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August 31, 2010

Mr. Dave Dowds  
Supervisor, Cost Analysis Section  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee FL 32399-0850

Dear Mr. Dowds:

RE: Docket No: 100368-EI

Enclosed is Gulf Power Company's Responses to Staff's First Data Request in the above referenced docket.

Sincerely,

*Susan D. Ritenour*

vm

Enclosures

Cc: Beggs & Lane  
Jeffrey A. Stone  
Office of Public Counsel  
Office of Commission Clerk (Docket No. 100368-EI)  
Office of the General Counsel  
Katherine E. Fleming, Esq.

DOCUMENT NUMBER - CASE

07421 SEP-20

FPSC-COMMISSION CLERK

1. Please explain and describe in detail a "landfill gas to energy facility," e.g., what comprises it, how does it work, does the landfill need to be closed, etc. Please include any information specific to the Perdido facility, including where it is located in comparison with the landfill.

**ANSWER:**

Landfill gas is produced at the landfill by decomposing waste. This gas is collected by wells located in the landfill and connected through series of pipes. These pipes are connected to a blower which pulls the gas from the landfill and sends it to the Landfill Gas to Energy (LFGTE) facility. At the facility the gas is sent through a knock out vessel where condensate is removed and is sent back to the landfill. The gas is sent to a compressor to increase the pressure and cool the gas. The gas is sent to a Caterpillar 3520C internal combustion engine where it is utilized as fuel. The engine is coupled to a generator that is capable of generating 1.6 MW of electricity. At the Perdido LFGTE facility there are two engine/generator sets with the total generation capacity being 3.2 MW. The exhaust from the engines is routed through a silencer and to the exhaust stack.

The landfill does not require closing for the LFGTE facility to operate. The facility is located on property owned by Escambia County adjacent to the Perdido Landfill, which is on County Road 99 in Escambia County, FL.

DOCUMENT NUMBER-DATE

07421 SEP-20

FPSC-COMMISSION CLERK

2. Does Gulf own the land under the facility? If Gulf does not own the land, who does own it? Will Gulf pay rent for the land?

ANSWER:

Gulf does not own the land. The land is owned by Escambia County and is being leased by Gulf Power.

3. Will Gulf operate the facility? If not, who will?

ANSWER:

Gulf will operate the facility through a third party, LFG Technologies LLC.

4. Does Gulf have the breakdown of the \$5.1 M investment by specific FERC account? Please explain why or why not. If the breakdown is available, please provide it. If Gulf does not have the breakdown, when does Gulf expect to have it?

ANSWER:

The Perdido LFGTE is this first of its kind to be owned/operated by any Southern Company affiliate. Gulf has created a list of proposed retirement units and associated FERC account numbers for the Perdido LFGTE which is currently being reviewed by Engineering. Gulf expects to have this finalized by the end of September 2010.

5. When Gulf refers to "Renewable Energy Facility," is Gulf referring to the definition as found in Sections 220.193(2)(d) and 377.803, Florida Statutes? If not, please explain and describe the significance of the term.

ANSWER:

Yes.

6. Does Gulf's proposed "20-year life" for this facility refer to a 20-year average service life? If no, please explain what type of life the proposal references.

ANSWER:

Yes.

7. Please explain and describe the basis for Gulf's determination that a 20-year life for this facility is appropriate. Please provide all documents relied on or supporting a 20-year life for this facility.

ANSWER:

Gulf's basis in determining the appropriateness of a 20-year service life is based on the term of the 20-year contract with Escambia County securing the gas supply. At this time, Gulf has not identified any use for this facility beyond the 20-year contract term.

A Copy of Landfill Gas Sales Agreement is included as Attachment A.



8. Are there other landfill gas to energy facilities in the Southern Company's service territories? If so, please list each one with its name, location, commission order number, and prescribed average life.

