

6. Access to Facility and Records. The County, its consultants and any County authorized potential future Facility operators shall have complete and unfettered access to the Facility and all Facility records, including, but not limited to, O&M records, O&M manuals, staffing charts, employee history records, employee training records, cost records, calibration records, SOPs, PMs, equipment maintenance, Repair or Replacement records and schedules, plans, drawings, specifications, all records for construction of the Facility, Subcontractor scopes of work, contracts and pricing, reports, and reports prepared by third parties of any nature. The County, its consultants and any County authorized potential future Facility operators shall have access to (for review and copying), may interview and obtain records from consultants, Subcontractors and others who performed work at the Facility and/or inspected the Facility or portions thereof. The County, its consultants and any County authorized potential future Facility operators shall be allowed to observe all Facility operations at whatever times the County wishes them to be present and they may also make their own inspections and measurements during such work. GCS shall cooperate in all respects with the County and its representatives and take all actions requested by the County to facilitate the foregoing. The County shall exercise any such rights in a manner that will not unreasonably interfere with Facility operations.
7. Spare Parts, Equipment and Supplies. Promptly following expiration of the Term or, as applicable, termination of the Agreement, a complete Facility inventory shall be performed by the Consulting Engineer and the Contractor and compared to the initial Facility Inventory List and Spare Parts Inventory List. The physical inventory and current listing of all personal property existing at the Facility at the time of such complete Facility inventory, including the Equipment, Rolling Stock, materials, supplies, chemicals and Spare Parts (the "Final Inventory") shall be equal to the number and type of such items as contained in the initial Facility Inventory List and the Spare Parts Inventory List unless otherwise approved in writing by the County's Authorized Representative. The Consulting Engineer shall prepare and deliver a reconciliation statement to the County and the Contractor setting forth (a) an inventory count, by item and type, and (b) the aggregate cost of the difference, if any, between the items listed on the initial Facility Inventory List and/or the Spare Parts Inventory List as compared to the Final Inventory (the "Inventory Adjustment").

In calculating the Inventory Adjustment, (A) to the extent that the number or type of an individual item in the Final Inventory is (i) greater than that listed on the initial Facility Inventory List or the Spare Parts Inventory List, or both, and such item is owned by the Contractor and reflected on the Contractor's book value list, the value for such item reflected in the Inventory Adjustment shall be based on the lesser of book value (as reflected on GCS' most recent balance sheet) or fair market value (based on an appraisal conducted by a third party appraiser engaged by the County) of such item as of the date of termination and (ii) less than that listed in the initial Facility Inventory List or the Spare Parts Inventory List, or both, the value for such item reflected in the Inventory Adjustment shall be based on the estimated wholesale cost of such inventory as reasonably determined by the Consulting Engineer; and (B) the aggregate cost of all inventory purchased by the County (whether by the County directly or by GCS or an Affiliate and reimbursed by the County in accordance with the Agreement) during the period from the date of execution of Amendment No. 6 to the earlier to occur of the termination or expiration of the Agreement shall be credited for the County's account (i.e., reduces the Inventory Adjustment) so as to avoid double counting the same.

8. Cooperation with County for Procurement or Negotiation with Potential Facility Operator. GCS shall fully cooperate with the County in its efforts to evaluate its options for the long term operations and maintenance of the Facility, including any procurement efforts to secure

a replacement operator and GCS shall further assist in facilitating a smooth, uninterrupted transition that may follow. GCS shall not interfere with and take no action, judicial or otherwise, of any kind that may or would impede or preclude the County's procurements, discussions and negotiations of any type with any potential future Facility operators.

9. Access to GCS Staff and Employees. The County, the Consulting Engineer, all authorized representatives of the County and any potential future Facility operators shall, following the specific selection of a replacement operator, have access to existing Facility employees for purposes of interviewing and possible hiring to continue their work at the Facility, provided that same is coordinated with GCS. GCS shall not have any non-competition agreements or other restrictive covenants with any GCS employee that would otherwise prevent or restrict such employee from being hired by the County or any potential Facility operator.
10. Retention of Employees. The County shall use reasonable efforts to encourage any potential Facility operators to make offers of employment to the existing GCS labor force currently working at the Facility. GCS agrees to allow any potential future Facility operators to perform customary employee screening techniques used by their company for all such operating employees (such as tests for drugs and the like).
11. Performance Guarantees; Facility Operations; General Provisions. Except for the Processing required specified in Section 12 below, the Performance Guarantees specified in the existing Service Agreement shall be eliminated. GCS shall continue to operate and maintain the Facility in accordance with the Standards of Maintenance as defined in the Agreement. Cure periods for an Event of Default by GCS shall be revised and the County shall have a right to terminate the Agreement following a ten (10) Days notice and cure period for failure to comply with the Standards of Maintenance.
12. Annual Delivery Guarantee; Annual Processing Guarantee. The Annual Delivery Guarantee and the Annual Processing Guarantee as specified in the Agreement will be eliminated. The County shall use commercially reasonable efforts to deliver all municipal solid waste within its control to the Facility. GCS shall use commercially reasonable efforts to accept and Process all Processible Waste delivered by or on behalf of the County to the Facility. Failure of GCS to Process a minimum of 67,000 Tons of Processible Waste each Billing Month (except during any Billing Month in which the County authorizes or instructs that Work be performed by GCS that would preclude GCS from meeting this performance requirement), provided that the County delivers such amount of Processible Waste, shall be an Event of Default under the Agreement. Failure of GCS to maintain the total capacity factor under the Power Purchase Agreement for any given Billing Month at or above 70%, provided that the County delivers at least 67,000 Tons of Processible Waste to the Facility, shall be an Event of Default under the Agreement.
13. Transition Assistance. GCS shall fully cooperate and assist with the orderly transition of Facility operations from GCS to any new Facility operator in accordance with Section 13.1.4 of the Agreement.
14. Annual Reconciliation for 2012/2013. The annual reconciliation shall be conducted by the parties in accordance with Section 8.4 of the Agreement.



15. Public Statement and Non-Disparagement. GCS and the County agree that Amendment No. 6 is voluntary. GCS and the County staff. To the extent permitted by applicable law, agree not to disparage one another with respect to the Agreement and Amendment No. 6.
16. CMMS, CSPIS and Controls. GCS shall provide the County, its agents and representatives, and any potential future Facility operator, twenty-four (24) hours of training on the use of the computerized maintenance management system ("CMMS") and allow them reasonable access to CMMS. GCS shall provide access to and make available for review and copying, as often as may be desired by the County, its representatives and agents, and any potential future Facility operator, all Spare Parts inventory data and information, to include all current Subcontractor contracts, all to the extent not protected by Applicable Law. Additionally, GCS shall provide them sixteen (16) hours of training on the use of the computerized Spare Parts inventory system ("CSPIS") and allow them reasonable access to CSPIS. GCS shall provide the County, its agents and representatives, and any potential future Facility operator forty (40) hours of training on the use of the control room, DCS, CEMS, Citect, the cranes and any other equipment used to control the operation of the Facility. GCS shall transfer and assign to the County or any successor operator directed by the County at no cost, fee or expense, all software licenses and provide administrative security rights to the County's Authorized Representative at the earlier to occur of termination or expiration of the Agreement.
17. Mutual Release. The County and GCS shall each provide the other with a full release of all existing and known claims based on facts up to the date of execution of Amendment No. 6. In addition, upon execution of Amendment No. 6 and receipt of a replacement letter of credit, the County shall provide an additional writing, as necessary to facilitate the cancellation of the existing performance bond and return of collateral by GCS' surety.
18. Parent Guaranty. Green Conversion Systems, LLC, parent company of GCS, shall reaffirm the Guaranty in favor of the County under the Agreement.
19. Inconsistencies. The terms of this Amendment No. 6 shall take precedence over any inconsistent terms in the Agreement. To the extent there is no inconsistency, the terms of the Agreement shall remain unaffected by this Amendment No. 6.

**AMENDMENT NO. 6 TO THE  
PINELLAS COUNTY RESOURCE RECOVERY  
FACILITY SERVICE AGREEMENT**

**THIS AMENDMENT NO. 6** (this "Amendment") TO THE PINELLAS COUNTY RESOURCE RECOVERY FACILITY SERVICE AGREEMENT is made and entered into as of this \_\_\_\_ Day of \_\_\_\_\_, 2013, by and between **PINELLAS COUNTY, FLORIDA** (the "County"), a political subdivision of the State of Florida, acting by and through its Board of County Commissioners, and **GCS ENERGY RECOVERY OF PINELLAS, INC.** (formerly Veolia ES Pinellas, Inc.) (the "Contractor"), a Delaware corporation having its principal place of business at 3001 110<sup>th</sup> Ave., St. Petersburg, Florida, and authorized to do business in the State of Florida. The County and the Contractor may be referred to herein as the "Party" and "Parties," as the context or the usage of such term may require. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the "Service Agreement" referred to below.

**RECITALS**

**WHEREAS**, the County and the Contractor entered into the Service Agreement on January 23, 2007, which Service Agreement was subsequently amended by Amendment Nos. 1, 2, 3, 4 and 5 (as amended, modified, supplemented, or otherwise modified prior to the date hereof, the "Service Agreement");

**WHEREAS**, on December 12, 2012, the parent company of the Contractor transferred all of the stock of Contractor to Green Conversion Systems LLC, a Delaware limited liability company and parent company of the Contractor ("GCS"), and thereafter GCS changed the name of the Contractor from Veolia ES Pinellas, Inc. to GCS Energy Recovery of Pinellas, Inc. (such stock transfer and name change being herein referred to as the "Ownership Change");

**WHEREAS**, in connection with the Ownership Change, the parent company of Veolia assigned the Guaranty to GCS, and GCS assumed all such obligations and liabilities thereunder; and

**WHEREAS**, the Parties mutually desire to enter into a voluntary amendment to the Service Agreement to allow the County to conduct a procurement for a new agreement for long term operation of the Facility;

**WHEREAS**, insofar as it will take additional time for the County to conduct a procurement for the long-term operations of the Facility, the Parties desires to amend the Service Agreement to (a) shorten the Term to expire on December 31, 2014; (b) provide for a thirty (30) Day termination for convenience to be exercisable by the County on or after April 1, 2014; (c) eliminate the existing compensation structure, including the sharing of revenues generated by Facility operations with the Contractor, and establish a compensation arrangement by which the Contractor's costs for Facility Employees (as defined herein) and Subcontractors will be reimbursed on a cost plus basis and replacement Equipment, Insurance, supplies and other materials will be reimbursed on an actual cost basis; (d) provide Potential Facility Operator(s) (as

defined herein) with access to the Facility and all Records pertaining thereto pursuant to the terms hereof; and (e) resolve presently existing and known disputes concerning the Service Agreement occurring prior to the Effective Date (as defined herein), among other amendments, all as more specifically described herein; and

**WHEREAS**, the Parties desire to make, by the terms of this Amendment, certain other conforming changes to the Service Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants of each to the other contained in this Amendment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor and the County do hereby covenant and agree as follows:

Section 1. Amendments. Subject to the satisfaction of the conditions set forth in Section 5 hereof, the Parties hereby agree:

(a) Amendment to Section 1.4. Section 1.4 of the Service Agreement is amended to delete the following Schedules, and "Reserved" shall be substituted in lieu thereof: Schedule 4 (Determination of Processible Waste Higher Heating Value); Schedule 5 (Adjustment Factor); Schedule 8 (Form of Performance Bond); Schedule 12 (Form of Invoice); Schedule 16 (Initial Punch List Items); Schedule 17 (Transition Plan); Schedule 19 (Potential Extended Punch List Items).

(b) Amended and Restated Schedule 2 (Performance Guarantees). The existing Schedule 2 (Performance Guarantees) is amended and restated to read in its entirety as set forth in Exhibit A hereto.

(c) Amended and Restated Schedule 3 (Performance Calculations and Test Procedures). The existing Schedule 3 (Performance Calculations and Test Procedures) is amended and restated to read in its entirety as set forth in Exhibit B hereto.

(d) New Schedule 23 (Facility Inspection Report). A new Schedule, Schedule 23, to be entitled "Facility Inspection Report" is added sequentially to the list of Schedules referenced in Section 1.4 of the Service Agreement and is to read in its entirety as set forth in Exhibit C hereto.

(e) Amendment to Section 2.1. Section 2.1 of the Service Agreement is amended to delete the following definitions in their entirety: Adjusted On-Peak Capacity Factor; Adjusted Rolling Capacity Factor; Adjusted Total Capacity Factor; Adjustment Factor; Annual Delivery Guarantee; Annual Processing Guarantee; Ash Management Plan; Carbon Utilization Guarantee; Construction Agreement; Electric Capacity Payment(s); Electric Capacity Payment Damages; Existing Pump Station and Existing Lime Softening System; Existing Pump Station and Existing Lime Softening System; Extended Punch List Item(s); Ferrous Metal Removal Guarantee; HHV Adjustment Amount; Initial Punch List Date; Initial Punch List Item(s); Lime Softening Chemicals; Lost Electric Energy Revenues; Maximum Reagent Utilization Guarantee(s); Maximum

Utility Utilization Guarantee(s); Monthly Lime Softening System O&M Fee; Monthly Processing Fee; Natural Gas Utilization Guarantee; Net Revenue(s); Non-Ferrous Metal Removal Guarantee; Pass Through Costs; Pebble Lime Utilization Guarantee; Performance Test Plan; Permanent Lime Softening System; Potential Extended Punch List Item(s); Process Water Utilization Guarantee; Processing Fee; Purchased Electricity Guarantee; Residue Quality Guarantee; Residue Quality Guarantee Adjustment; Residue Particle Size Guarantee Adjustment; Revenue from Recovered Materials; Secondary Punch List Items; Transition Period; Transition Plan; Urea Utilization Guarantee; Weighted Average Annual Higher Heating Value; Withholdings(s).

(f) Amendment to Section 2.1. Section 2.1 of the Service Agreement is amended by adding the following definitions as they would appear in alphabetic order in Section 2.1:

- (i) “2013 Outage” shall have the meaning ascribed to such term in Section 8.4.
- (ii) “Amendment No. 6” means that certain Amendment No. 6 to the Pinellas County Resource Recovery Facility Service Agreement between the Parties and dated as of the Effective Date.
- (iii) “Effective Date” means December 1, 2013.
- (iv) “Existing Security Instruments” means:
  - (a) the Letter of Credit dated December 12, 2012 and expiring December 11, 2013, issued by US Bank National Association, in the principal amount of five million four hundred forty-two thousand six hundred eighty-three dollars (\$5,442,683) (“GCS December 2013 LOC”);
  - (b) the Letter of Credit dated January 10, 2007, as most recently amended July 24, 2013, and expiring July 23, 2014 issued by Bank of America in the principal amount of two million nine hundred fifty-one thousand five hundred dollars (\$2,951,500) (the “July 2014 LOC”);
  - (c) the Letter of Credit dated January 10, 2007, as most recently amended November 14, 2013, and expiring January 13, 2015 issued by Bank of America in the principal amount of two million nine hundred ninety-eight thousand two hundred thirty-three dollars (\$2,998,233) (the “January 2015 LOC”); and
  - (d) the Performance Bond dated December 12, 2012 and expiring December 12, 2013, issued by Navigators Insurance Company, in

the principal amount of four million dollars (\$4,000,000) ("GCS December 2013 Bond").

- (v) "Facility" means (a) the Facility as described in Schedule 1 and (b) each Capital Project, as each such Capital Project, is installed, completed and accepted pursuant to the terms of this Agreement.
- (vi) "Facility Employees" mean not more than 80 full-time equivalent employees employed by the Contractor and who are physically based and perform Work at the Facility. For purposes of this Agreement, Marc McMenamin, Facility plant manager, shall be considered to be a Facility Employee.
- (vii) "Facility Exceedance" means any exceedance of air emissions standards or other conditions in the Permits, whether or not regulatory action is taken by any Governmental Authority.
- (viii) "Final Approved Budget" shall have the meaning ascribed to such term in Section 8.2.1.
- (ix) "Final Inventory" shall have the meaning ascribed to such term in Section 3.13.1.
- (x) "Inventory Adjustment" shall have the meaning ascribed to such term in Section 3.13.1.
- (xi) "Labor Costs" shall have the meaning ascribed to such term in Section 8.2.1.
- (xii) "Labor Markup" means, with respect to Labor Costs only (and no other costs or expenses whatsoever), overhead and profit equal to twelve and one-half percent (12.5%); provided, however, the foregoing percentage shall be adjusted as follows:
  - (a) For each full one percent (1%) that the Total Capacity Factor increases above the Specified Capacity Factor, the Labor Markup percentage shall be increased by one percent (1%), commencing with the Billing Month after the Billing Month in which such increased Total Capacity Factor was achieved and continuing for each Billing Month thereafter;
  - (b) For each full one percent (1%) that the Total Capacity Factor decreases below the Specified Capacity Factor, the Labor Markup percentage shall be decreased by one percent (1%) commencing with the Billing Month after the Billing Month in

which such decreased Total Capacity Factor occurred and continuing for each Billing Month thereafter; and

(c) For each Billing Month in which there are no Facility Exceedances, the Labor Markup percentage shall be increased by one percent (1%) for the Billing Month only in which no such Facility Exceedances occurred.

For avoidance of doubt and for purposes of clarity, the adjustments referenced in clauses (a) and (b) above in this definition are cumulative, and the increase in clause (c) is not.

- (xiii) “Non-Labor Markup” means fixed overhead and profit equal to five percent (5%).
- (xiv) “Non-Routine Expenses” means additional Work or services agreed upon in writing by the Contractor and the County, including Work performed by the Contractor, Subcontractors, Capital Repairs or Replacements and Capital Projects, Equipment, Spare Parts and parts (other than Spare Parts) purchased by the Contractor, and additional insurance premiums, in each case, not otherwise included in Routine Monthly Expenses or Outage Costs.
- (xv) “Potential Facility Operator(s)” means any Entity being considered by the County to operate and maintain the Facility.
- (xvi) “Processing Requirement” shall have the meaning ascribed to such term in Section 7.2.1.
- (xvii) “Routine Monthly Expenses” shall have the meaning ascribed to such term in Section 8.2.1.
- (xviii) “Specified Capacity Factor” means a Total Capacity Factor of seventy-five percent (75%).
- (xix) “Total Capacity Factor” shall have the meaning ascribed to such term in the Power Purchase Agreement.

(g) Amendment to Section 2.1. Section 2.1 of the Service Agreement is amended by amending and restating the following definitions in their entirety to read as follows:

- (i) “Capital Project(s)” means a capital addition to the Facility whose useful life or tax amortization period, or both, is greater than one (1) year, such as land, buildings and Equipment. A Capital Project

shall not include (a) maintenance, of any character or form, to or on the Facility, or (b) any Capital Repair(s) or Replacement(s).

- (ii) “Capital Repair or Replace” or “Capital Repair(s) or Replacement(s)” means a repair or replacement to the Facility of a capital nature whose useful life or tax amortization period, or both, is greater than one (1) year, including a repair or replacement of (a) existing Equipment as of the Effective Date, (b) new Equipment that has been constructed or installed to or on the Facility as part of a Capital Project and has been accepted by the County as having been installed and substantially complete or demonstrated its capability to function or operate in accordance with its intended purpose, after the Effective Date, (c) any Equipment that has been repaired or replaced during the Term and (d) any street, sidewalk, driveway or other thoroughfare property damaged as a consequence of the act, event or condition giving rise to or in connection with the Work with respect to (a), (b) or (c) above. A Capital Repair or Replacement shall not, however, include (i) maintenance to Equipment, buildings, facilities or thoroughfares, or (ii) any Capital Repair or Replacement (1) undertaken or (2) to be undertaken, in either case, from the commencement of construction until Cured, by an Entity, other than the Contractor, the Guarantor or an Affiliate, pursuant to an existing and executed contract between the County and such Entity as of the Effective Date. To the extent that a Capital Repair or Replacement may include or constitute an improvement or upgrade, or both, to the Project as part and parcel of a Capital Repair or Replacement, any such improvement or upgrade shall be included within the definition of a Capital Repair or Replacement.
- (iii) “Cost Substantiation” means, with respect to any cost or expense incurred by the Contractor, a certificate signed by the Contractor’s Authorized Representative with respect to Direct Costs incurred by the Contractor, stating the reason for incurring such Direct Cost, the amount of such Direct Cost, and the event or Section under this Agreement giving rise to the Contractor’s right to incur such Direct Cost and that such Direct Cost is at a fair market value price for the service provided or materials supplied (it being understood that such services or materials may be provided or supplied by an Affiliate). If the County does not object, in writing, to any such certificate provided by the Contractor within the applicable time period prescribed by the Local Government Prompt Payment Act, such Direct Costs shall be deemed accepted by the County and shall be payable in accordance with the terms of this Agreement.

With respect to Direct Costs incurred by the Contractor, the amount shall be increased to provide for the payment of a profit only when expressly authorized pursuant to the terms of this Agreement (by the addition of the term “inclusive of Labor Markup” or “inclusive of Non-Labor Markup”), which percentage, when applicable, shall be as specified in the definition of “Labor Markup” or “Non-Labor Markup”, as applicable. Any certification provided by the Contractor’s Authorized Representative shall include copies of all invoices or charges, together with any additional documentation of such costs or expenses incurred which are necessary, in accordance with generally accepted accounting principles, to verify the amount of such costs and expenses and to demonstrate the basis for the amount claimed. The County reserves the right to request additional documentation and to have any documentation provided by the Contractor audited by the County or a third party auditing firm.

- (iv) “Direct Costs” means, in connection with any actual cost or expense incurred by the Contractor, (a) the actual, reasonable costs of the Contractor’s payroll for Facility Employees directly related to the performance of any obligation of the Contractor pursuant to the terms of this Agreement, consisting of compensation and fringe benefits, including vacation, sick leave, holidays, retirement, worker’s compensation insurance and employer’s liability insurance not otherwise provided by the Contractor pursuant to the provisions of Section 11.3 and Schedule 7 (Insurance), federal and State unemployment taxes and all medical and health insurance benefits, (b) the actual, reasonable cost to Subcontractors necessary to and in connection with the performance of the Contractor’s obligations, and (c) the actual costs of Equipment, equipment (other than Equipment), materials, direct rental costs and supplies purchased by the Contractor (Equipment and equipment (other than Equipment) manufactured or furnished by, and services, materials and supplies furnished by, the Contractor or its Affiliates shall be considered purchased materials at their actual invoice cost, provided such cost is an arm’s length fair market value cost). This definition shall be applicable whenever this term is identified in this Agreement unless the Parties shall otherwise agree in writing.
- (v) “Guarantor” means Green Conversion Systems LLC, a Delaware limited liability company.
- (vi) “Letter(s) of Credit” shall have the meaning given to such term in Section 11.4.”



- (vii) “Repair(s) or Replacement(s)” or “Repaired or Replaced” or “Repair or Replace” or “Repairing or Replacing” means any repair or replacement to the Facility, whether capital or maintenance in nature.
- (viii) “Term” means the term of this Agreement which term shall commence on the Commencement Date and, unless sooner terminated in accordance with its terms, end at midnight (local time) on December 31, 2014.

(h) Amendment to Section 3. The opening paragraph of Section 3 (immediately below the header, but before Section 3.1) shall be amended and restated in its entirety to read as follows:

“On and after the Effective Date and through the Term, the Contractor shall perform the following in return for reimbursement of the Routine Monthly Expenses and such other compensation as may be provided for pursuant to Section 8.2 unless otherwise specifically stated:”

(i) Amendment to Section 3.1. Section 3.1 of the Service Agreement is amended and restated in its entirety to read as follows:

“Section 3.1 Performance Guarantees. The Contractor shall manage, operate and maintain the Facility to meet the Performance Guarantees. Failure of the Contractor to meet the Performance Guarantees shall be an Event of Default by the Contractor.”

(j) Amendment to Section 3.2(a). Section 3.2(a) of the Service Agreement is amended and restated in its entirety to read as follows: “(a) Receive and Process Processible Waste in an amount equal to at least the Processing Requirement.”

(k) Amendment to Section 3.2(g). Section 3.2(g) of the Service Agreement is deleted in its entirety and the following is substituted in lieu thereof: “Reserved.”

(l) Amendment to Section 3.4.1. The second paragraph of Section 3.4.1 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof:

“The Contractor has, prior to the Effective Date, submitted its Staffing Plan to the County and such Staffing Plan is attached hereto as Schedule 13. Such Staffing Plan sets forth the Contractor’s organizational structure for its Work force and its minimum staffing requirements (by position) relative to its performance of the Work. The Contractor shall comply with such Staffing Plan, and any additions or reductions to such Staffing Plan may only be made upon the prior written approval of the County’s Authorized Representative. Notwithstanding anything herein to the contrary, the Contractor shall not increase the number of Facility

Employees beyond the limitations included within the definition of “Facility Employees” unless such increase is expressly approved in advance in writing by the County’s Authorized Representative. The Contractor shall also not increase the salary, wages or benefits of Facility Employees beyond those amount(s) specified in the Final Approved Budget without the prior written approval of the County.”

(m) Amendment to Section 3.4.1. The last sentence of Section 3.4.1 of the Service Agreement is deleted in its entirety.

(n) Amendment to Section 3.4.2. The last sentence of Section 3.4.2 of the Service Agreement is deleted in its entirety.

(o) Amendment to Section 3.4.3(d). Subsection (d) of Section 3.4.3 of the Service Agreement is deleted in its entirety and the following is substituted in lieu thereof: “Reserved.”

(p) Amendment to Section 3.4.3. The last sentence of Section 3.4.3 immediately prior to Section 3.4.3(a) of the Service Agreement is deleted in its entirety.

(q) Amendment to Section 3.4.4. Subsection (b)(ii) of Section 3.4.4 of the Service Agreement is deleted in its entirety.

(r) New Section 3.4.5. A new Section 3.4.5 is hereby added to the Service Agreement as follows:

“Section 3.4.5 Access to Facility Employees. The County, the Consulting Engineer, all authorized representatives and agents of the County and all Potential Facility Operator(s) shall have full and complete access to Facility Employees to interview and possibly offer employment to continue their work at the Facility following the earlier to occur of expiration or termination of this Agreement. Neither the Contractor nor any of its Affiliates shall restrict, whether by contract (e.g., non-competition or other similar agreement) or otherwise, any Facility Employees from being fully available to the County or the Potential Facility Operator(s), or both, for employment or attempted employment by the County or Potential Facility Operator(s). The Contractor shall permit any Potential Facility Operator to perform customary employee screening techniques (e.g., drug tests, background checks and the like) used by their company for all such Facility Employees; provided, however, such employee screening shall not occur until after such Potential Facility Operator is selected by the County.”

(s) Amendment to Section 3.6. Section 3.6 of the Service Agreement is deleted in its entirety and the following is substituted in lieu thereof:

“Section 3.6 Administrative Permits Requirements. The Contractor shall secure and pay for the acquisition of and maintain all Permits that are not County Permits required for either or both of the Facility or the Work and the Contractor’s Authorized Representative shall provide copies of all of the same to the County’s Authorized Representative upon request. The Direct Costs incurred and paid by the Contractor to Governmental Authorities to acquire or maintain such Permits shall be then be reimbursed by the County in accordance with Section 8.”

(t) Amendment to Section 3.7.4. Section 3.7.4 of the Service Agreement is deleted in its entirety and the following is substituted in lieu thereof:

“Section 3.7.4 Failure to Comply. Failure of the Contractor to comply with the requirements of this Section 3.7 shall constitute a Contractor Event of Default.”

(u) Amendment to Section 3.8. The first clause “[a]s part of the Transition Plan” of the first sentence of the first paragraph of Section 3.8 is deleted in its entirety.

(v) Amendment to Section 3.8. The last sentence of the second paragraph of Section 3.8 of the Service Agreement is deleted in its entirety and the following is substituted in lieu thereof:

“All Contractor obligations under the emergency plan in effect as of the Commencement Date shall be performed as part of payment by the County of Contractor’s Routine Monthly Expenses.”

(w) Amendment to Section 3.8. The last two sentences of the third paragraph of Section 3.8 of the Service Agreement are deleted in their entirety and the following is substituted in lieu thereof:

“Any such cost increase shall be limited to Direct Costs, subject to Cost Substantiation, inclusive of Non-Labor Markup, as applicable. Reimbursement shall be in the form of a Non-Routine Expense, payable in accordance with Section 8.3.”

(x) Amendment to Section 3.8. The last sentence of the last paragraph of Section 3.8 of the Service Agreement is deleted in its entirety.

(y) Amendment to Section 3.9. The last sentence of Section 3.9 of the Service Agreement is deleted in its entirety.

(z) Amendment to Section 3.10. Section 3.10 of the Service Agreement is deleted in its entirety and the following is substituted in lieu thereof:

“Section 3.10 Repairs and Maintenance; County Facility Monitoring. The Contractor shall perform all maintenance and Repairs and Replacements to the Facility in accordance with the Standards of Maintenance. The County and its consultants shall have direct involvement in decision making for Facility operation, maintenance, Repair or Replacement, Capital Repair or Replacement and Capital Projects, including having one or more County staff persons or consultants, or both, at the Facility at whatever hours the County decides, which such person(s) and hours may be changed from time to time by the County at its sole discretion. Such person(s) shall be fully engaged and involved (e.g., privy to all discussions, information, data, policy formation, priority planning activities, operation, maintenance and Repair or Replacement, Capital Repair or Replacement, and Capital Project planning and decision-making meetings and activities, etc.) by Facility management and invited and permitted to attend all management, operation, maintenance, Repair or Replacement, Capital Repair or Replacement, and Capital Project meetings of any type or nature and shall be provided reasonable advance notice of such meetings. All Capital Repair or Replacement or Capital Projects, or both, shall be approved in advance and in writing by the County’s Authorized Representative. The Contractor shall work cooperatively with the County and its representatives in determining operation, maintenance, Repair or Replacement, Capital Repair or Replacement, and Capital Project priorities and the Contractor shall undertake, or direct or cause the undertaking or direction of, such matters and projects as instructed by the County, its Consulting Engineer, or other authorized representatives of the County. The Contractor shall be excused for a failure to meet a specific Performance Guarantee for any Billing Month in which the County specifically authorizes or instructs that Work be performed by the Contractor that would preclude the Contractor from meeting the specific Performance Guarantee so long as the Contractor delivered advance Notice to the County’s Authorized Representative stating that such Work is reasonably expected to prevent the Contractor from meeting the specific Performance Guarantee and describing the reason(s) therefor in reasonable detail.

The County may provide, at its sole cost and expense, monitoring of the Contractor’s operation and maintenance activities, the performance of its obligations under this Agreement and compliance with the scope and adequacy of activities reflected in the Final Approved Budget. The County shall exercise any such rights in a manner that will not unreasonably interfere with Facility operations.

The Contractor shall, at its sole cost and expense without any reimbursement by the County, promptly Cure each of those items highlighted in yellow and having a completion date of October 31, 2013 as listed on the Consulting Engineer’s inspection list attached hereto as Schedule 23. The Contractor shall, subject to reimbursement by the County in accordance with Section 8, promptly Cure each of the remaining items (not otherwise highlighted

in yellow) on or before the date specified in the column entitled "Date Required to be Completed By" or such later date, as may be extended by in writing by the County's Authorized Representative. Unless otherwise extended in writing by the County's Authorized Representative, the failure of the Contractor to Cure, to the reasonable satisfaction of the County, each item listed on Schedule 23 by the date specified in the column entitled "Date Required to be Completed By", shall constitute an Event of Default.

In furtherance of the Contractor's obligations under Section 3.2 and the previous paragraph of this Section 3.10, the Contractor shall perform maintenance, Repairs and Replacements to the Facility and perform each and every component of the Work in accordance with the more stringent of (a) the Operation and Maintenance Manuals, and other operating instructions produced, generated or modified by the Contractor relating to the Facility and consistent with Prudent Industry Practices, (b) manufacturer's recommendations, as modified by the Contractor, and such modifications shall be consistent with (1) Prudent Industry Practices and (2) the requirements necessary to maintain the Facility's warranties (to the extent such warranties are available to the Contractor), (c) the applicable terms and conditions of this Agreement, (d) Prudent Industry Practice and (e) Applicable Laws (collectively, the "Standards of Maintenance"); provided, however, that compliance with the foregoing shall not be a violation of Applicable Laws. The Contractor shall be obligated to comply with those Standards of Maintenance which are applicable in any particular circumstance. Where more than one Standard of Maintenance applies to any particular obligation under this Agreement, the Contractor shall comply with each applicable Standard of Maintenance. Where one or more Standards of Maintenance may be in conflict with one another, the Contractor shall comply with the most stringent, or applicable portion, of such Standards of Maintenance."

(aa) Amendment to Section 3.11. Section 3.11 of the Service Agreement is deleted in its entirety and the following is substituted in lieu thereof: "Reserved."

(bb) New Section 3.13.1. A new Section 3.13.1 is hereby added to the Service Agreement as follows:

"Section 3.13.1 Spare Parts, Equipment and Supplies. Promptly following the earlier to occur of expiration of the Term or termination of the Agreement, a complete Facility inventory shall be performed by the Consulting Engineer and the Contractor and compared to the initial Facility Inventory List and Spare Parts Inventory List. The physical inventory and current listing of all personal property existing at the Facility, including the Equipment, Rolling Stock, materials, supplies, chemicals and Spare Parts (the "Final Inventory") shall be equal to the number and type of such items as contained in the initial Facility Inventory List and the Spare Parts Inventory List unless otherwise approved in writing by the County's Authorized Representative. The Consulting Engineer shall prepare and deliver a reconciliation statement to the County and the Contractor setting forth (a) an inventory count, by item and type, and (b) the aggregate cost of the

difference, if any, between the items listed on the initial Facility Inventory List or the Spare Parts Inventory List, or both, as compared to the Final Inventory (the "Inventory Adjustment").

In calculating the Inventory Adjustment, (A) to the extent that the number or type of an individual item in the Final Inventory is (i) greater than that listed on the initial Facility Inventory List or the Spare Parts Inventory List, or both, and such item is reflected on the Contractor's book value list, the value for such item reflected in the Inventory Adjustment shall be based on the lesser of book value (as reflected on the Contractor's most recent balance sheet, which shall be delivered by the Contractor to the Consulting Engineer and the County within five (5) Days following the earlier to occur of expiration of the Term or termination of the Agreement) or fair market value (based on an appraisal conducted by a third party appraiser engaged by the County) of such item as of the date of termination, and (ii) less than that listed in the initial Facility Inventory List or the Spare Parts Inventory List, or both, the value for such item reflected in the Inventory Adjustment shall be based on the estimated wholesale cost of such inventory as reasonably determined by the Consulting Engineer and (B) the aggregate cost of all inventory purchased by the County (whether by the County directly or by the Contractor and reimbursed by the County in accordance with this Agreement) during the period from the Effective Date to the earlier of expiration or termination of the Agreement shall be credited for the County's account (i.e., reduces the Inventory Adjustment) so as to avoid double counting the same.. Each item of Facility inventory shall be free and clear of all liens and encumbrances; provided, to the extent any lien or encumbrance exists on any item of Facility inventory, the County shall reduce the Inventory Adjustment to account for the cost and expense necessary to remove and payoff such outstanding lien or encumbrance.

To the extent the Inventory Adjustment is positive (i.e., the County is obligated to make payment to the Contractor for the Contractor's excess Facility inventory), the Contractor shall (x) execute and promptly (in any event, prior to the date the County is obligated to pay the Contractor for such excess Facility inventory in accordance with this Section 3.13.1) deliver to the County a bill of sale or other proper transfer document or documents reasonably proposed by the County transferring the Contractor's personal property to the County, and (y) to the extent applicable, promptly deliver (in any event, prior to the date the County is obligated to pay the Contractor for such excess Facility inventory in accordance with this Section 3.13.1), original title documentation for the subject Facility inventory.

Within thirty (30) Days following the County's and the Contractor's receipt of the statement reflecting the Inventory Adjustment from the Consulting Engineer, (A) if the Inventory Adjustment is positive, the County shall make payment to the Contractor in accordance with Section 8.6.2; or (B) if the Inventory Adjustment is negative, at the County's election, the Contractor shall make payment to the

County or the County may setoff such amount against any amount owed to the Contractor in accordance with Section 8.6.3.

This Section 3.13.1 shall survive termination or expiration of the Agreement.”

(cc) Amendment to Section 3.14. The last sentence of Section 3.14 of the Service Agreement is amended in its entirety and the following is substituted in lieu thereof:

“Any excess amount shall be paid by the Contractor to the County either, at the County’s election, as (i) a direct payment to the County’s invoiced amount within thirty (30) Days following the Contractor’s receipt of the County’s invoice or (ii) if known at such time, as a credit and set-off against the amounts otherwise due and owing for the final three (3) Billing Months of this Agreement.”

(dd) Amendment to Section 3.14.2. Section 3.14.2 of the Service Agreement is amended in its entirety and the following is substituted in lieu thereof:

“Section 3.14.2 Disposition of County Property. The Contractor shall use commercially reasonable efforts to market and sell obsolete Spare Parts or Equipment. Equipment that is replaced, refurbished, exchanged or otherwise disposed shall serve as a credit (i.e., reduces costs payable by the County to the Contractor) to the Contractor’s purchase of replacement Equipment.”

(ee) Amendment to Section 3.14.3. Section 3.14.3 of the Service Agreement is amended in its entirety and the following is substituted in lieu thereof:

“Section 3.14.3 Use or Removal of Equipment. The Contractor shall not remove Equipment from the Facility Site or share the use thereof on a temporary basis with other facilities the Contractor operates and maintains.”

(ff) New Section 3.14.4. A new Section 3.14.4 is hereby added to the Service Agreement as follows:

“Section 3.14.4 CMMS and CSPIS Training. The Contractor shall provide the County, its agents and representatives, and any Potential Facility Operators twenty-four (24) hours of training on the use of the computerized maintenance management system (“CMMS”) and allow them reasonable access to CMMS. The Contractor shall provide access to and make available for review and copying, as often as may be desired by the County, its representatives and agents, and any Potential Facility Operators, all Spare Parts inventory data and information, to include all current Subcontractor contracts, all to the extent not protected by Applicable Law. Additionally, the Contractor shall provide the County, its representatives and agents, and any Potential Facility Operators sixteen (16) hours of training on the use of the computerized Spare Parts inventory system (“CSPIS”) and allow them reasonable access to CSPIS.”

(gg) Amendment to Section 3.15.1. Section 3.15.1 of the Service Agreement is amended in its entirety and the following is substituted in lieu thereof:

“Section 3.15.1 Access to the Facility. The Contractor shall provide the County’s Authorized Representative and his or her agents or representatives (including the Consulting Engineer) on a twenty-four (24) hour per Day basis and with the full cooperation of the Contractor, complete, unfettered and unlimited access to and unlimited rights to visit and inspect the Facility and the Facility Site, at any time for any reason, including photography, sampling and testing. The County, its representatives and Potential Facility Operators shall be allowed to observe all Facility operations at whatever reasonable times the County wishes them to be present and they may also make their own inspections and measurements during such work. The Contractor shall cooperate in all respects with the County, its representatives and Potential Facility Operators and take all actions required by the County to facilitate the foregoing.”

(hh) Amendment to Section 3.15.2. Section 3.15.2 of the Service Agreement is amended in its entirety and the following is substitute in lieu thereof:

“Section 3.15.2 Access to Facility Data and Records. The County’s Authorized Representative, the Consulting Engineer, the County’s employees, representatives and agents, and the Potential Facility Operator(s), with the full cooperation of the Contractor, shall have full, complete and unfettered access to review (at the Facility) and make copies of all records pertaining to the Facility and its operations, including O&M records, Operation and Maintenance manuals, staffing charts, employee history records, employee training records, cost records, calibration records, salary, payroll and benefits records, standard operating procedures, preventive maintenance records, Equipment maintenance, Repair or Replacement records and schedules, plans, drawings specifications, all records for construction of the Facility, Subcontractor scopes of work, correspondence with Governmental Authorities (other than the County), contracts and pricing, reports and reports prepared by Entities of any nature whatsoever. Access to such records shall occur during normal business hours and upon reasonable notice to the Contractor. In addition, the aforesaid documents, papers and letters (collectively, “Records”) will be made available by the Contractor for audit or inspection purposes by the County. The County, its consultants and any Potential Facility Operators shall have access to (for review and copying), may interview and obtain records from consultants, Subcontractors and others who performed work at the Facility and/or inspected the Facility or portions thereof.”

(ii) Amendment to Section 3.15.3. Section 3.15.3 of the Service Agreement is amended and restated in its entirety and the following is substituted in lieu thereof:

“Section 3.15.3 Compliance with Contractor’s Rules. Relative to the inspections and visits as described in this Section 3.15, the County’s Authorized



Representative, the Consulting Engineer, the Potential Facility Operator(s), and the County's representatives and agents and representatives of Governmental Authorities shall comply with all of the Contractor's safety rules and regulations with respect to their inspection or visit to the Facility and/or Facility Site and shall not unreasonably interfere with Facility operations; provided, however, such compliance shall only be applicable to the extent such rules and regulations are applicable to the Facility Employees and Subcontractors. The Contractor agrees that its rules and regulations regarding access to the Facility Site shall be designed not to restrict access, but rather to address appropriate security, operational or safety issues that may be reasonably encountered on such visits."

(jj) New Section 3.15.5. A new Section 3.15.5 is hereby added to the Service Agreement as follows:

"Section 3.15.5 Facility Controls Training. The Contractor shall provide the County, its agents and representatives, and any Potential Facility Operator a total of forty (40) hours of training on the use of the Facility control room, DCS, CEMS, Citect, the cranes and any other Equipment used to control the operation of the Facility."

(kk) New Section 3.15.6. A new Section 13.15.6 is hereby added to the Service Agreement as follows:

"Section 3.15.6. Facility Software Licenses. At the earlier of expiration of the Term or termination of the Agreement, the Contractor shall transfer and assign to the County or a Potential Facility Operator directed by the County, for one (\$1) and other good and valuable consideration, all software licenses used by the Contractor relative to the Facility and its operations or maintenance and provide all administrative security rights (e.g., passwords, passcodes, etc.) for the same. To the extent permitted by such software licenses, the Contractor shall execute and promptly deliver to the County a bill of sale or other proper transfer document or documents reasonably proposed by the County transferring the Contractor's rights and interest in and to the software licenses to the County or a Potential Facility Operator, as directed by the County. The Contractor shall pursue all diligent efforts to fully cooperate and assist the County with the foregoing assignment of such software licenses."

(ll) Amendment to Section 3.16. The first paragraph of Section 3.16 is hereby amended and restated in its entirety as follows:

"The Contractor shall be responsible for Facility security, including the administration and implementation of the security procedures for the Facility. Without limiting the generality of the foregoing, access to the Facility and the Facility Site shall only be given to Facility Employees, Subcontractors, Affiliates, Contractor's invitees, Solid Waste haulers, Governmental Authorities, Potential Facility Operators and those Entities permitted by Section 3.14 and as

determined by the County's Authorized Representative. The access gates to the Facility Site shall remain closed except when admitting such employees, Subcontractors, Affiliates, Contractor's invitees, haulers, Governmental Authorities, Potential Facility Operators and Entities. The Contractor shall also provide all additional security measures as directed in writing by the County. Any such increase in costs shall be limited to Direct Costs, subject to Cost Substantiation, inclusive of Non-Labor Markup. Such increase shall be a Non-Routine Expense, payable in accordance with Section 8.3."

(mm) Amendment to Section 3.18.1. Section 3.18.1 of the Service Agreement is amended and restated in its entirety as follows:

"Section 3.18.1 Acceptance. The Contractor acknowledges and agrees that the Work and satisfaction of the Performance Guarantees is based on the Contractor's acceptance of the Facility in its present, "as is" condition on the Effective Date, including the current state of repair and maintenance of the Facility. Notwithstanding anything herein to the contrary, the Contractor waives any and all claims, demands and defenses for Contractor's failure to perform the Work and satisfy the Performance Guarantees based on the condition and state of the Facility."

(nn) Amendment to Sections 3.18.2, 3.18.3, 3.18.4 and 3.18.5. Sections 3.18.2, 3.18.3, 3.18.4 and 3.18.5 of the Service Agreement are deleted in their entirety and the following is substituted in lieu thereof: "Reserved."

(oo) Amendment to Section 3.19.1. The second paragraph of Section 3.19.1 of the Service Agreement is amended and restated in its entirety and the following is substituted in lieu thereof:

"Pond A water shall undergo treatment and be supplied to the Facility by the County for use by the Contractor."

(pp) Amendment to Section 3.21. The last three paragraphs of Section 3.21 of the Service Agreement shall be deleted in their entirety.

(qq) Amendment to Section 3.22. Section 3.22 of the Service Agreement is amended and restated in its entirety as follows:

“The Contractor shall manage, operate and maintain the Residue Processing System and Ferrous Metal and Non-Ferrous Metal removal systems in accordance with the requirements provided in Schedule 2 and in accordance with the Standards of Maintenance, market all Recovered Materials and deliver, or cause to be delivered, Recovered Materials to the purchasing Entities. No Residue or Recovered Materials shall be stored, maintained, stockpiled or otherwise exist outside of any enclosed building except as specifically provided herein. Transportation of Recovered Materials shall occur during and be limited to the Receiving Time. The Contractor shall identify available markets for the sale of Recovered Materials, and shall be responsible for and exercise all reasonable efforts to market and sell such Recovered Materials. Notwithstanding anything in this Agreement to the contrary, the County shall enjoy (and not share with the Contractor) all revenues received by the Contractor from the sale of Recovered Materials.

If no market or purchasers for such Recovered Materials can be identified by the Contractor or the County or if Ferrous Metals and/or Non-Ferrous Metals can only be sold or otherwise disposed of at a loss, the Contractor’s Authorized Representative shall promptly notify the County’s Authorized Representative of such circumstance and the County shall elect to treat such circumstance as an uneconomic marketplace in which case, the County shall (a) direct that the Contractor cease operations of the Ferrous Metal and/or Non-Ferrous Metal removal system and marketing activities or (b) instruct the Contractor to continue to market such Ferrous Metals and/or Non-Ferrous Metals. If Recovered Materials exceed the capacity of the storage bunker provided inside the Residue storage and processing building for such Recovered Materials, then the County shall, at its cost and expense, transport or shall arrange for the transport of such Recovered Materials to the Landfill or such other storage or disposal location as the County shall determine.”

(rr) Amendment to Section 3.24. The last sentence of Section 3.24 of the Service Agreement is deleted in its entirety.

(ss) Amendment to Section 3.26. The last two sentences of Section 3.26 of the Service Agreement are deleted in their entirety.

(tt) Amendment to Section 3.27. Section 3.27 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof: “Reserved.”

(uu) Amendments to Sections 3.28.2 and 3.28.3. Sections 3.28.2 and 3.28.3 of the Service Agreement are deleted in their entirety and the following is inserted in lieu thereof: “Reserved.”

(vv) Amendment to Section 3.29. The last sentence of Section 3.29 of the Service Agreement is deleted in its entirety.

(ww) Amendment to Sections 3.30, 3.31, 3.32 and 3.33. Sections 3.30, 3.31, 3.32 and 3.33 are deleted in their entirety and the following is inserted, in each section, in lieu thereof: "Reserved."

(xx) New Section 3.34. A new Section 3.34 is hereby added to the Service Agreement as follows:

"Section 3.34 Cooperation with the County for Procurement or Negotiation with Potential Facility Operators. The Contractor acknowledges and agrees that, during the Term, the County and its representatives and agents plan to conduct a procurement and engage in discussions and negotiations with Potential Facility Operators. The Contractor shall fully cooperate with the County in its efforts to evaluate its options for the long term operation and maintenance of the Facility, including any procurement efforts to secure a replacement operator and the Contractor shall further assist in facilitating any transition that may follow. The Contractor agrees not to interfere with, disrupt, attempt to disrupt, or take any action, judicial or otherwise, of any kind that may, could cause or would impede or preclude the County's procurements, discussions and negotiations of any type with any Potential Facility Operator."

(yy) Amendment to Section 4.1. Section 4.1 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof:

"Section 4.1 Delivery of Processible Waste. The County shall use commercially reasonable efforts to deliver, or cause to be delivered, to the Facility, Processible Waste within the County's control, in the amounts and during the times specified in Section 7."

(zz) Amendment to Section 4.2. Section 4.2 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof:

"Section 4.2 Payments of Amounts Owed to Contractor. The County shall pay, or cause to be paid, the amounts due the Contractor at such times and in such amounts as specified in Section 8."

(aaa) Amendment to Section 4.8. The last sentence of Section 4.8 of the Service Agreement is deleted in its entirety.

(bbb) Amendment to Section 4.9. Section 4.9 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof:

“Section 4.9 Permanent Lime Softening System. The County shall be obligated, at its sole cost and expense, to operate, maintain, treat and transmit the resulting Process Water from Pond A to the Facility for the Contractor’s use.”

(ccc) New Section 4.10. A new Section 4.10 is hereby added to the Service Agreement as follows:

“Section 4.10 Retention of Facility Employees. In connection with the procurement for a new Facility operator, the County shall use reasonable efforts to encourage the Potential Facility Operator selected by the County to make offers of employment to the existing Facility Employees. The Contractor acknowledges and agree that the failure of a Potential Facility Operator to offer employment or hire all or any part of the Contractor’s labor force shall not be a breach of this Agreement and neither the Contractor nor any Potential Facility Operator shall have any liability for not hiring such personnel.”

(ddd) Amendment to Section 5.2. Section 5.2 of the Service Agreement is amended and restated in its entirety and the following shall be substituted in lieu thereof:

“Section 5.2 Failure to Comply. Failure of the Contractor’s Authorized Representative to provide the reports containing the information and data by the due dates specified in this Section 5 shall constitute an Event of Default of the Contractor.”

(eee) Amendment to Sections 6.1, 6.2, 6.3, 6.4 and 6.5. Sections 6.1, 6.2, 6.3, 6.4 and 6.5 of the Service Agreement shall be deleted in its entirety and the following shall be substituted in lieu thereof: “Reserved.”

(fff) Amendment to Section 6.6. Section 6.6 of the Service Agreement shall be amended and restated in its entirety and the following is inserted in lieu thereof:

“Section 6.6 Contractor Operation and Maintenance of County Completed Work. The County shall have the right to undertake any Capital Repair or Replacement or Capital Project. To the extent the County, through its reasonably qualified employees or one or more reasonably qualified third parties, undertakes and performs a Capital Repair or Replacement or Capital Project, or any one or more of the foregoing, the Contractor shall thereafter operate and maintain such items in accordance with this Agreement, and the Contractor waives any claim or defense it may assert against the County that, as a result of such Cure, it can no longer operate the Facility in accordance with the Performance Guarantees, but shall be entitled to the benefits of any rights that the County may have against the County’s third party contractors relative to defective Work. Notwithstanding the foregoing in this Section 6.6, to the extent the Contractor provides Notice to the County prior to the County undertaking any Capital Repair or Replacement or Capital Project that such Capital Repair or Replacement or Capital Project will materially adversely affect the Contractor’s ability to perform its impacted obligations under this Agreement and the County nevertheless proceeds and completes such undertaking(s), the Contractor shall be relieved from performing such impacted obligations.”

(ggg) Amendment to Section 7.1.1. Section 7.1.1 of the Service Agreement shall be deleted in its entirety and the following shall be substituted in lieu thereof:

“Section 7.1.1 Delivery of Processible Waste. The County shall use reasonable efforts to deliver, or cause to be delivered to the Facility, all Processible Waste within its control to the Facility in accordance with this Section 7. With respect to such deliveries, the County shall make reasonable efforts to deliver, or cause to be delivered, Processible Waste on a relatively equal and consistent basis over each Billing Month subject to normal seasonal Solid Waste quantity variations and other factors. In addition, the County shall deliver or cause to be delivered, if all of the following conditions apply, such additional Processible Waste as (a) the Contractor has requested, (b) the Contractor has available Facility capacity for storage and Processing as demonstrated by the line of vehicles waiting to deliver Processible Waste not extending past the beginning of the ramp leading to the Facility tipping floor and (c) the County has reasonably available to it to so deliver or to cause to be delivered. Notwithstanding the foregoing in this Section 7.1.1, the County shall have no obligation to deliver, or to cause to be delivered, Processible Waste in circumstances where the queue for vehicles hauling Processible Waste to the Facility extends beyond the beginning of the ramp leading to the Facility tipping floor. Processible Waste that is directed to the Landfill for disposal as a consequence of the immediately preceding sentence in this Section 7.1.1 shall, for all purposes necessary to calculate the aggregate amount of Processible Waste delivered or caused to be delivered by the County to the Facility, be Processible Waste delivered to the Facility that the Contractor did not accept due to Contractor Fault, unless it is clear under the circumstances that the queue for the line of vehicles that extends beyond the beginning of the ramp leading to the Facility tipping floor is (a) due to a mechanical breakdown of vehicles on the ramp to the Facility or on the tipping floor or (b) the result of the Contractor’s discovery that Prohibited Waste or bio-medical waste has been delivered to the tipping floor and the requirements associated with managing such events, then the Tons of Processible Waste directed to the Landfill as a result of the occurrence of (a) and/or (b) shall not be credited towards the County’s delivery of Processible Waste to the Facility.”

(hhh) Amendment to Section 7.1.2(b). Section 7.1.2(b) of the Service Agreement shall be deleted in its entirety and the following shall be substituted in lieu thereof: “Reserved.”

(iii) Amendment to Section 7.1.3. The last sentence of the first paragraph of Section 7.1.3 of the Service Agreement shall be deleted in its entirety.

(jjj) Amendment to Section 7.2.1. Section 7.2.1 of the Service Agreement shall be amended and restated in its entirety and the following is inserted in lieu thereof:

“Section 7.2.1 Processing Requirement. During each Billing Month, but subject to the Contractor’s rejection rights during any Billing Month specified in Section

7.1.2(a), the Contractor shall Process a minimum of sixty seven thousand (67,000) Tons of Processible Waste on a rolling three (3) Billing Month basis, but in no event less than fifty thousand Tons (50,000) of Processible Waste in any Billing Month (the “Processing Requirement”); provided, that the County delivers or causes to be delivered at least such amount of Processible Waste to the Facility during such Billing Month; provided, further, the Contractor shall be excused of the Processing Requirement for any Billing Month in which the County specifically authorizes or instructs that Work be performed by the Contractor that would preclude the Contractor from meeting the Processing Requirement so long as the Contractor delivered advance Notice to the County’s Authorized Representative stating that such Work is reasonably expected to prevent the Contractor from satisfying the Processing Requirement and describing the reason(s) therefor in reasonable detail.”

(kkk) Amendment to Section 7.3.2.1. The penultimate sentence of Section 7.3.2.1 of the Service Agreement shall be deleted in its entirety and the following shall be substituted in lieu thereof:

“The traffic control director shall give Notice to the County’s Authorized Representative as to when a roll-off container needs to be emptied, and the County shall provide, at its sole cost and expense, for the removal and disposal of all such metals and Nonprocessible Waste.”

(lll) Amendment to Section 7.3.2.2. The first sentence of the second paragraph of Section 7.3.2.2 of the Service Agreement shall be deleted in its entirety and the following shall be substituted in lieu thereof:

“The Contractor shall provide a HWCP to the County for its review and approval.”

(mmm) Amendment to Section 7.4.2. Subsection (e) of Section 7.4.2 of the Service Agreement shall be deleted in its entirety and the following shall be substituted in lieu thereof: “Reserved.”

(nnn) Amendment to Section 7.4.3. The last clause in the last sentence of Section 7.4.3 of the Service Agreement shall be deleted in its entirety.

(ooo) Amendment to Section 7.4.6. The last two sentences of the first paragraph of Section 7.4.6 of the Service Agreement shall be deleted in their entirety.

(ppp) Amendment Section 7.6.1. The phrase “except as provided in Schedule 2 of this Agreement” in Section 7.6.1 of the Service Agreement shall be deleted in its entirety.



(qqq) Amendment to Section 8. Section 8 of the Service Agreement (inclusive of Sections 8.1, 8.2, 8.3 and 8.4) is hereby amended and restated in its entirety and the following shall be substituted in lieu thereof:

“Section 8.1 General. Beginning on the Effective Date, the Contractor shall be compensated for Work properly performed pursuant to this Agreement and in accordance with the payment terms prescribed in Section 8.2, et. seq. For avoidance of doubt, for the Billing Month beginning on December 1, 2013, the Contractor shall be entitled to receive payment in accordance with Section 8 of this Agreement (as amended by Amendment No. 6), not the Service Agreement, as unamended by Amendment No. 6.

Section 8.2 Routine Monthly Expenses.

Section 8.2.1 Approved Routine Monthly Expense Budget. Within ten (10) Days following the Effective Date, the Contractor shall propose and deliver to the County’s Authorized Representative an itemized budget consisting of all routine monthly expenses associated with the operation and maintenance of the Facility and reasonably expected to be incurred by the Contractor beginning with the Billing Month starting on the Effective Date and for each Billing Month thereafter for the Term (the “Routine Monthly Expenses”), including Facility Employee salary, wages and benefits (the “Labor Costs”), Utilities (not otherwise payable by the County), Reagents, parts, routine maintenance supplies, premiums for Required Contractor Insurance and Permits (other than County Permits), in each case, based on the historical annual expense for the immediately preceding Billing Year (i.e., the Billing Year ending September 30, 2013). Together with the proposed budget, the Contractor shall provide to the County all relevant backup documentation (e.g., financial statements, payroll and benefit statements, invoices, contracts, etc.) used by the Contractor to prepare the proposed budget of Routine Monthly Expenses. In preparing the proposed budget for Routine Monthly Expenses, (a) Labor Costs shall be based on Direct Cost of the Contractor for payroll of Facility Employees for the Fiscal Year then ended on September 30, 2013, plus a reasonable annual salary or wage increase of not more than three percent (3%) above such annual salary or wages in effect for such prior Fiscal Year; (b) Labor Costs shall be inclusive of Labor Markup; and (c) the actual costs and expense for Utilities, Reagents, parts, routine maintenance supplies, premiums for Required Contractor Insurance, Permits (other than County Permits) and Chris Neu and Lee Bazzle, as Subcontractors to the Contractor, shall be at Direct Cost, exclusive of any markup or profit whatsoever.

Within fifteen (15) Days following the County’s Authorized Representative’s receipt of the Contractor’s proposed monthly budget and relevant backup documentation the County’s Authorized Representative shall, by Notice to the Contractor’s Authorized Representative, approve or disapprove of such proposed budget. If the County’s Authorized Representative by such Notice disapproves of the Contractor’s proposed budget, the County’s Authorized

Representative shall specify in reasonable detail in such Notice its reasons for its disapproval. The Contractor shall, upon receipt of such Notice, amend its proposed budget accordingly and resubmit it to the County's Authorized Representative for approval. Unless the County's Authorized Representative delivers Notice to the Contractor's Authorized Representative of further comments or modifications to the proposed budget within fifteen (15) Days following the County's Authorized Representative's receipt of the Contractor's revised proposed monthly budget, such monthly budget (the "Final Approved Budget") shall be deemed to have been approved by the County's Authorized Representative.

#### Section 8.2.2 Reimbursement of Routine Monthly Expenses.

(a) Prior to the approval by the County's Authorized Representative of the Final Approved Budget in accordance with Section 8.2.1, the Contractor shall, within fifteen (15) Days following the end of each Billing Month, submit its invoice to the County's Authorized Representative for the Direct Costs of the Routine Monthly Expenses actually incurred and paid by the Contractor, subject to Cost Substantiation, for the prior Billing Month. In preparing its invoice for Routine Monthly Expenses for such prior Billing Month, (a) Labor Costs shall be based on Direct Cost of the Contractor for payroll of Facility Employees for the Fiscal Year then ended on September 30, 2013, plus a reasonable annual salary or wage increase of not more than three percent (3%) above such annual salary or wages in effect for such prior Fiscal Year; (b) Labor Costs shall be inclusive of Labor Markup; provided that, to the extent the circumstance(s) described in subsection (a), (b) or (c) of the definition of the Labor Markup shall have occurred, then the Labor Markup percentage with respect to the Contractor's Labor Costs shall be adjusted upward or downward, as applicable, in accordance with circumstances described in subsection (a), (b) or (c) in the definition of "Labor Markup"; and (c) the costs and expense for Utilities, Reagents, parts, routine maintenance supplies, premiums for Required Contractor Insurance and Permits (other than County Permits) shall be at Direct Cost, exclusive of any markup or profit whatsoever.

(b) Following approval by the County's Authorized Representative of the Final Approved Budget in accordance with Section 8.2.1, the Contractor shall, on or after the first day of each Billing Month, submit its invoice to the County's Authorized Representative for the amount specified for that Billing Month as provided in the Final Approved Budget; provided that, to the extent the circumstance(s) described in subsection (a), (b) or (c) of the definition of the Labor Markup shall have occurred, then the Labor Markup percentage with respect to the Labor Costs specified in the Final Approved Budget shall be adjusted upward or downward, as applicable, in accordance with circumstances described in subsection (a), (b) or (c) in the definition of "Labor Markup".

Section 8.2.3 Reconciliation of Routine Monthly Expenses. Within sixty (60) Days following the end of each Billing Month in which Contractor submits it invoice in accordance with Section 8.2.2(b), the Contractor shall prepare and deliver to the County's Authorized Representative a reconciliation statement, including all backup documentation, setting forth (a) the variance between the actual Routine Monthly Expenses (based on Direct Costs) incurred and paid by the Contractor for the subject Billing Month and the budgeted Routine Monthly Expenses for the same Billing Month as reflected in the Final Approved Budget, in each case, on an itemized basis, and (b) an adjustment, if any, to the Labor Costs based on the adjustment mechanism provided for in the definition of Labor Markup. Such Billing Month reconciliation shall be subject to Cost Substantiation. To the extent there is a shortfall (i.e., the actual aggregate Routine Monthly Expenses exceed the aggregate budgeted Routine Monthly Expenses for the same Billing Month as specified in the Final Approved Budget), such amount shall be paid by the County to the Contractor after receipt by the County of a properly formatted invoice consistent with the required documentation. To the extent there are any savings (i.e., the actual aggregate Fixed Monthly Expenses were less than the aggregate Fixed Monthly Expenses for such Billing Month established in the Final Approved Budget), such amount shall be offset and credited against the immediately succeeding Billing Month's payment or any other amounts due from the County to the Contractor; provided, in the event this Agreement has expired or is terminated and there are no amounts due the Contractor, such amount shall be promptly paid by the Contractor to the County by bank check or wire transfer (to an account specified in writing to the Contractor) within thirty (30) Days following expiration or termination of this Agreement. The Contractor shall provide the County and its representatives with full, complete and unfettered access to review (at the Facility) and make copies of all books, Records and other data (including Facility Employee salary, wages and benefit data), relative to the Facility and its operations, and all costs shall be subject to audit and repayment of any amounts deemed improper under this Agreement. This Section 8.2.3 shall survive termination or expiration of the Agreement.

Section 8.3 Non-Routine Expenses. The actual costs and expenses for Non-Routine Expenses incurred and paid by the Contractor during each Billing Month, as approved in writing by the County, shall be paid directly by the Contractor. The Contractor shall then, upon completion of the agreed-upon Work, as determined by the County in its reasonable discretion, or at designated milestones established in writing by the Contractor and the County, submit its invoice to the County for such Non-Routine Expenses at Direct Cost, subject to Cost Substantiation, inclusive of Non-Labor Markup. The County shall thereafter reimburse such expenses to the Contractor, all in accordance with the requirements of this Agreement. Together with each invoice submitted by the Contractor to the County for payment of Non-Routine Expenses, the Contractor shall include an executed affidavit and release in form and substance attached as Schedule 21. The County shall have no obligation to make any payment relative

to any such invoice unless and until such affidavit and release executed by the Contractor has been provided to the County.

Section 8.4 Outage Costs. The actual costs and expenses for Subcontractors engaged by the Contractor for Work relative to the Facility outage occurring between November 8, 2013 and December 31, 2013 (the “2013 Outage”) and for parts (other than Spare Parts, but inclusive of parts and supplies purchased by the Contractor at its sole cost and expense which are not County spare parts which were used during the 2013 Outage and which were taken from existing Facility inventory), materials and supplies purchased by the Contractor solely for Work performed during such outage shall be paid by the Contractor. Such costs and expenses shall then be invoiced to the County at Direct Cost upon the Contractor’s provision of Cost Substantiation to the County (the “Outage Costs”). In no event shall such Outage Costs include any costs, fees or expenses for Curing items on the Consulting Engineer’s inspection list attached hereto as Schedule 23, which costs, fees and expenses shall be paid solely by the Contractor, and in no event entitled to be reimbursed by the County under this Agreement. Notwithstanding anything herein to the contrary, prior to the Effective Date, the County shall not be obligated to pay any overtime for any Facility Employee. Together with each invoice submitted by the Contractor to the County for payment for Work performed and completed relative to Outage Costs, the Contractor shall include an executed affidavit and release in form and substance attached as Schedule 21. The County shall have no obligation to make any payment relative to any such invoice unless and until such affidavit and release executed by the Contractor has been provided to the County.

Section 8.5 Other Costs, Fees and Expenses.

Section 8.5.2 DEP Fees, Fines, Administrative Actions, Notices of Violations and Lawsuits.

Section 8.5.2.1 Fees. The County shall pay application, renewal and inspection fees for the County Permits as may be required by the DEP for the ownership, operation and maintenance of the Facility.

Section 8.5.2.2 Fines and Penalties Caused by the Contractor. The Contractor shall promptly pay any fines or penalties imposed by any Governmental Authority for Permit violations that occur after the Effective Date and that were not caused by the occurrence of a Force Majeure or County Fault that occurred after the Effective Date, and the Contractor shall promptly reimburse the County for the same to the extent paid by the County. Additionally, the Contractor shall promptly pay the costs of performing all work included in administrative orders, notices or similar directives of violation that were the result of the Contractor Fault. In the event the Contractor believes the regulatory fine or penalty or penalty is unjustified, the Contractor shall have the right to contest the regulatory fine or penalty at its sole cost and expense.

If the Contractor is required to pay any fine or penalty imposed by any Governmental Authority for a Permit violation that was not caused by the occurrence of a Force Majeure or County Fault, the County shall have the right to request, by giving at least five (5) Business Days prior Notice to the Contractor's Authorized Representative, that either or both the chief executive officers of the Contractor and the Guarantor appear before the Board of County Commissioners to explain why such current or accumulated payments was or is necessary. If, after the Contractor's Authorized Representative's receipt of such Notice and the passing of at least such five (5) Business Days thereafter, the chief executive officers of the Contractor and/or the Guarantor fail to appear at the next regularly scheduled meeting of such Board of County Commissioners, it shall be a Contractor Event of Default.

This Section 8.5.2.2 shall survive termination or expiration of this Agreement.

Section 8.5.2.3 Fines and Penalties Caused By Force Majeure or County Fault. Any fines or penalties imposed by DEP, EPA, or any Governmental Authority for Permit violations that were caused by the occurrence of a Force Majeure or County Fault, shall be paid by the County. Additionally, the County shall pay the costs of Work performed pursuant to administrative orders or notices of violation that were the result of the occurrence of a Force Majeure or County Fault. In the event the County believes the regulatory fine is unjustified, it shall be the County's responsibility to contest the regulatory fine at its sole cost and expense.

#### Section 8.6 Invoices, Method of Payment.

Section 8.6.1 Invoices. The Contractor shall submit its invoice to the County's Authorized Representative during such times provided for in the relevant provisions of this Section 8 for which payment is requested. The Contractor shall attach all documentation and information necessary to justify payment by the County to the Contractor or credit from the Contractor to the County.

To the extent the County is liable for the payment of insurance deductibles pursuant to Section 11.3.2, the Contractor shall submit to the County a separate invoice for such deductible amount on and after the Billing Month in which final liability has finally been determined. The Contractor shall attach all documentation and information necessary to justify payment by the County of such deductible amount. The County shall pay the justified deductible amount in accordance with the applicable provisions of the Local Government Prompt Payment Act after the date of receipt by the County of a properly formatted invoice containing the required documentation and free from errors. If the County disputes such deductible amount, including the lack of supporting

documentation or data, the Parties shall comply with the applicable provisions of Section 8.6.4 regarding such disputed invoice.

Section 8.6.2 Payment to Contractor. Notwithstanding anything herein to the contrary, the County shall pay all amounts due and payable to the Contractor pursuant to the terms of this Agreement in accordance with the applicable provisions of the Local Government Prompt Payment Act after the date of receipt by the County of a properly formatted invoice containing the required documentation and free of errors. If the County disputes any item in an invoice the Contractor submits for any reason, including lack of supporting documentation or data, the County's Authorized Representative shall delete the amount of the disputed item and pay the remainder of the invoice. The County's Authorized Representative shall promptly notify the Contractor's Authorized Representative of the disputed items and request resubmittal on the next monthly invoice, if applicable. If the due date for payment is not a Business Day, payment is due on the next Business Day following that date. If the County fails to remit the full amount payable when due, interest on the unpaid portion shall accrue at the rate prescribed under the Local Government Prompt Payment Act.

Section 8.6.3 Payment to County. In the event any payments are due the County hereunder, the County may deduct the same from any amount due to Contractor using a credit or offset, or the County may invoice Contractor in accordance with the procedures under Section 8.6.1.

Section 8.6.4 Dispute. Notwithstanding anything in this Agreement to the contrary, if a good faith dispute arises between the Parties concerning any invoice, the Parties shall comply with the applicable provisions of the Local Government Prompt Payment Act, including dispute resolution. Moreover, if the resolution of any good faith dispute determines that one Party has overpaid the other Party, then such overpaid amount shall be refunded promptly with interest accruing at the rate calculated pursuant to the Local Government Prompt Payment Act from the date that the overpaid amount was paid until the date of refund of the resolved amount.

Section 8.6.5 Limitation on County Payments to the Contractor. Subject to the rights, restrictions and limitations on County payments and other liability to the Contractor recognized under this Agreement, the Parties additionally agree that the County shall not be liable for payments of any kind or nature to the Contractor under the terms of this Agreement exceeding the amount budgeted by the Board of the County Commissioners each Billing Year relative to the County's payment obligations under this Agreement without formal authorization by the Board of County Commissioners or by an amendment to this Agreement duly authorized and executed by the Parties. The Parties recognize and agree that it is the intention of this Section 8.6.5 to establish a maximum, discernible budget and limitation on County payments and liability each Billing Year under this Agreement.

Section 8.7 Annual Reconciliation for Fiscal Year Ending September 30, 2013; November 2013 Payment. The annual reconciliation for the Fiscal Year ending September 30, 2013 shall be conducted in accordance with Section 8.4 of the Service Agreement, as unamended by Amendment No. 6. The invoice for the Billing Month ending on November 30, 2013 shall be prepared in accordance the Service Fee formula in Section 8.2.1 and payable in accordance Section 8.3, all pursuant to the Service Agreement, as unamended by Amendment No. 6. No reconciliation (annual or otherwise) shall be completed for the partial period from October 1, 2013 through the Effective Date.

Section 8.8. Electric Energy and Other Facility Revenues. Notwithstanding anything herein to the contrary, on and after the Effective Date, the Contractor shall not be entitled to receive any revenues generated by the Facility and the County shall solely enjoy and retain the same.”

(rrr) Amendment to Section 9.1. Section 9.1 of the Service Agreement is amended and restated in its entirety as follows:

“Section 9.1 Force Majeure. Either Party shall be excused from the performance of its applicable obligations under this Agreement to the extent it is prevented or, individually, or in the aggregate, materially delayed from performing such obligation due to the occurrence of a Force Majeure. If either Party claims the occurrence of a Force Majeure as a basis for not performing its obligations under this Agreement, then the Party making such claim shall (a) provide prompt notice, including Notice, to the other Party of the occurrence of the Force Majeure; (b) provide an estimate of its expected duration and cost impact on the relevant provisions of this Agreement; (c) describe in reasonable detail its probable effect on the performance of its obligations hereunder; (d) exercise all reasonable efforts to continue to perform its obligations hereunder to the extent (1) not prevented by the Force Majeure and (2) there is no increase in cost to the affected Party to perform its obligations not prevented by the Force Majeure and if there is an asserted increase in such costs, this Section 9.1, Section 9.1.1 or Section 9.1.2 shall be applicable; (e) subject to and in accordance with Section 10, expeditiously take action to Cure the Force Majeure; (f) exercise all reasonable efforts to mitigate or limit damages to the other Party; and (g) provide prompt notice, including Notice, to the other Party of the cessation of the Force Majeure which gave rise to its inability to perform.

Notwithstanding any provision in this Agreement that may be interpreted to the contrary, neither Party shall be relieved from any payment obligation under and pursuant to the term and conditions of this Agreement during the occurrence and continuance of a Force Majeure.”

(sss) Amendment to Section 9.1.1. Section 9.1.1 of the Service Agreement is amended and restated in its entirety as follows:

“Section 9.1.1 Contractor Declared Force Majeure. Unless otherwise expressly recognized in this Agreement, if the Contractor declares or asserts that a Force Majeure shall have occurred and such Force Majeure resulted in the inability of the Contractor to comply with the Performance Guarantees or the Processing Requirement, it shall nevertheless continue to perform its management, operation and maintenance obligations under this Agreement that it is not prevented from performing by the Force Majeure.

If, after ten (10) Business Days following the Contractor’s Authorized Representative’s Notice to the County’s Authorized Representative of the occurrence of the Force Majeure as required under Section 9.1, the County’s Authorized Representative does not either (a) recognize by Notice to the Contractor’s Authorized Representative that a Force Majeure has (1) occurred and (2) the effect of impacting the Contractor’s ability to perform under this Agreement or (b) dispute (1) the occurrence of the Force Majeure or (2) performance impacts that purportedly resulted from such Force Majeure occurrence by proceeding to dispute resolution pursuant to Section 14, the Contractor shall be relieved from any condition of default effected by the occurrence of the Force Majeure. If, however, the County’s Authorized Representative by Notice to the Contractor’s Authorized Representative recognizes that (a) above has occurred, the Contractor shall not be relieved from its management, operation and maintenance obligations not prevented by the Force Majeure, provided that the County proceeds with reasonable due diligence to resolve the monetary impacts of the Force Majeure on the Contractor’s performance of the Work. Such monetary impacts shall include any monetary impacts on the Contractor on or after the date of the Contractor’s Authorized Representative’s Notice to the County’s Authorized Representative that a Force Majeure has occurred. If the County’s Authorized Representative shall have referred the matter to dispute resolution pursuant to (b) above, the Contractor shall not be relieved of its management, operation and maintenance obligations not prevented by the Force Majeure on the basis of increased costs during the pendency of such dispute resolution.

In no event shall the County be liable for any decreased revenues of the Contractor under this Agreement as a result of a Force Majeure or otherwise.”

(ttt) Amendment to Section 9.1.2. Section 9.1.2 of the Service Agreement is amended and restated in its entirety as follows:

“Section 9.1.2 County Declared Force Majeure Due to Increased Costs. If the County declares or asserts that a Force Majeure shall have occurred on the basis that its costs to perform its obligations under this Agreement have increased, it shall nevertheless continue to perform its obligations under this Agreement that it is not prevented from performing by the Force Majeure, including its payment obligations pursuant to terms and conditions of this Agreement, regardless of its



increased costs relative to such performance; provided, that the County shall nevertheless have its rights that are provided to it under this Agreement.”

(uuu) Amendment to Section 9.2. Section 9.2 of the Service Agreement is amended and restated in its entirety as follows:

“Section 9.2 Curtailment of Deliveries of Processible Waste due to Force Majeure. If deliveries of Processible Waste to the Facility or Processing at the Facility is curtailed due to the occurrence and continuance of a Force Majeure, the amounts payable by the County hereunder shall not be impacted by such curtailment. The Contractor shall retain and maintain Facility Employees who are not performing services at the Facility in a standby, readily available mode to perform services when all or part of such curtailment is no longer applicable. Nothing herein, however, shall be read or construed to limit or otherwise infringe on the County’s rights pursuant to Section 13.3.”

(vvv) Amendment to Section 9.3. Section 9.3 of the Service Agreement is amended and restated in its entirety as follows:

“Section 9.3 County Fault. The Contractor shall be excused for failure or delay in performance for any act or obligation under this Agreement to the extent the Contractor is prevented from performing such act or obligation by reason of County Fault. If the Contractor claims the occurrence of County Fault as a basis for not performing its obligations under this Agreement, then the Contractor’s Authorized Representative shall (a) promptly upon the discovery thereof, provide telephone or oral notice, or both, including Notice, to the County’s Authorized Representative of the occurrence of the County Fault; (b) provide an estimate of the expected duration of and cost impact on the relevant provisions of this Agreement; (c) describe its probable effect on the performance of the Work; (d) exercise all reasonable efforts to continue to perform the affected Work to the extent not prevented by the impact of the County Fault; (e) subject to and in accordance with Section 10, expeditiously take such action(s) approved by the Director to Cure the County Fault; (f) exercise all reasonable efforts to mitigate or limit damages to the County; and (g) provide prompt notice, including Notice, to the County of the cessation of the impact of the County Fault. If the Contractor declares or asserts that a County Fault shall have occurred which caused its costs to perform the Work to increase, it shall nevertheless continue to perform its management, operation and maintenance obligations under this Agreement that it is not prevented from performing by the occurrence and impact of the County Fault regardless of its increased costs if the provisions of this Agreement, by way of any cost reimbursement provisions, have addressed the Contractor’s increased costs under this Agreement.

To the extent the provisions of this Agreement do not provide for specific remedies to address any such Contractor increase in costs or the County does not abide by or implement a remedy under this Agreement as a result of the County Fault, then, to the extent such costs are not limited or mitigated, by the County’s

limitation of liability or other limiting or restrictive provision under this Agreement, the Contractor, upon the expiration of ten (10) Business Days following the Contractor's Authorized Representative's Notice to the County's Authorized Representative of the occurrence of the County Fault as required under this Section 9.3, shall be relieved from performing the Work that is adversely effected by the occurrence of the County Fault unless within such ten (10) Business Day period, the County's Authorized Representative either (1) recognizes by Notice to the Contractor's Authorized Representative that a County Fault has (A) occurred and (B) the effect of increasing the Contractor's costs to perform under this Agreement and thereafter proceeds with reasonable due diligence to resolve the monetary impacts of the County Fault on the Contractor's performance of the Work or (2) disputes (A) the occurrence of the County Fault or (B) that any increase in costs has resulted from the impact of the impact of the County Fault by proceeding to dispute resolution pursuant to Section 14.

If the County's Authorized Representative has referred the matter to dispute resolution pursuant to (2) above in the immediately preceding sentence, the Contractor shall not be relieved of its management, operation and maintenance obligations not prevented by the County Fault on the basis of increased costs during the pendency of such dispute resolution. Any resolution of the monetary impact of the County Fault on the Contractor's Work shall, relative to increased costs, be based on the Contractor's Direct Costs, subject to Cost Substantiation, inclusive of profit from and after the date of the Contractor's Authorized Representative's Notice to the County's Authorized Representative that a Force Majeure has occurred, unless a different monetary calculation is expressly recognized under this Agreement."

(www) Amendment to Section 10.1. Section 10.1 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof: "Reserved."

(xxx) Amendment to Section 10.2. Section 10.2 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof: "Reserved."

(yyy) Amendment to Section 10.3. Section 10.3 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof: "Reserved."

(zzz) Amendment to Section 10.4. Section 10.4 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof: "Reserved."

(aaaa) Amendment to Section 11.1. Section 11.1 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof:

"Section 11.1 Contractor Indemnification. To the maximum extent permitted by Applicable Law, the Contractor agrees to save harmless, indemnify, and defend the County and all members of the Board of County Commissioners, the Prospective Facility Operators, and their respective agents, consultants and

employees (the “Indemnified Parties”), from and against any and all Losses including claims for property damage and claims for injury to or death of persons, or on account of any claim or amounts recovered under the “workers compensation laws” or any other laws, bylaws, ordinance, order, or decree, brought or recovered against it arising directly or indirectly on account of or in connection with (1) any alleged or actual defects, errors or omissions relative to the Work occurring on and after the installation, completion and, as applicable, testing of each Capital Project, Punch List Item, Initial Punch List Items, Secondary Punch List Items, Extended Punch List Items and projects developed pursuant to Section 10 or (2) any act of negligence with respect to the Work done by the Contractor, its agents or employees under this Agreement or by any person, firm, Subcontractor, Guarantor, Affiliate or corporation to whom any portion of the Work is subcontracted by the Contractor or resulting from the use by the Contractor or by anyone for whom the Contractor is legally liable, of any Equipment, materials, tools, supplies, chemicals or other property of the Indemnified Parties. The County and the Contractor agree that the first one hundred dollars (\$100.00) of the Routine Monthly Expenses paid by the County to the Contractor pursuant to this Agreement shall be given as separate consideration for this indemnification, and any other indemnification of the County by the Contractor provided for within this Agreement, the sufficiency of such separate consideration being acknowledged by the Contractor, by the Contractor’s execution of this Agreement. The Contractor shall not be required to reimburse, defend or indemnify the Indemnified Parties for a Loss due to, and to the extent of, the negligence or willful misconduct of such Indemnified Parties. The Contractor shall promptly notify the County of the assertion of any claim without the approval of the Indemnified Parties. These indemnification provisions are for the protection of the Indemnified Parties only and shall not establish, of itself, any benefit or liability to third parties. The Contractor’s indemnification in this Section 11.1 shall be in addition to the other indemnification obligations it has to the Indemnified Parties under this Agreement and such indemnifications, to the extent, if any, they may be construed as inconsistent with this Section 11.1, shall not supersede this Section 11.1. To the extent that the County is found to be responsible for any Loss, nothing herein shall be construed to waive the sovereign immunity of the County beyond that described in §768.28, Florida Statutes, or to waive the procedural or notice provisions contained therein.”

(bbbb) Amendment to Section 11.3.1. The second sentence of the first paragraph of Section 11.3.1 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof:

“Throughout the Term, unless otherwise provided as specified in this Section 11.3, the Contractor shall maintain the Required Contractor Insurance under and pursuant to the master insurance policy under which the Contractor is insured.”

(cccc) Amendment to Section 11.3.2. The first sentence of Section 11.3.2 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof:

“To the extent recognized in this Section 11.3.2 and Schedule 11, the Contractor shall be responsible to satisfy any and all deductibles and self-insured retentions contained in the insurance coverages required to be secured and maintained by either Party under this Agreement, as well as any excluded loss or losses if the same are within the Contractor’s liability under this Agreement for all events resulting from Contractor Fault or, if not entirely at fault, the extent to which the Contractor is apportioned liability on a comparative negligence basis, provided that in all events, the Contractor shall be liable for any deductible relative to Workers’ Compensation Insurance and accordingly, any such deductible shall not be payable by the County.”

(dddd) Amendment to Section 11.3.4. The last sentence of Section 11.3.4 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof:

“The Contractor or, as applicable, the County shall, at its sole cost and expense, pay such extra premium as required to assure no lapse of Required Insurance coverage for any time period, and the cost and expense of the Contractor’s extra premium shall be reimbursable by the County as a Non-Routine Expense.”

(eeee) Amendment to Section 11.3.5.2. The last sentence of Section 11.3.5.2 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof:

“If an alternative program is provided for by the County, the applicable premium for the applicable Contractor Required Insurance policy(ies), if such premium was reimbursable or payable by the County to the Contractor, shall no longer be reimbursable or payable by the County on and after the date that the County’s alternative program becomes effective.”

(ffff) Amendment to Section 11.3.5.11. Section 11.3.5.11 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof:

“Section 11.3.5.11 Verification of Insurance Costs. For all premium costs for Contractor Required Insurance that the Contractor invoices the County as a cost reimbursable by the County, the Contractor shall provide documentation evidencing that such premium costs are limited to Required Contractor Insurance as well as the composite insurance pricing rates for each of the same. For insurance that is not priced on a composite rate, the Contractor shall provide (a) the total premium for the applicable policy and (b) the exposure base related to such policy.”

(gggg) Amendment to Section 11.4. Section 11.4 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof:

“Section 11.4 Security Instruments.

Section 11.4.1 Aggregate Amount; Requirements. At all times during the Term, the Contractor shall secure and maintain, at its sole cost and expense, one or more letter(s) of credit in the aggregate face amount of at least six million dollars (\$6,000,000) and meeting the requirements of this Section 11.4.1 and Section 11.4.2 (the “Letter(s) of Credit”). At least sixty (60) Days prior to the expiration of the term of the July 2014 LOC, the Contractor shall either renew the July 2014 LOC and extend the expiration date to December 31, 2014 or replace the existing July 2014 LOC with a new Letter of Credit in the same aggregate face amount with an expiration date of December 31, 2014. Failure of the Contractor to secure, maintain or replace the Letter(s) of Credit in accordance with the requirements of this Section 11.4 shall be an Event of Default by the Contractor. In the event of a Contractor Event of Default, the County shall have the right to draw, from time to time, on such Letter(s) of Credit as is necessary to compensate the County against any damages that the County may have incurred or are expected to sustain, or both.

Section 11.4.2 Letter(s) of Credit. Each Letter of Credit (including any renewal or substitute Letter(s) of Credit referenced in Section 11.4.1) shall satisfy the following requirements:

- (a) shall be in form an substance as provided in Schedule 9 or as may otherwise be acceptable to the County;
- (b) shall be issued by a Qualified Financial Institution in favor of the County;
- (c) shall specify that it shall be subject to and governed by Florida law;
- (d) shall require that the Qualified Financial Institution and any agent bank at which such Letter of Credit may be presented shall be instructed that the bank is to honor any draft that the Director and the County Administrator may present without prior notice to the Contractor or the Guarantor; and
- (e) shall require such agent bank to make all payments to the Director and the County Administrator without obligation to notify the Contractor, the Guarantor or any Affiliate of such payment upon filing the document(s) specified therein and that the Contractor or the Guarantor shall not have first claim rights to such Letter of Credit or any right to make drawings thereunder. The Director and the County Administrator shall have the right to present such Letter of Credit for payment immediately and without notice upon the occurrence of an Event of Default of this Agreement.

In addition, if during the Term, the Qualified Financial Institution or its parent corporation experience a downgrade, withdrawal or suspension by or from Moody's or S&P (as such terms are defined in the definition of Qualified Financial Institution) below the required rating level, the County shall have the right to require that the Contractor, within thirty (30) Days after notice of such downgrade, withdrawal or suspension is given by the County's Authorized Representative to the Contractor's Authorized Representative, secure a substitute Letter of Credit from a Qualified Financial Institution in accordance with the requirements of this Section 11.4.2, and failure to secure such substitute Letter of Credit shall result in the Director and the County Administrator having the right, without Notice to the Contractor, to draw on such Letter of Credit immediately and the Letter of Credit shall recognize such Director's and the County Administrator's right. The Contractor's Authorized Representative shall give the County's Authorized Representative promptly upon receipt, a copy of any notice or information it may receive relative to any downgrade, withdrawal or suspension.

Section 11.4.3 Existing Security Instruments. Notwithstanding anything herein or in any agreement or amendment to the contrary, the Contractor acknowledges and agrees that, following the expiration or termination of the GCS December 2013 LOC or GCS December 2013 Bond, or both, the County shall not be obligated to seek or collect payment from the Contractor or any other Entity or pursue any other security instrument prior to seeking to collect payment in respect of the January 2015 LOC or July 2014 LOC, or both, including any extensions, substitutions or replacements thereof. Upon the execution of this Amendment, the Chairman of the Board of County Commissioners or his authorized representative shall promptly executed and return to the Contractor's Authorized Representative the release of the December 2014 Bond attached hereto as Exhibit E."

(hhhh) Amendment to Section 11.5. Section 11.5 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof: "Reserved."

(iiii) Amendment to Sections 12.2.1(b) and 12.2.1(i). Sections 12.2.1(b) and 12.2.1(i) of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof: "Reserved."

(jjjj) Amendment to Section 12.2.3. Section 12.2.3 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof: "Reserved."

(kkkk) Amendment to Section 12.2.9. Section 12.2.9 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof:

"Section 12.2.9. Failure to Maintain Electric Capacity Factors. Failure of the Contractor to maintain under the Power Purchase Agreement for any Billing Month a seventy percent (70%) Total Capacity Factor (as such term is defined under the Power Purchase Agreement); provided, the County delivered or caused

to be delivered to the Facility at least sixty seven thousand (67,000) Tons of Processible Waste in such Billing Month.”

(llll) Amendment to Section 12.2.10. Section 12.2.10 of the Service Agreement is deleted in its entirety and the following is inserted in lieu thereof: “Reserved.”

(mmmm) New Section 12.2.11. A new Section 12.2.11 of the Service Agreement is hereby added to the Service Agreement as follows:

“Section 12.2.11 Failure to Perform. The occurrence of a Contractor Event of Default pursuant to Sections 3.1 (other than failure of the Contractor to meet the emissions standards in any Permit; provided, that the reason(s) which may have given rise to the emissions standards violation of such Permit may nevertheless qualify as an Event of Default), 3.7.4, 3.10 or 5.2.”

(nnnn) Amendment to Section 12.4. Section 12.4 of the Service Agreement is amended and restated in its entirety as follows:

“Section 12.4 Default Notice. Neither Party may exercise its termination rights pursuant to Section 13.1 or 13.2, as applicable, unless and until such Party shall have given the other Party Notice of its failure or refusal to perform pursuant to, as applicable, Section 12.1 or 12.2. The County shall have thirty (30) Days to cure any County Event of Default. With respect to Contractor Event(s) of Default, if an Event of Default specified in a required Notice of Contractor Event of Default pursuant to this Section 12.4 is cured within ten (10) Days after such Notice or if an Event of Default cannot be cured within ten (10) Days through the exercise of due diligence, but expeditious and substantive steps are taken within said ten (10) Day period to cure the Event of Default and thereafter pursued with due diligence to completion, no Event of Default shall occur pursuant to such Notice; provided, however, (a) if repeated cures (no more than two Events of Default for the same or similar Event of Default) are undertaken to address Event(s) of Default under Section 12.2, other than Section 12.2.4 or 12.2.5, the County may, notwithstanding this Section 12.4 to the contrary and in the County’s sole judgment, exercise its right to terminate pursuant to Section 13.1, and (b) there shall be no cure period for an Event of Default pursuant to Section 12.2.4 or 12.2.5.”

(oooo) Amendment to Section 13.1.1. The second sentence of Section 13.1.1 of the Service Agreement is amended and restated in its entirety as follows:

“Should such a Contractor Event of Default occur and be uncured pursuant to the timeframe specified in Section 12.4, the County shall have the immediate right (i.e., without any cure period) to terminate this Agreement after providing the Contractor’s Authorized Representative with Notice of such termination.”

(pppp) Amendment to Section 13.1.4. Section 13.1.4 of the Service Agreement is amended and restated in its entirety as follows:

“Section 13.1.4 Transition Assistance. The Contractor shall not restrict the Facility Employees from being fully available to the County for employment or attempted employment by the County or Potential Facility Operator(s). Additionally, the Contractor shall make available all information, data and Records required or reasonably useful to operate the Facility. The Contractor shall, throughout the Term and for a period of thirty (30) Days following the earlier to occur of expiration or termination of this Agreement, fully cooperate with the County and any Potential Facility Operator in their endeavor to ensure a smooth, uninterrupted and orderly transition of operational expertise from the Contractor to the County or Potential Facility Operator, as applicable; provided, however, the County shall pay the Contractor its Direct Costs, subject to Cost Substantiation, in accordance with the invoicing and payment provisions set forth in Section 8.6, for the Contractor’s actual cost and expense (not otherwise compensated by the County hereunder) in providing transition assistance following the earlier to occur of expiration or termination of this Agreement. The Contractor shall not restrict Facility Employees from meeting with the County or any Potential Facility Operator, or both, or interfere with their acceptance of offers of employment by the County or any Potential Facility Operator.

Upon a written request by the County to the Contractor’s Authorized Representative, the Contractor shall, within ten (10) Days following such request, deliver to the County’s Authorized Representative a full list and complete copies (including all amendments, modifications and supplements) of all existing subcontracts between the Contractor and all Subcontractor(s) relative to the Facility. Following the County’s receipt of such list and subcontracts, the County may advise the Contractor’s Authorized Representative in writing which subcontracts, if any, the County elects to assume or desires to be assigned to the Potential Facility Operator. Within ten (10) Days following such request, the Contractor shall, at no cost to the County (a) transfer and assign each of those subcontracts (either to the County or Potential Facility Operator, as directed in writing by the County’s Authorized Representative) at the earlier to occur of expiration or termination of this Agreement and (b) in connection with such transfer and assignment, execute and deliver an assignment agreement or other proper documentation assigning such contracts. To the extent the County does not instruct the Contractor of its desire to have a subcontract assigned to and assumed by the County or the Potential Facility Operator, the Contractor, at its sole cost and expense, shall be obligated to pay any cancellation or other costs relative to the termination or cancellation of such contract.”

(qqqq) New Section 13.1.5. A new Section 13.1.5 of the Service Agreement is hereby added to the Service Agreement as follows:



“Section 13.1.5 Termination for Convenience. The County may, at any time, terminate this Agreement at the County’s convenience to be effective on or after April 1, 2014. If the County elects to terminate this Agreement for its convenience, the County shall provide Notice to the Contractor’s Authorized Representative of such determination and the termination date shall be no earlier than thirty (30) Days following the County’s delivery of such Notice to the Contractor’s Authorized Representative. The Parties shall continue to perform their respective obligations during such thirty (30) Day period. If the County terminates the Contractor pursuant to this Section 12.1.4, (a) the County shall pay the Contractor the amount the Contractor and its Subcontractors have earned or accrued, or both, to the date of such termination but has not been paid pursuant to Section 8, (b) the County shall not be liable to the Contractor for any other damages, fees, costs or compensation, of any nature whatsoever, and (c) the Contractor waives all other claims and remedies. The Contractor shall also exercise all reasonable efforts to minimize, to the maximum extent possible, any cancellation charges or other costs in its subcontracts with its Subcontractors.”

(rrrr) Amendment to Section 13.2.1. Section 13.2.1 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof:

“Section 13.2.1 County Event of Default. The Contractor shall, in accordance with the provisions of this Agreement, have the right to terminate this Agreement for a County Event of Default. Should such a County Event of Default occur, the Contractor shall, subject to Section 12.4, have the right to terminate this Agreement as of the thirtieth (30<sup>th</sup>) Day after providing the County with Notice of such termination; provided that: (a) such termination shall be ineffective if within such thirty (30) Day period the County cures said default and (b) such termination may be stayed, at the sole option of the Contractor, pending cure of such Event of Default. If this Agreement is terminated, the County shall pay Contractor the amount the Contractor has earned, is entitled to or has accrued by Contractor as of the termination date but has not been paid in accordance with Section 8. The Contractor shall exercise all reasonable efforts to minimize, to the maximum extent possible, any cancellation charges or other costs that are specifically recognized as being payable by the County to the Contractor under this Agreement.”

(ssss) Amendment to Section 13.4. Section 13.4 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof:

“Section 13.4 Termination for Fiscal Non-Funding. The County hereby preserves its fiscal non-funding rights pursuant to Applicable Law, including the State Constitution, Article 7, Sections 10 and 12 and F.S.A. §129.07. If the County elects to exercise its non-funding rights under Applicable Law, the County may, notwithstanding any provision of this Agreement to the contrary, terminate this Agreement effective upon Notice to the Contractor. If this Agreement is terminated, the County shall pay the Contractor the amount the Contractor has

earned, is entitled to or has accrued by the Contractor as of the termination date but has not been paid in accordance with Section 8.

Subject to the foregoing rights of the County described in this Section 13.4, the Board of County Commissioners, when annually considering its authorization and appropriation of funds relative to this Agreement, shall take into account all of the County's specifically delineated monetary obligations under, pursuant to the terms of, and as limited by, this Agreement, including appropriate contingency amounts and liquidated amounts recognized under this Agreement."

(tttt) Amendment to Section 14. Section 14 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof:

"Section 14.1 Mediation.

Section 14.1.1 Mediator Referral. To facilitate the timely and effective resolution of any controversy or dispute that may arise between the Parties under this Agreement, either Party may refer a matter in controversy to the mediator by delivering Notice of its claim and intention of pursuing mediation to the other Party. The Notice shall state in detail the contested matter and the initiating Party's basis for its opinion. Such Notice shall be delivered by the County's Authorized Representative and the Contractor's Authorized Representative to each such Party's selected mediator. Once the mediator is selected pursuant to Section 14.1.2, such mediator shall promptly convene, establish the procedures for the mediation and recommend resolution of the matter in controversy by written memorandum to the Parties.

Section 14.1.2 Selection of Mediator. If the matter in controversy is referred to mediation pursuant to Section 14.1.1, each Party, within five (5) Days of the delivery of the Notice pursuant to Section 14.1, shall select a mediator from the Sixth Judicial Circuit Court for Pinellas County, Florida's list of certified and approved mediators. Each Party shall give Notice of such selection to the other Party and each Party's selected mediator. The selected mediators shall then select a third mediator from such court list and such third mediator shall serve as the mediator for the matter in controversy. Once selected, the Parties shall, within three (3) Days thereafter, deliver a copy of the Notice specified in Section 14.1.1 to such mediator. The mediator's costs and expenses shall be shared equally by the Parties.

Section 14.1.3 Mediator Decision. Once the third mediator is selected pursuant to Section 14.1.2, such mediator shall promptly convene, establish the procedures for the mediation and recommend resolution of the matter in controversy by written memorandum to the Parties. If the matter is referred to mediation pursuant to this Section 14.1, the decision of the mediation shall not be binding on the Parties, and either Party, after the mediator renders his or her recommendation, may commence judicial action in accordance with Section 14.2.

Section 14.2 Judicial Action. If the Parties cannot resolve any controversy or dispute that may arise under this Agreement in a mediation conducted in accordance with Section 14.1 or if either Party desires to submit the matter to a judicial forum rather than mediation for resolution, either Party, to the extent that its interests are adversely affected, may, exclusive of any other judicial forum, commence judicial action relative to such matter in the United States District Court for the Middle District of Florida (Tampa Division) or any State court sitting in Tampa, Florida. Any commencement of judicial action in a judicial forum relative to any matter in controversy under this Agreement shall be limited to the United States District Court for the Middle District of Florida or any State court sitting in Tampa, Florida and each Party waives any right it may have to commence judicial action relative to the matter in controversy in any other judicial forum. Subject to the provision in the immediately preceding sentence, any commencement of legal action relative to the matter in controversy in any other judicial forum other than the United States District Court for the Middle District of Florida (Tampa Division) or any other State court sitting in Tampa, Florida shall be null and void at inception and of no force and effect.

Section 14.3 Obligation to Continue to Perform. The Parties shall continue to perform under this Agreement pending resolution of any dispute(s) unless the matter at issue precludes such continued activity until resolved.”

(uuuu) Amendment to Section 15.1. Section 15.1 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof:

“Section 15.1 Term. This Agreement, unless sooner terminated in accordance with its terms, shall be effective during the Term.”

(vvvv) Amendment to Sections 15.1.1 and 15.1.2. Sections 15.1.1 and 15.1.2 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof: “Reserved.”

(www) Amendment to Section 15.2. Section 15.2 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof

“Section 15.2 Assignment and Control. This Agreement shall not be assignable by either Party without the prior written consent of the other; provided, however, the County may assign this Agreement without the prior written consent of the Contractor to (a) a successor by merger or consolidation or a duly constituted authority or similar entity created by the County or by State legislation to which all or substantially all the System assets (including this Agreement) are transferred or assigned or (b) a bank trustee as collateral for, or otherwise in connection with, the financing or refinancing of all or part of the Facility. Any other assignment of this Agreement by the Contractor without the express written consent and

approval of the County, except as expressly recognized herein, shall be null and void at inception. The Contractor shall not, and shall have no authority to, transfer, sell, relinquish or otherwise convey in any form, indirectly or directly, Control to any Entity without the prior written consent of the County, which consent may be withheld in the County's sole discretion. To the extent the Contractor attempts or does transfer, sell, relinquish, or otherwise convey in any form, indirectly or directly, Control to any Entity, such action shall be null and void at inception and of no force and effect. The Guarantor shall not authorize, institute, condone, accept, direct or promote any action by the Contractor to attempt to transfer, sell, relinquish or otherwise convey Control to any Entity."

(xxxx) Amendment to Section 15.3. Section 15.3 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof: "Reserved."

(yyyy) Amendment to Section 15.7. Subsection (2) of the proviso in Section 15.7 of the Service Agreement is amended and restated in its entirety and the following is inserted in lieu thereof: "(2) subcontracts whose value is less than fifty thousand dollars (\$50,000),"

Section 2. Representations and Warranties. As of the Effective Date, the Contractor hereby represents and warrants to the County as follows:

(a) This Amendment constitutes its legal, valid and binding obligation, enforceable against the Contractor in accordance with its terms.

(b) The Contractor is (i) duly organized and existing in good standing under the laws of the State of Delaware, (ii) qualified to do business and is in good standing in the State, and (iii) duly qualified to do business wherever necessary to carry on the business and operations contemplated by this Agreement.

(c) The Contractor is not delinquent in payments of any of the Facility Employees for any wages, salaries or other compensation. The Contractor is in compliance with all Applicable Laws and regulations respecting labor, employment, fair employment practices, terms and conditions of employment, occupational safety and health, and wages and hours with respect to all Facility Employees. The Contractor does not have any employment or other contract, including any non-competition agreement, with any Facility Employee.

(d) The Contractor owns good and marketable title to all Equipment, Spare Parts and other supplies not owned by the County that are used by the Contractor in the performance of its Work, free and clear of any liens or encumbrances.

(e) There are no claims, actions, suits, arbitrations, regulatory proceedings or other litigation, proceedings or governmental investigations pending or, to Contractor's knowledge, threatened against or affecting the Contractor, the Guarantor or any of their officers, managers, directors, employees or members related to the assets or properties of the Contractor,

the Guarantor, the Facility or the business of the Facility, and to the best of the Contractor's knowledge, there are no facts or circumstances which may give rise to any of the foregoing.

Section 3. Mutual Release. The Parties hereby mutually, absolutely, and irrevocably release, waive, and forever discharge each other, and each other's successors, representatives, assigns, agents, employees, officers, directors, managers, stockholders, partners, members, affiliates, parents, subsidiaries, and attorneys (in each case, past, present or future of any thereof), and in the case of the County, the Board of County Commissioners, from any and all presently existing and known claims, debts, liabilities, demands, rights, remedies, obligations, costs, expenses, actions, and causes of action of every nature, character, and description, whether at law or in equity, arising out of or in connection with the Service Agreement for all events occurring prior to the Effective Date. This release does not release any unknown, unsuspected or unknown claims arising out of in connection with the Service Agreement whether occurring before or after the Effective Date.

Section 4. Public Statement and Non-Disparagement. The Contractor and the County agree to publicly describe this Amendment as a voluntary amendment to the Service Agreement to allow the County to conduct a procurement for a new agreement for long term operation of the Facility. The Contractor shall prepare a draft joint public announcement describing the same in more detail and shall submit such draft statement for the County's review and approval. Once approved by the County's Authorized Representative in writing to the Contractor's Authorized Representative, the mutually agreed-upon joint public statement shall be utilized in any public statements or announcements made by either Party. The Contractor and, to the extent permitted by Applicable Law, the County staff agree not to disparage each other with respect to the Service Agreement (including, as modified by this Amendment) in any other matter in any forum or media; provided, however, this restriction shall not apply to any dispute resolution or judicial proceedings; provided, further, if the Service Agreement is terminated by the County as a result of an Event of Default by the Contractor, this covenant shall be immediately null and void and be of no further force and effect.

Section 5. Conditions Precedent.

(a) Contractor. No later than 5:00 p.m. (local time) on December 2, 2013, the Contractor shall have satisfied each of the following conditions:

(i) this Amendment shall have been duly executed and delivered by the Contractor to the County's Authorized Representative; and

(ii) the Guarantor shall have executed and delivered the reaffirmation of Guaranty, in the form attached hereto as Exhibit D (the "Reaffirmation of Guaranty"), to the County's Authorized Representative.

(b) County. This Amendment shall not be effective on the Effective Date until satisfaction of the following conditions:

(i) authorization and approval of this Amendment by the County Board of Commissioners;

(ii) this Amendment shall have been duly executed and delivered by an authorized representative of the County; and

(iii) receipt by the County's Authorized Representative of each of the deliverables in accordance with Section 5(a).

Section 6. Full Force and Effect; Precedence. Except as specifically amended, terminated or otherwise modified above, the terms and conditions of the Service Agreement and any other documents, instruments and agreements executed and/or delivered in connection therewith, shall remain in full force and effect and are hereby ratified and confirmed. The terms and conditions of this Amendment take precedence over any contradictory terms of the Service Agreement, to the degree there is no conflict, the Service Agreement remains unaffected by this Amendment.

Section 7. Execution in Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page to this Amendment by telecopier or PDF file shall be effective as delivery of a manually executed counterpart of this Amendment.

Section 8. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of Florida.

Section 9. Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose.

[Signature Page Follows]

**IN WITNESS WHEREOF**, each of the Contractor and the County has caused this Amendment to be executed in its name by its duly authorized officials or officers and has caused its seal to be affixed to this Amendment on the day first written above.

COUNTY:

ATTEST

PINELLAS COUNTY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Clerk of the Circuit Court

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairman of the Board of  
County Commissioners

CONTRACTOR:

ATTEST

GCS ENERGY RECOVERY OF  
PINELLAS, INC.

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

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

APPROVED AS TO FORM:

By: Joseph A Morrissey  
Name: Joseph A Morrissey  
Title: Office of the County Attorney

## **EXHIBIT A**

### **SCHEDULE 2**

#### **PERFORMANCE GUARANTEES**

1. **Reserved**
2. **Reserved**
3. **Reserved**
4. **Plus Five Residue Separation Availability Guarantee.** The Plus Five Residue Separation system shall be operational and available to remove residue particles greater than five (5) inches from the residue at least one hundred percent (100%) of the time that Residue is being generated by the Facility during a Billing Month ("Plus Five Residue Separation System Availability Guarantee"), provided however that should all residue be stockpiled with the Residue Storage and Processing Building and processed through the Plus Five Residue Separation System when such system again becomes available, failure to maintain 100% availability shall not be an Event of Default.
5. **Reserved**
6. **Ferrous Metal Removal System and Non-Ferrous Metal Removal System Availability Guarantees**
  - a) **Ferrous Metal Removal System Availability Guarantee:** The Ferrous Metal removal system shall be operational and available to recover Ferrous Metal at least ninety percent (90%) of the time that Residue is being generated by the Facility during a Billing Year ("Ferrous Metal Removal System Availability Guarantee").
  - b) **Non-Ferrous Metal Removal System Availability Guarantee:** The Non-Ferrous Metal removal system shall be operational and available to recover Non-Ferrous Metal at least ninety percent (90%) of the time that Residue is being generated by the Facility during a Billing Year ("Non-Ferrous Metal Removal System Availability Guarantee").
7. **Maximum Utility Utilization Guarantee**
  - a) **Reserved**
  - b) **Process Wastewater:** The Process Wastewater discharged from the Facility into



the sanitary sewer shall comply with the maximum concentrations and restrictions shown in Table 2 below (the “Process Wastewater Guarantee”).

**Table 2**  
**Maximum Concentrations and Restrictions for Process Wastewater**

<b>Material Characteristic</b>	<b>Maximum Allowable Concentration/Value</b>
Arsenic	0.1 mg/L
Cadmium	0.2 mg/L
Chromium	2.6 mg/L
Copper	1.0 mg/L
Cyanide	1.0 mg/L
Lead	0.6 mg/L
Mercury	0.1 mg/L
Nickel	2.0 mg/L
Phenols, Total	5.0 mg/L
Silver	2.0 mg/L
Zinc	2.0 mg/L
pH	5.5-9.5
Temperature	150 oF
TSS	650 mg/L
BOD	450 mg/L
Flash Point	140 oF
Petroleum Oils, Non-Biodegradable Cutting Oil or Other Product of Mineral Oils	50 mg/L
Animal or Vegetable Fats, Waxes or Greases	100 mg/L

All concentrations for metallic substances are for “total” metal.

**8. Reserved**

**9. Environmental Regulations Guarantees.** The Facility shall, at a minimum, meet at all times all requirements pertaining to the Facility specified in the County’s State of Florida Electrical Power Plant Site Certification, No. PA 78-11 (Units 1 and 2) and PA 83-18 (Unit 3) and the County’s Florida Department of Environmental Protection Title V Air Operation Permit, No. 1030117-006-AV (the “Environmental Regulations Guarantee”).

## **EXHIBIT B**

### **SCHEDULE 3**

#### **PERFORMANCE CALCULATIONS AND TEST PROCEDURES**

The purpose of this Schedule 3 is to provide the calculations to be used to determine whether or not certain Performance Guarantees have been met.

##### **PART A. PERFORMANCE CALCULATIONS**

This Part A sets forth the calculations to be used to determine whether or not the following Performance Guarantees have been met.

1. **Reserved.**
2. **Plus Five Residue Separation System Availability Guarantee**

For any Billing Month, the actual on-line availability of the Plus Five Residue Separation system shall be compared to the Plus Five Residue Separation Availability Guarantee to determine if such guarantee has been met. The percent on-line availability of the Plus Five Residue Separation system shall be calculated as follows:

$$A_{PF} = \frac{PF_O}{PF_A} \times 100$$

Where:

$A_{PF}$  = Percent on-line availability of the Plus Five Residue Separation system during the Billing Month.

$PF_O$  = Actual operating hours of the Plus Five Residue Separation system during the Billing Month.

$PF_A$  = Number of hours that the Plus Five Residue Separation system was capable of being operated during the Billing Month. For purposes of determining the number of hours that the Plus Five Residue Separation system was capable of being operated, the number of hours that the total Facility was off-line (i.e., cold iron outage) and/or the main Residue conveying system upstream of the Plus Five Residue Separation system was not running, such that no Residue could be processed by the Plus Five Residue Separation system shall be excluded.

### 3. Ferrous Metal Removal System and Non-Ferrous Metal Removal System Availability Guarantees

For any Billing Month, the actual on-line availability of the Ferrous Metal removal system shall be compared to the Ferrous Metal Removal System Availability Guarantee to determine if such guarantee has been met. The percent on-line availability of the Ferrous Metal removal system shall be calculated as follows:

$$A_{FE} = \frac{FE_O}{FE_A} \times 100$$

Where:

$A_{FE}$  = Percent on-line availability of the Ferrous Metal removal system during the Billing Month.

$FE_O$  = Actual operating hours of the Ferrous Metal removal system during the Billing Month.

$FE_A$  = Number of hours that the Ferrous Metal removal system was capable of being operated during the Billing Month. For purposes of determining the number of hours that the Ferrous Metal removal system was capable of being operated, the number of hours that the total Facility was off-line (i.e., cold iron outage) and/or the main Residue conveying system upstream of the Ferrous Metal removal system was not running, such that no Residue could be processed by the Ferrous Metal removal system for the purpose of recovering Ferrous Metal, shall be excluded.

For any Billing Month, the actual on-line availability of the Non-Ferrous Metal removal system shall be compared to the Non-Ferrous Metal Removal System Availability Guarantee to determine if such guarantee has been met. The availability of the Non-Ferrous Metal removal system shall be calculated as follows:

$$A_{NFE} = \frac{NFE_O}{NFE_A} \times 100$$

Where:

$A_{NFE}$  = Percent on-line availability of the Non-Ferrous Metal removal system during the Billing Month.

$NFE_O$  = Actual operating hours of the Non-Ferrous Metal removal system during the Billing Month.

$NFE_A$  = Number of hours that the Non-Ferrous Metal removal system was capable of being operated during the Billing Month. For purposes of determining the number of hours that the Non-Ferrous Metal removal system was capable of being operated, the number of hours that the total Facility was off-line (i.e., cold iron outage) and/or the main Residue conveying system upstream of the Non-Ferrous Metal removal system was not running, such that no Residue could be

processed by the Non-Ferrous Metal removal system for the purpose of recovering Non-Ferrous Metal, shall be excluded.

**4. Reserved.**

**5. Reserved.**

**6. Environmental Regulations Guarantee**

The Contractor shall hire an independent testing firm(s) acceptable to the County to perform (at the County's expense) all sampling, testing and analysis specified in the Facility's permits. The test methods and procedures for emissions shall be those test methods and procedures as specified in the Facility's permits, or methods and procedures consistent with accepted industry practices or specified by the permit issuer.

**EXHIBIT C**  
**SCHEDULE 23**  
**FACILITY INSPECTION REPORT**

[Attached]

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
06/12-149	The boiler casing in the penthouse area of the furnace, second and third passes has deteriorated significantly due to positive pressure events on Unit No. 3. The boiler casing needs to be repaired or replaced. All damaged insulation and lagging also needs to be replaced.	6/12/2012	12/31/2013			Open
06/12-159	Many of the economizer access doors are corroded and some have open holes on Unit No. 1. Make repairs and clean and paint or replace the economizer access doors.	6/12/2012	Temporary repairs 11/30/2012 (Complete)  Replace all doors 1/31/2014			Open
06/12-160	Many of the economizer access doors are corroded and some have open holes on Unit No. 2. Make repairs and clean and paint or replace the economizer access doors.	6/12/2012	Temporary repairs 11/30/2012 (Complete)  Replace all doors 1/31/2014			Open
06/12-161	Many of the economizer access doors are corroded and some have open holes on Unit No. 3. Make repairs and clean and paint or replace the economizer access doors.	6/12/2012	Temporary repairs 11/30/2012 (Complete)  Replace all doors 1/31/2014			Open
07/12-320	The paint on TG No. 2 is in poor condition. Clean, prime and paint the turbine and generator shell/enclosures.	7/26/2012	2014 during TG overhaul			Open
08/12-327	Investigate the temperature profile of the boiler lagging skin on Unit No. 1 to determine if sufficient insulation has been installed and replace as needed. The lagging appears to be too hot (>130 degrees F) when touched. CDM Smith will provide a list of locations and elevations to test and will be on site to witness.	9/6/2012	Original Completion Date 4/30/2013  Revised Completion Date 01/31/2014			Open

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
08/12-328	Investigate the temperature profile of the boiler lagging skin on Unit No. 2 to determine if sufficient insulation has been installed and replace as needed. The lagging appears to be too hot (>130 degrees F) when touched. CDM Smith will provide a list of locations and elevations to test and will be on site to witness.	9/6/2012	Original Completion Date 5/31/2013  Revised Completion Date 01/31/2014			Open
08/12-329	Investigate the temperature profile of the boiler lagging skin on Unit No. 3 to determine if sufficient insulation has been installed and replace as needed. The lagging appears to be too hot (>130 degrees F) when touched. CDM Smith will provide a list of locations and elevations to test and will be on site to witness.	9/6/2012	Original Completion Date 6/30/2013  Revised Completion Date 01/31/2014			Open
08/12-355	Replace the burners on Unit No. 1 that have been repaired numerous times but are still consistently inoperable or unavailable when needed.	9/6/2012	Phase 1 - evaluate cost and timeframe for upgrade/ replacement 3/31/2013  Phase 2 - TBD			Open
08/12-356	Replace the burners on Unit No. 2 that have been repaired numerous times but are still consistently inoperable or unavailable when needed.	9/6/2012	Phase 1 - evaluate cost and timeframe for upgrade/ replacement 3/31/2013  Phase 2 - TBD			Open
08/12-357	Replace the burners on Unit No. 3 that have been repaired numerous times but are still consistently inoperable or unavailable when needed.	9/6/2012	Phase 1 - evaluate cost and timeframe for upgrade/ replacement 3/31/2013  Phase 2 - TBD			Open

Yellow - Items due by 10/31/2013

10/7/13

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
08/12-383	Repair/replace the significantly deteriorated concrete floor in the area between the economizer fly ash drag chain conveyors and the ash dischargers for all units. Provide appropriate sloping so water will drain to nearest u-trench.	9/6/2012	2/28/2014			Open
09/12-395	Investigate the status of the automatic control of cooling tower blowdown based on conductivity that is not operable (located outside of water chemistry lab).	10/2/2012	Investigate 6/30/2013 (Complete)  Install conductivity probe 12/31/2013			Open
10/12-449	Replace the corroded platform handrails at the top of the contact water storage tank.	10/30/2012	2/28/2014			Open
11/12-466	Replace the upper hopper on SDA No. 3 where it showed significant thinning during UT testing and reinstall insulation and lagging. Veolia to provide UT readings for CDM Smith review.	11/29/2012	Provide UT readings to CDM Smith for review 1/31/2013 (Complete)  Make repairs 12/31/2013			Open
11/12-474	Repair/replace the rusted and corroded economizer supports on Boiler Unit No. 3.	11/29/2012	12/31/2013			Open
12/12-498	Replace the permeate water storage tank located in the outside boiler water treatment area that is encountering recurring leaks.	1/9/2012	10/31/2013			Open - outage required
12/12-500	Investigate the source of the flue gas leak on the front wall of Boiler Unit No. 1, share root cause findings with CDM Smith and make needed repairs.	1/9/2012	12/31/2013			Open - outage required
12/12-501	Many of the sootblowers were not operational. Evaluate all rotary and retractable sootblowers on Boiler Unit No. 1 to determine which need repairs, share findings with CDM Smith and make necessary repairs.	1/9/2012	Evaluate sootblowers 7/31/2013 (Complete)  Make repairs 12/31/2013			Open
12/12-502	Many of the sootblowers were not operational. Evaluate all rotary and retractable sootblowers on Boiler Unit No. 2 to determine which need repairs, share findings with CDM Smith and make necessary repairs.	1/9/2012	Evaluate sootblowers 7/31/2013 (Complete)  Make repairs 12/31/2013			Open



**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
12/12-503	Many of the sootblowers were not operational. Evaluate all rotary and retractable sootblowers on Boiler Unit No. 3 to determine which need repairs, share findings with CDM Smith and make necessary repairs.	1/9/2012	Evaluate sootblowers 7/31/2013 (Complete)  Make repairs 12/31/2013			Open
12/12-506	Repair casing and reseal area on the north and south sides of the economizer on Boiler Unit No. 2 at elevation 64'-8" and replace insulation and lagging. Investigate to determine root cause of recurring problems in this area and share findings with CDM Smith.	1/9/2012	12/31/2013			Open
12/12-514	Many support and spring hangers are in bad condition on Boiler Unit No. 1. Evaluate the condition of all the hangers and develop plan for repair or replacement of all deficient hangers. Share evaluation findings and plan with CDM Smith.	1/9/2012	Phase 1 Evaluate support and spring hangers 2/28/2013 (Complete)  Perform cold assessment 12/31/2013  Phase 2 Develop plan for repairs TBD  Phase 3 Replace/repair			Open

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
12/12-515	Many support and spring hangers are in bad condition on Boiler Unit No. 2. Evaluate the condition of all the hangers and develop plan for repair or replacement of all deficient hangers. Share evaluation findings and plan with CDM Smith.	1/9/2012	Phase 1 Evaluate support and spring hangers 2/28/2013 (Complete)  Phase 2 Develop plan for repairs 8/31/2013 (Complete)  Phase 3 Replace/repair 4/30/2014			Open
12/12-516	Many support and spring hangers are in bad condition on Boiler Unit No. 3. Evaluate the condition of all the hangers and develop plan for repair or replacement of all deficient hangers. Share evaluation findings and plan with CDM Smith.	1/9/2012	Phase 1 Evaluate support and spring hangers 2/28/2013 (Complete)  Perform cold assessment 12/31/2013  Phase 2 Develop plan for repairs TBD  Phase 3 Replace/repair			Open

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
12/12-519	Investigate source of leaks and cause of damage on the expansion joint at the bottom of the economizer on Boiler Unit No. 3 at elevation 54', share root cause findings with CDM Smith and make needed repairs.	1/9/2012	12/31/2013			Open - outage required
01/13-013	Remove or cap off the abandoned piping/wiring/conduit under TG No. 1.	1/31/2013	12/31/2013			Open
01/13-014	Investigate the source of the flue gas leaks on the north and south side walls of Boiler Unit No. 1 near the top of the chill tube panels, share root cause findings with CDM Smith and make needed repairs.	1/31/2013	12/31/2013			Open
01/13-015	Investigate the source of the flue gas leaks on the north and south side walls of Boiler Unit No. 2 near the top of the chill tube panels and on the front wall near the same area, share root cause findings with CDM Smith and make needed repairs.	1/31/2013	12/31/2013			Open
02/13-042	Repair the small leak on the 50 lb steam header relief valve near deaerator No. 2.	3/1/2013	12/31/2013			Open - outage required
02/13-045	There is a large amount of water coming from the vent line of deaerator No. 1. Insulate vent line or reroute to prevent excessive condensation from discharging to occupied areas.	3/1/2013	12/31/2013			Open - outage required
02/13-049	Determine the source of fugitive ash from the rear side of economizer No. 1 penthouse and make needed repairs.	3/1/2013	12/31/2013			Open - outage required
02/13-054	Determine the source of fugitive ash from the rear side of economizer No. 3 penthouse and make needed repairs.	3/1/2013	12/31/2013			Open - outage required
03/13-057	Remove numerous damaged conduits in the vicinity of the cooling tower on the south side when water treatment plant comes online.	3/28/2013	12/31/2013			Open
03/13-060	Repair the damaged roof seal of the feed table with open holes on the south side of Unit No. 1.	3/28/2013	Temporary repair 5/31/2013 (Complete) Permanent repair 12/31/2013			Open

Yellow - Items due by 10/31/2013

10/7/13

**SCHEDULE 23**  
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**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
03/13-064	Investigate the cause for the excessive hydraulic oil leaks in the Unit No. 2 Martin system hydraulic control cabinet and make repairs.	3/28/2013	12/31/2013			Open
03/13-079	Repair the hole in the rear of the feed hopper for Unit No. 3 and clean the debris that has fallen behind and onto the cable tray below at 46' elevation.	3/28/2013	12/31/2013			Open
03/13-083	Replace the insulation and lagging on several downcomers under 20' elevation and visible from the ground floor level behind the ash dischargers.	3/28/2013	10/31/2013			Open
03/13-087	Replace the severely corroded support steel for piping near the north ash discharger for Unit No. 2.	3/28/2013	12/31/2013			Open
03/13-088	Many of the supports for pipes, cables and conduits in the overhead area near the ash dischargers are severely corroded or have failed. Perform thorough inspection and replace all supports that are found to be in poor condition or missing.	3/28/2013	Perform inspection 7/31/2013 (Complete)  Make needed repairs/replacements  12/31/2013			Open
03/13-089	Insulate and lag the inlet piping to boiler feedwater pump No. 4.	3/28/2013	10/31/2013			Open
03/13-090	The RSPB baghouse bags do not appear to be cleaning properly since the dumpster below the hopper has not been emptied in quite some time. Verify bags are being cleaned properly.	3/28/2013	Perform assessment 9/30/2013 (Complete)  Make repairs 12/31/2013			Open
03/13-091	The southwest corner of the RSPB was extremely dark. Repair or replace inoperable/missing lights.	3/28/2013	Install temporary lighting 5/31/2013 (Complete)  Repair or replace permanent lighting 12/31/2013			Open
03/13-095	Insulate and lag the Unit No. 2 steam coil air preheater.	3/28/2013	12/31/2013			Open
04/13-096	Remove the piece of damaged concrete on the north side of the refuse pit wall at the top elevation and make necessary repairs.	5/7/2013	12/31/2013			Open

Yellow - Items due by 10/31/2013

10/7/13

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
04/13-098	Investigate the cause for the flue gas leaking from the north and south sides of Boiler Unit No. 2 at the interface of the rear convection wall and the economizer. Make casing repairs and replace detached insulation and lagging.	5/7/2013	12/31/2013			Open
04/13-102	The expansion joint at the crossover area between the rear convection wall and the economizer penthouse on Boiler Unit No. 3 is torn in several locations and needs to be replaced.	5/7/2013	12/31/2013			Open
04/13-112	Assess and perform any needed repairs to the damaged structural steel beam between Boiler Unit Nos. 2 and 3 at 54' elevation that had visible holes.	5/7/2013	12/31/2013			Open
04/13-113	Replace the broken/missing chill tube restraint on the south side of Boiler Unit No. 3 in accordance with original design. All 18 restraints for the boilers need to be inspected to ensure they have been installed per the original design and repairs made if found to be installed improperly.	5/7/2013	12/31/2013			Open - The broken restraint on the south side of Boiler Unit No. 3 has been replaced.
04/13-115	Seal the access door to the grates on Boiler Unit No. 3 at 20' elevation.	5/7/2013	Temporary repair 6/30/2013 (Complete) Permanent repair 12/31/2013			Open
04/13-119	Repair the steam leak on the boiler drain line to intermittent blow down tank between Baghouse Nos. 1 and 2.	5/7/2013	12/31/2013			Open
04/13-124	Repair numerous air leaks on the double dump valve cylinders and associated air regulators on Baghouse No. 1.	5/7/2013	12/31/2013			Open
04/13-125	Repair numerous air leaks on the double dump valve cylinders and associated air regulators on Baghouse No. 2.	5/7/2013	12/31/2013			Open
04/13-126	Repair numerous air leaks on the double dump valve cylinders and associated air regulators on Baghouse No. 3.	5/7/2013	12/31/2013			Open
05/13-131	Replace bellows on carbon feeder B in the carbon silo that is repaired with duct tape.	6/4/2013	10/31/2013			Open
05/13-133	Replace the corroded and deteriorated exterior louvers on the southeast side of the carbon silo.	6/4/2013	10/31/2013			Open
05/13-134	Replace the rubber boot on carbon feeder A in the carbon silo that is repaired with duct tape.	6/4/2013	10/31/2013			Open
05/13-138	Replace the corroded and deteriorated louvers and frame on the northeast side of the lime silo building.	6/4/2013	10/31/2013			Open



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Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
05/13-141	Repair the severely corroded lagging on top of the inlet duct on Baghouse No. 2.	6/4/2013	11/30/2013			Open
05/13-142	Repair the severely corroded lagging on top of the inlet duct on Baghouse No. 3.	6/4/2013	11/30/2013			Open
05/13-143	Replace the insulation and lagging on the lower cone and outlet duct on SDA No. 2.	6/4/2013	11/30/2013			Open
05/13-146	Many of the rappers on the baghouse hoppers were not functional or delivered weak raps. Inspect the hopper rappers and make any needed repairs.	6/4/2013	Phase 1 Inspect and order parts 9/30/2013  Phase 2 Make repairs 12/31/2013			Open
05/13-147	Many of the limit switches on the baghouse double dump valves were missing or were not functional. Inspect the limit switches for the baghouse double dump valves and replace or make any needed repairs.	6/4/2013	11/30/2013			Open
05/13-152	Remove the abandoned portion of old lime slurry piping.	6/4/2013	12/31/2013			Open
05/13-153	Repair the leaks in the Boiler Unit No. 1 economizer casing and replace damaged/corroded insulation and lagging on the south side at the penthouse area.	6/4/2013	12/31/2013			Open
06/13-160	The mild steel clamps which support the fire water pipes that are suspended above the cooling tower motors are extremely deteriorated and need to be replaced. CDM Smith recommends that the replacement clamps be fabricated from stainless steel.	7/10/2013	10/31/2013			Open
06/13-163	Replace the insulation and lagging on the bottom of the economizer outlet duct on Boiler Unit No. 2.	7/10/2013	11/30/2013			Open
06/13-164	Several high intensity discharge lighting (HID) luminaires along the vibrating conveyor and inclined ash conveyor belt are missing or inoperative. Missing/broken lighting fixtures should be replaced and inoperative luminaires repaired. Absence of light in these especially dark areas presents a significant safety hazard and inhibits maintenance of equipment within those areas.	7/10/2013	1/31/2014			Open
06/13-166	The No. 1 TG turning gear drive motor assembly appears to be operating at elevated noise levels. The noise may be the motor and/or the gear drive. The motor/drive assembly should be inspected during the next outage opportunity to determine if remedial actions are required.	7/10/2013	12/31/2013			Open

Yellow - Items due by 10/31/2013

10/7/13

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
07/13-167	The reclaimed water meter to the fire pump house is showing the same totalizer reading since July 2012 even though the meter was tested and calibrated in June 2013 and shown to be functional. Replace reclaimed water meter.	8/6/2013	12/31/2013			Open
07/13-168	Clean the rust staining from the exterior siding of the RSPB and the inclined gallery on the west side.	8/6/2013	6/30/2014			Open - GCS proposed a completion date of 12/31/2014. CDM Smith proposes a completion date of 6/30/2014.
07/13-171	Install anchor nuts on the cover over the coupling guard on the deflation fan for Beghouse No. 1.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 2/28/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-172	Replace the missing valve handle on the intermittent blowdown tank drain line.	8/6/2013	2/28/2014			Open
07/13-173	Repair the washout on the northwest side of the blowdown sump by the slab on grade.	8/6/2013	10/31/2013			Open - GCS proposed a completion date of 6/30/2014. CDM Smith proposes a completion date of 10/31/2013.
07/13-174	Clean and paint the weatherhead connection to ID Fan No. 3.	8/6/2013	5/31/2014			Open
07/13-175	Replace the corroded unistrut support on the southwest corner of ID Fan No. 3 platform.	8/6/2013	3/31/2014			Open
07/13-176	Repair the corroded electrical box on the Unit No. 3 ID Fan lube oil system (rear panel).	8/6/2013	10/31/2013			Open
07/13-177	Repair the corroded frame on the ID Fan No. 3 outlet duct to stack (lower corner near upper expansion joint).	8/6/2013	4/30/2014			Open
07/13-178	Investigate the source of excess vibration on the cooling fan for the ID Fan No. 3 oil cooler.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 2/28/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-179	Investigate the noisy seal on ID Fan No. 1 (bearing end on west side) and repair or adjust.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 3/31/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-181	Clean and paint the weatherhead connection to ID Fan No. 1.	8/6/2013	5/31/2014			Open
07/13-182	Investigate the noisy seal on ID Fan No. 2 (motor end on east side) and repair or adjust.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 3/31/2014. CDM Smith proposes a completion date of 12/31/2013.



**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
07/13-184	Remove the wave trap that has been uninstalled and is being stored in the switchyard.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 10/31/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-185	Clear the contact sump and trench drains to allow proper drainage in the area around the Nos. 1 - 3 ID fans.	8/6/2013	12/31/2013			Open
07/13-186	Clean the accumulation of ash from the roof purlins in the RSPB above the grizzly area (1/3 of building).	8/6/2013	12/31/2014			Open
07/13-188	Repair the open holes and leaky seals in the doors of all six ash dischargers.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 2/28/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-191	Repair the missing lagging on the SDA No. 2 inlet duct.	8/6/2013	2/28/2014			Open
07/13-192	Repair the casing and replace insulation and lagging at the rear wall of the economizer penthouse on Boiler Unit No. 3 just below the top deck.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 2/28/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-193	Repair the leaking sight gauge for the steam drum on the south side of Boiler Unit No. 3	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 1/31/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-194	Repair the steam leak on the 1/2-inch diameter tube near the steam drum on the north side of Boiler Unit No. 2.	8/6/2013	1/30/2014			Open - GCS proposed a completion date of 1/31/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-195	Repair the gutter on the south end of Boiler Unit No. 2 that is missing the connection to nearby downspout.	8/6/2013	3/31/2014			Open
07/13-197	Repair casing and replace insulation and lagging on the southeast corner of Unit No. 1 at 92' elevation.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 3/31/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-198	Replace the insulation and lagging on Deaerator No. 1.	8/6/2013	1/31/2014			Open
07/13-199	Repair the leaking sight gauge for Deaerator No. 2 (south side).	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 4/30/2014. CDM Smith proposes a completion date of 12/31/2013.



**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
07/13-200	Replace the missing insulation and lagging on the superheater drain line on the northeast corner of Boiler Unit No. 3.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 3/31/2014. CDM Smith proposes a completion date of 12/31/2013.
07/13-204	Replace the corroded plating on the top of the Unit No. 2 ash discharger visible below the 20' elevation grating.	8/6/2013	3/31/2014			Open
07/13-206	Repair the leak in the steam transmitter tubing under the grating at 20' elevation near the main steam header behind Boiler Unit No. 1.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 10/31/2014. CDM Smith proposes a completion date of 12/31/2013 since this has been a reoccurring issue.
07/13-207	Repair several areas (4 locations) of missing and deteriorated insulation and lagging on the main steam header under 20' elevation behind Boiler Unit No. 1.	8/6/2013	3/31/2014			Open
07/13-210	Inspect the inside and outside of the Baghouse No. 1 inlet duct where it has been covered in precrete and make repairs/replace plate where needed. CDM Smith to witness the inspection.	8/6/2013	Inspect 12/31/2013 Repair/replace TBD			Open
07/13-211	Inspect the inside and outside of the Baghouse No. 2 inlet duct where it has been covered in precrete and make repairs/replace plate where needed. CDM Smith to witness the inspection.	8/6/2013	Inspect 12/31/2013 Repair/replace TBD			Open
07/13-212	Inspect the inside and outside of the Baghouse No. 3 inlet duct where it has been covered in precrete and make repairs/replace plate where needed. CDM Smith to witness the inspection.	8/6/2013	Inspect 12/31/2013 Repair/replace TBD			Open
07/13-213	Repair/replace all of the 12-inch diameter access doors on all of the Baghouse No. 1 hoppers to prevent air infiltration and hopper deterioration.	8/6/2013	3/31/2014			Open
07/13-214	Repair/replace all of the 12-inch diameter access doors on all of the Baghouse No. 2 hoppers to prevent air infiltration and hopper deterioration.	8/6/2013	3/31/2014			Open
07/13-215	Repair/replace all of the 12-inch diameter access doors on all of the Baghouse No. 3 hoppers to prevent air infiltration and hopper deterioration.	8/6/2013	3/31/2014			Open

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
07/13-216	Replate the upper compartment walls in the area where the shakers are attached on Baghouse No. 1 where deteriorated conditions were observed.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 12/31/2014. CDM Smith proposes a completion date of 12/31/2013 since this was identified during the outages last year.
07/13-217	Replate the upper compartment walls in the area where the shakers are attached on Baghouse No. 2 where deteriorated conditions were observed.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 12/31/2014. CDM Smith proposes a completion date of 12/31/2013 since this was identified during the outages last year.
07/13-218	Replate the upper compartment walls in the area where the shakers are attached on Baghouse No. 3 where deteriorated conditions were observed.	8/6/2013	12/31/2013			Open - GCS proposed a completion date of 12/31/2014. CDM Smith proposes a completion date of 12/31/2013 since this was identified during the outages last year.
08/13-219	Insulate and lag the Deaerator No. 1 piping between Unit Nos. 1 and 2 on 20' elevation.	9/5/2013	1/31/2014			Open
8/13-220	Repair/replace boiler feedwater piping to Deaerator No. 1 at 20' elevation that is repaired temporarily with bolted block and replace insulation and lagging.	9/5/2013	12/31/2013			Open
8/13-221	Insulate and lag the Deaerator No. 1 piping on the south side of Unit No. 2 at 20' elevation that appears to be damaged from the adjacent piping leak.	9/5/2013	1/31/2014			Open
8/13-222	Most of the superheat dump valve transfer chutes are warped and buckled and have holes at the connection to the rear of the furnace. This condition may be the result of malfunctioning boiler supports which are not allowing full thermal expansion of the unit resulting in differential growth of the superheater hoppers versus the boiler. Repair/replace the transfer chutes and seal adequately at connection to furnace. Evaluate root cause for warping and buckling.	9/5/2013	12/31/2013			Open
8/13-223	Most of the access doors to the boiler furnace at 20' elevation are not sealed properly. Seal access doors to minimize tramp air infiltration or replace doors if necessary.	9/5/2013	12/31/2013			Open
8/13-224	Many of the access ports to the boiler at 20' elevation are not capped or capped with improper materials. Properly cap off all access ports.	9/5/2013	2/28/2014			Open

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
8/13-225	Many of the cover plates on the superheat dump valves were not secured properly and c-clamps were being used to keep them in place. Properly secure cover plates after installation of proper gaskets.	9/5/2013	2/28/2014			Open
8/13-226	Install proper supports for equipment where wire is being used at Unit No. 3, 20' elevation	9/5/2013	2/28/2014			Open
8/13-227	Repair the inoperable lights on Unit No. 3 at 30' elevation east of the superheater hoppers.	9/5/2013	3/31/2014			Open
8/13-228	Insulate and lag the continuous blowdown piping on the south side of Unit No. 3 at 30' elevation.	9/5/2013	1/31/2014			Open
8/13-229	Inspect the piping in the overhead on the south side of Unit No. 3 at 30' elevation that appears to be in bad condition. Replace/repair as needed.	9/5/2013	3/31/2014			Open
8/13-230	Inspect the gusset support on the south side of Unit No. 3 at 30' elevation that has large holes and is very corroded. Replace/repair as needed.	9/5/2013	3/31/2014			Open
8/13-231	Repair the inoperable lights on Unit No. 2 at 30' elevation east of the superheater hoppers.	9/5/2013	3/31/2014			Open
8/13-232	Repair the leaking LP feedwater isolation valve near Deaerator No. 1.	9/5/2013	12/31/2013			Open
8/13-233	Replace the insulation and lagging on the Unit No. 2 main steam piping at 30' elevation in the overhead.	9/5/2013	2/28/2014			Open
8/13-234	Repair the broken pipe support in the overhead on the south side of Unit No. 2 at 30' elevation.	9/5/2013	1/31/2014			Open
8/13-235	Permanently repair/replace the burner air supply piping on the north side of Unit No. 1 at 30' elevation.	9/5/2013	12/31/2013			Open
8/13-238	The differential pressure across Baghouse No. 3 was 13.5 w.g. Verify accuracy of instrumentation and if correct, replace the fabric filter bags that are exhibiting blinded conditions.	9/5/2013	12/31/2013			Open
8/13-239	The door to the control room has been missing a handle/knob for some time. Replace handle/knob on door.	9/5/2013	10/31/2013			Open
8/13-240	Properly seal the electrical box on the east side of Unit No. 1 that has been duct-taped.	9/5/2013	2/28/2014			Open
8/13-241	The structural support beam on Unit No. 1 at 20' elevation with light fixture attached has been struck and bent. Inspect beam and make any needed repairs.	9/5/2013	3/31/2014			Open
8/13-242	Repair several inoperable lights in the northwest corner of Unit No. 1 at 46' elevation.	9/5/2013	3/31/2014			Open
8/13-243	Inspect the corroded area of gusset support on the north side of Unit No. 1 at 54' elevation. Replace/repair as needed.	9/5/2013	3/31/2014			Open
8/13-244	Repair damaged area of kickplate on the north side of Unit No. 1 at 78'-8" elevation.	9/5/2013	3/31/2014			Open

Yellow - Items due by 10/31/2013

10/7/13

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
8/13-245	Replace insulation and lagging on several downcomers on the northeast corner of Unit No. 1 at 78'-8" elevation.	9/5/2013	2/28/2014			Open
8/13-246	Replace the heavily corroded 12-inch vent pipe to the silencer on the north side of Unit No. 1 at 92' elevation after providing immediate temporary repairs to prevent discharge of steam to walkway area.	9/5/2013	12/31/2013			Open
8/13-247	Replace the insulation and lagging in the dead space area of Unit No. 1 that has been removed to make tube repairs.	9/5/2013	12/31/2013			Open
8/13-248	Replace the damaged insulation and lagging around several economizer doors at 78'-8" elevation on Unit No. 1.	9/5/2013	2/28/2014			Open
8/13-249	Replace the damaged insulation and lagging around several economizer doors at 78'-8" elevation on Unit No. 2.	9/5/2013	2/28/2014			Open
8/13-250	Replace the damaged insulation and lagging around several economizer doors at 78'-8" elevation on Unit No. 3.	9/5/2013	2/28/2014			Open
8/13-251	Replace the leaky gasket on the filter regulator on the steam supply to the sootblowers on Unit No. 3.	9/5/2013	11/30/2013			Open
8/13-252	Replace the insulation and lagging in the dead space area of Unit No. 3 that has been removed to make tube repairs.	9/5/2013	12/31/2013			Open
8/13-253	Replace the missing insulation and lagging on the north side of Unit No. 3 at 64'-4" elevation where it has been removed to make tube repairs.	9/5/2013	12/31/2013			Open
8/13-254	Reinstall the cover for the equipment located on the north side of Unit No. 3 at 54' elevation.	9/5/2013	10/31/2013			Open
8/13-255	Repair the inoperable overhead lights near the Unit No. 3 hydraulic cabinets.	9/5/2013	2/28/2014			Open
8/13-256	Replace the corroded handrail on the west side of the SDA No. 2 hopper platform.	9/5/2013	2/28/2014			Open
9/13-257	The interior perimeter trench drain and several areas of the floor in the SDA No. 1 penthouse are corroded through. Repair/replace floor and trench drain.	10/7/2013	1/31/2014			Open
9/13-258	The interior perimeter trench drain and several areas of the floor in the SDA No. 2 penthouse are corroded through. Repair/replace floor and trench drain.	10/7/2013	1/31/2014			Open
9/13-259	The interior perimeter trench drain and several areas of the floor in the SDA No. 3 penthouse are corroded through. Repair/replace floor and trench drain.	10/7/2013	1/31/2014			Open

Yellow - Items due by 10/31/2013

10/7/13

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
9/13-260	Repair the leaky valve on the bottom of the backflow preventer for the potable water supply on the west side of the admin building.	10/7/2013	TBD			Open - CDM Smith will confirm if this valve is maintained by the County and if so, the item will be removed from the punch list.
9/13-261	Replace the missing panels and immediately secure loose panels to prevent further loss until final corrective action is made on the south side of the tipping building (top of building).	10/7/2013	12/31/2013			Open - loose panels have been secured. Replacement panels have to be fabricated and installed.
9/13-262	Repair the damaged roll-up door on the south side of the tipping building.	10/7/2013	TBD			Open - CDM Smith will confirm if the doors are maintained by the County and if so, the item will be removed from the punch list.
9/13-263	Repair the damaged siding on the west side of the refuse building (one location).	10/7/2013	12/31/2013			Open
9/13-264	Investigate and repair areas of concrete with exposed rebar under the tipping bays. CDM Smith to be present during inspection. Phase 1-Inspect, photograph and determine extent of erosion and exposed rebar. Provide sketch showing areas needing repair and proposed repair technique to CDM Smith for review. Phase 2-complete repairs.	10/7/2013	Phase 1 The pit inspection will occur at the first available opportunity when pit and facility conditions allow but no later than 12/31/2014  Phase 2 TBD			Open
9/13-265	There were several fire hydrants along the back gate and northwest corner of the tipping building that were out of service. Return fire hydrants to service.	10/7/2013	10/31/2013			Open
9/13-266	Repair several broken tie rods in the roof of the RSPB and provide information on cause of problem.	10/7/2013	12/31/2013			Open
9/13-267	Clean and paint/protect the louvers on the east and north sides of the RSPB that are starting to corrode.	10/7/2013	6/30/2014			Open

Yellow - Items due by 10/31/2013

10/7/13

**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
9/13-268	Replace the severely corroded gutter on the south side of the RSPB preferably with non-corroding material.	10/7/2013	2/28/2014			Open
9/13-269	Replace the corroded inside cowling for the exhaust fans on the south side of the RSPB and remove the unused unistrut supports (5 locations).	10/7/2013	6/30/2014			Open
9/13-270	Clean the accumulation of ash from the girts on the west side of the RSPB near the grizzly area and recoat or repaint steel to prevent corrosion.	10/7/2013	6/30/2014			Open
9/13-271	Replace several (6) lights on both sides of the C-1 ash conveyor in the upper area that were inoperable and/or covered in ash.	10/7/2013	1/31/2014			Open
9/13-272	Repair the inoperable vent fan on the northwest corner of the air compressor building.	10/7/2013	12/31/2013			Open - GCS proposed a completion date of 4/30/2014. CDM Smith proposes a completion date of 12/31/2013.
9/13-273	Repair the x-bracing support on the north side of the slide gate for SDA No. 3.	10/7/2013	11/30/2013			Open - GCS proposed a completion date of 1/31/2014. CDM Smith proposes a completion date of 11/30/2013.
9/13-274	Replace the broken unistrut support directly below the SDA No. 3 hopper platform grating on the south side.	10/7/2013	12/31/2013			Open
9/13-275	The slide gates on the SDA No. 3 hopper were not operable. Return slide gates to automatic operation.	10/7/2013	11/30/2013			Open - GCS proposed a completion date of 1/31/2014. CDM Smith proposes a completion date of 11/30/2013.



**SCHEDULE 23**  
**Pinellas County WTE Facility**  
**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
9/13-276	The drag chain conveyor for the SDA No. 3 hopper fly ash was not in operation and was observed to be full of water. Clean out conveyor and return to operation.	10/7/2013	11/30/2013			Open
9/13-277	The motor for the north screw conveyor on Baghouse No. 2 was exhibiting excessive noise and vibration. Inspect and make any necessary repairs.	10/7/2013	12/31/2013			Open
9/13-278	The slide gates on the SDA No. 2 hopper were not operable. Return slide gates to automatic operation.	10/7/2013	11/30/2013			Open - GCS proposed a completion date of 12/31/2013. CDM Smith proposes a completion date of 11/30/2013.
9/13-279	Replace the broken hanging support for the SDA No. 2 slide gate cylinders.	10/7/2013	11/30/2013			Open - GCS proposed a completion date of 12/31/2013. CDM Smith proposes a completion date of 11/30/2013.
9/13-280	Replace the missing concrete pedestal support on the north side of the slide gate for SDA No. 1.	10/7/2013	11/30/2013			Open - GCS proposed a completion date of 12/31/2013. CDM Smith proposes a completion date of 11/30/2013.
9/13-281	The slide gates on the SDA No. 1 hopper were not operable. Return slide gates to automatic operation.	10/7/2013	11/30/2013			Open - GCS proposed a completion date of 12/31/2013. CDM Smith proposes a completion date of 11/30/2013.
9/13-282	Repair the two expansion joints on the SDA No. 1 hopper.	10/7/2013	12/31/2013			Open
9/13-283	Replace the corroded siding on the east side of the windwall area near the belt filter press preferably with non-corroding material.	10/7/2013	4/30/2014			Open
9/13-284	Repair the support and reposition the deflector on the fire nozzle above the lube oil system on grade in the turbine area (above 925 gallon tank).	10/7/2013	11/30/2013			Open
9/13-285	Remove or paint the cross-tie piping on the circ water system in the overhead of the turbine area (northeast side of TGs).	10/7/2013	5/31/2014			Open
9/13-286	There was a significant amount of standing water on the west side of TG-1 in two corners. Provide drain holes in decking at low points to prevent water accumulation in this area.	10/7/2013	11/30/2013			Open
9/13-287	Replace several insulation blankets that have been removed or have fallen off the TG 1 15 lb steam piping/valves in the turbine area.	10/7/2013	1/31/2014			Open
9/13-288	Repair the air leak behind the Unit No. 3 UFA cabinet on the firing aisle.	10/7/2013	12/31/2013			Open

Yellow - Items due by 10/31/2013

**SCHEDULE 23  
Pinellas County WTE Facility**

10/7/13

**Consulting Engineer's Inspection Report - Punch List Items - Revision 60**

Item Number	Description	Date Reported to Veolia	Date Required to be Completed By	Date Reported Corrected By Veolia	Date Reinspected By CDM	Status/Comments
9/13-289	Repair the separated 90 degree elbow on the 3-inch diameter piping on the south side of Unit No. 2 on the firing aisle level.	10/7/2013	1/31/2014			Open
9/13-290	Repair the steam leak on grade in the steam coil air preheater no. 2 supply piping.	10/7/2013	1/31/2014			Open
9/13-291	There is a significant tube leak in the upper economizer section of Unit No. 2 that is causing damage to the insulation and lagging from top to bottom. Repair tube leak and replace any damaged insulation and lagging.	10/7/2013	1/31/2014			Open - the leak has been repaired. The insulation will be replaced after the outage work.
9/13-292	Replace the broken sight glass for several view ports on all three units at 20' elevation.	10/7/2013	1/31/2014			Open
9/13-293	Replace the broken unistrut support for the cable tray between Unit Nos. 1 and 2 at 20' elevation.	10/7/2013	12/31/2013			Open
9/13-294	Repair the economizer hoppers and the economizer fly ash screw conveyors for Unit No. 1 that are still out of service.	10/7/2013	2/28/2014			Open
9/13-295	Repair the damaged hand wheel operators for the main steam stop valves (2) near the Unit No. 1 economizer hoppers at 20' elevation.	10/7/2013	1/31/2014			Open



**EXHIBIT D**

**REAFFIRMATION OF GUARANTY**

\_\_\_\_\_, 2013

Director  
Solid Waste Operations  
Pinellas County Utilities  
3095 114<sup>th</sup> Avenue North  
St. Petersburg, Florida 33716

Ladies and Gentlemen:

Reference is made to (i) that Service Agreement, dated as of January 23, 2007 (as amended, restated, supplemented or otherwise modified from time to time, including Amendments No. 1, 2, 3, 4, 5 and 6, the "Service Agreement"), by and among Pinellas County, Florida (the "County"), and GCS Energy Recovery of Pinellas Inc. (formerly Veolia ES Pinellas, Inc.), a Delaware corporation (the "Contractor"); and (ii) that certain Guaranty dated as of January 14, 2011 in favor of the County, executed by Veolia Environmental Services North America Corp., a Delaware corporation, which was assigned to and assumed by Green Conversion Systems, LLC, a Delaware limited liability company (the "Guarantor"), pursuant to that certain Assignment and Assumption Agreement dated December 12, 2012 (such Guaranty, as assigned to and assumed by the Guarantor, the "Guaranty"), a copy of which is attached hereto. Capitalized terms that are used herein and not otherwise defined herein shall have the respective meanings assigned thereto under the Service Agreement.

The undersigned (i) reaffirms all of its obligations under the Guaranty, (ii) acknowledges that the County enjoys the benefits of the Guaranty, and (iii) acknowledges and agrees that the Guaranty remains in full force and effect (including, without limitation, after giving effect to the amendment of the Service Agreement pursuant to that certain Amendment No. 6 to Pinellas County Resource Recovery Facility Service Agreement dated as of \_\_\_\_\_, 2013) in favor of the County. The undersigned represents and warrants that it has full power and authority to execute and deliver this reaffirmation of guaranty.

Very truly yours,

GREEN CONVERSION SYSTEMS, LLC

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

**EXHIBIT E**

**RELEASE OF BOND**

**GCS Energy Recovery of Pinellas, Inc. Letterhead**

Dec. 10, 2013

Navigators Insurance Company  
2101 4<sup>th</sup> Ave.  
Suite 1850  
Seattle, WA

**Re: Bond No. 0AA00246**

**RELEASE AND DISCHARGE OF LIABILITY UNDER BOND**

We, GCS Energy Recovery of Pinellas, Inc., formerly named Veolia ES Pinellas, Inc., as principal, and Pinellas County Board of County Commissioners of Pinellas County, as obligee, herein agree that Navigators Insurance Company, and its affiliates, successors and assigns, are hereby fully released, discharged and exonerated of any past, present or future obligation it may have under the above referenced bond number.

Pinellas County:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

Obligee\*:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Pinellas County Administrator

Dated: \_\_\_\_\_

\* Obligee's signature must be notarized.

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 20\_\_\_\_ before me,  
\_\_\_\_\_, Notary Public, personally appeared  
\_\_\_\_\_

☐ personally known to me - OR - ☐ proved to me on the basis of  
satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies),  
and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the  
instrument. WITNESS my hand and official seal.

(S E A L)

# Waste to Energy Facility Service Agreement Amendment 6

Department of Environment and Infrastructure,  
Solid Waste Division  
December 10, 2013

# History

- County awarded the Service Agreement to Veolia Environmental Services on January 23, 2007
- On December 12, 2012, the parent company of Veolia transferred all of the stock to Green Conversion Systems LLC
- Parties mutually desire to conduct a voluntary termination of the existing Service Agreement

# Overview of Amendment

- Term of the Agreement
- Required Securities
- Payment Provisions
- Interim Operations
- Performance Guarantees
- Procurement Support
- Transition Support

# Term of the Agreement

- Term of the Agreement shall be amended to expire at midnight on December 31, 2014
- Agreement may be terminated at the convenience of the County effective on and after April 1, 2014 upon thirty (30) days prior written notice from the County to GCS
- Termination for Event of Default is not subject to timeframe above

# Required Securities

- The existing bonds and letters of credit shall remain in full force and effect until Amendment No. 6 is executed by both Parties
- Required securities modified to reflect reduced term of Service Agreement (\$15 million for 11-year term reduced to \$6 million for 1-year term)
- After the execution of Amendment No. 6 and thereafter throughout the Term, GCS shall have the obligation to maintain irrevocable letter(s) of credit totaling the amount of \$6 million
- The County shall provide an additional writing as necessary to facilitate the cancellation of the existing performance bond and return of collateral by GCS' surety.



# Required Securities

- Parent Guaranty. Green Conversion Systems, LLC, parent company of GCS, shall reaffirm the Guaranty in favor of the County under the Agreement.
- Insurance. Insurance shall be procured and maintained by GCS as provided for in Section 11 (other than Section 11.4 and 11.5, which are to be revised consistent with this Term Sheet), no change in insurance coverage from existing Service Agreement
- Mutual Release - The County and GCS shall each provide the other with a full release of all existing and known claims based on facts up to the date of execution of Amendment No. 6.

# Payment Provisions

- *Monthly Fees*

- Processing Fee in Service Agreement eliminated
- Revenue sharing for electricity and recovered metals sold eliminated
- Salary and benefits of GCS Facility employees will be paid at actual cost plus 12.5% Markup
- Spare parts, utilities, reagents, routine maintenance supplies and parts, and insurance will be paid at actual cost
- Work performed by subcontractors during scheduled and unscheduled outages, repairs or replacements of a capital nature and capital projects will be paid at actual cost plus 5% markup

# Payment Provisions

- *Performance-Based Incentives*
  - For each full 1% that the total capacity factor increases above 75%, the salary and benefits markup shall be increased by 1%
  - Conversely, for each full 1% that the total capacity factor decreases below 75%, the salary and benefits markup shall be reduced by 1%
  - For each month in which there are no exceedances of the air emissions standards or other conditions in the Permits, the salary and benefits markup shall be increased by 1% for the month in which no such exceedances occurred.

# Payment Provisions

- *Outage Costs*
  - Direct Costs (exclusive of markup) for Subcontractors engaged by GCS for services relative to the Facility outage occurring during November and December 2013 and for parts and supplies purchased solely for work performed during the outage shall be reimbursed by the County
  - Except for, costs for curing items on the consultants inspection list having a required completion date on or before October 31, 2013 shall be paid by the GCS

# Payment Provisions

- *Payment Methodology*
  - GCS shall propose to the County an itemized budget for all routine monthly expenses associated with the Facility, including employee salary, wages and benefits, Utilities, Reagents, and insurance premiums based on historical annual expenses
  - GCS shall submit an invoice to the County on or after the first day of each Billing Month for the amount specified in the approved budget
  - There will be a true-up each sixty (60) Days to reconcile for variation between actual and budgeted costs specified in the approved budget for the prior Billing Month(s) based on cost substantiation
  - Invoices for non-routine expenses for work agreed upon in writing by the Parties, such as Subcontractors, Equipment, parts, etc. shall be submitted to the County for reimbursement upon completion of the agreed upon work, or at designated milestones, with appropriate cost substantiation

# Payment Provisions

- Annual Reconciliation
  - Annual Reconciliation for prior fiscal year will be paid in accordance with the Service Agreement in effect at that time.
  - There will be no Annual Reconciliation for period for October 1, 2013 to the Effective Date
  - There are no Annual Reconciliation provisions in the amended agreement

# Interim Operations

- Parties mutually agree that GCS will continue operating facility under modified Service Agreement during the time required for the County to conduct a procurement for a replacement Facility operator to ensure the smooth and uninterrupted Facility operations
- Terms and Conditions of Service Agreement, as amended, remain in full effect during term

# Interim Operations

- The County and GCS shall establish a performance monitoring plan whereby the County and its representatives will be invited to participate in all Facility meetings, and shall be allowed to observe all Facility operations at whatever times the County wishes them to be present and they may also make their own inspections and measurements during such work
- The County shall have complete access to all Facility records, including, but not limited to, O&M records, O&M manuals, staffing charts, employee history records, employee training records, cost records, calibration records, SOPs, PMs, equipment maintenance, Repair or Replacement records and schedules, plans, drawings, specifications, all records for construction of the Facility, Subcontractor scopes of work, contracts and pricing, reports, and reports prepared by third parties of any nature.
- GCS shall work cooperatively with the County and its representatives in determining operation, maintenance, Repair or Replacement and Capital Project priorities and GCS shall undertake such matters and projects as instructed by the County or its representatives
- All Repairs or Replacements of a capital nature (non-routine work) that are proposed to be or are performed by GCS or Subcontractors shall be subject to the prior written approval of the County.



# Performance Guarantees

- GCS shall continue to operate and maintain the Facility in accordance with the Standards of Maintenance as defined in the Agreement
- GCS shall comply with all environmental permits
- GCS to process a minimum of 67,000 tons of waste each month, on a rolling three month average, but in no case less than 50,000 tons in any one month
- GCS shall maintain the total capacity factor under the Power Purchase Agreement at or above 70% each month
- GCS shall ensure that the residue processing system, including ferrous and non-ferrous recovery systems, is operational
- Failure to meet any Performance Guarantee shall be an Event of Default under the Agreement
- In an Event of Default, GCS shall have ten days to cure or provide a plan to cure acceptable to the County

# Procurement

- GCS shall provide potential Facility operator(s) with full access to the Facility and all operational, maintenance and purchasing Records in support of the procurement
- GCS shall allow access by potential Facility operators to existing Facility employees for purposes of interviewing and possible hiring to continue their work at the Facility, provided that same is coordinated with GCS
- GCS shall not have any non-competition agreements or other restrictive covenants with any GCS employee that would otherwise prevent or restrict such employee from being hired by any potential Facility operator
- The County shall use reasonable efforts to encourage potential Facility operators to make offers of employment to the existing GCS labor force currently working at the Facility
- GCS shall not interfere with and take no action, judicial or otherwise, of any kind that may or would impede or preclude the County's procurements, discussions and negotiations of any type with any potential Facility operators

# Transition

- GCS shall fully cooperate and assist with the orderly transition of Facility operations from GCS to any new Facility operator
- Contractor will transfer all software licenses and equipment warranties to County / new operator
- Contractor shall provide training on maintenance, operational control and environmental monitoring systems to any new Facility operator
- Contractor agrees to sell and County agrees to purchase excess inventory (spare parts, equipment and supplies) at termination

# Transition

- Public Statement and Non-Disparagement.  
The Contractor and the County agree that this Amendment is voluntary between the parties
- The Contractor and County shall agree on the language for a joint public announcement
- The Contractor and the County staff agree not to disparage each other with respect to the Service Agreement