ANSWER:

There are other LFGTE facilities in Southern Company's service territory, but none are owned/operated by Gulf Power or any other Southern Company affiliate. The EPA has a website that lists all landfill gas to energy plants that can be viewed on a state by state basis. The web address for the site is: <http://www.epa.gov/lmop/>.

9. Is Gulf aware of other landfill gas to energy facilities in Florida? If so, please list each one with its name, location, and average life.

ANSWER:

Based on information presented on the EPA website as discussed in Gulf's response to Item No. 8, below is a list of landfill gas to energy facilities located in Florida. Gulf has no knowledge as to the average life of these facilities.

<u>Landfill Name</u>	<u>Landfill City</u>	<u>Landfill County</u>	<u>State</u>
Baseline Landfill	Ocala	Marion	FL
Brevard County Central Disposal Facility	Cocoa	Brevard	FL
Central Disposal SLF	Pompano Beach	Broward	FL
Girvin Road LF	Jacksonville	Duval	FL
North LF	Jacksonville	Duval	FL
Orange County SLF	Orlando	Orange	FL
Osceola Road Solid W. M. Facility	Geneva	Seminole	FL
Springhill Regional Landfill	Campbellton	Jackson	FL
Tomoka Farms Road LF	Port Orange	Volusia	FL
Trail Ridge LF	Baldwin	Duval	FL

10. Has Gulf used, or does Gulf expect to use, federal Recovery Act funds for this facility? If yes, please describe and explain the impact on Gulf's \$5.1 million of investment.

ANSWER:

No.

11. Does Gulf still expect this facility to be placed into service in August 2010? If so, what is the expected date of commercial operation? If not, when will the facility be placed in service?

ANSWER:

No. The facility is currently expected to be placed into service in September 2010. The date of commercial operation is dependent on the availability of gas from Escambia County.

12. What is Gulf's proposed effective date for implementation of the depreciation rate?

ANSWER:

October 1, 2010.

13. What interim net salvage is Gulf proposing for this facility? Please provide all data and other information relied on that supports the interim net salvage proposal.

ANSWER:

Gulf is proposing a zero net salvage component at this time. The removal cost associated with any capital projects is expected to be relatively minor. Salvage costs are currently seen as scrap metal only and would have very little value.

14. When does Gulf plan to perform and provide a dismantlement study on the Perdido landfill gas to energy facility?

ANSWER:

This facility will be studied and incorporated into the 2013 depreciation and dismantlement study.

15. What is the depreciation rate Gulf is proposing for this facility?

ANSWER:

The proposed depreciation rate is 5%.



# Attachment A

**LANDFILL GAS SALES AGREEMENT BETWEEN GULF POWER  
COMPANY AND ESCAMBIA COUNTY, FLORIDA**

THIS LANDFILL GAS SALES AGREEMENT (this "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2009 between Escambia County, Florida, a political subdivision of the State of Florida (the "Landfill Entity") and Gulf Power Company, a Florida corporation ("Gulf Power").

**RECITALS:**

- A. The Landfill Entity owns and operates a sanitary landfill located at 13009 Beulah Road, Cantonment, Florida 32533 (the "Landfill") and the Landfill Gas Collection Facilities at the Landfill.
- B. Gulf Power is developing and constructing a Power Plant at the Landfill to be fueled by Landfill Gas.
- C. The Landfill Entity is willing to sell and Gulf Power is willing to purchase Landfill Gas needed to fuel the Power Plant and any and all expansions or additions thereto, upon the terms and subject to the conditions set forth herein.

**ARTICLE I**  
**DEFINITIONS.**

1.1 Terms Defined. The following terms shall have the respective meanings set forth below:

- (a) "Affiliate" means, in relation to a party, another party that Controls, is Controlled by or is under common Control with the first mentioned party.
- (b) "Alternative Energy Tax Credit" means that tax credit for producing fuel or energy from a non-conventional source as described in Sections 29 or 45 of the Internal Revenue Code of 1986, as amended, or other current or future law relating to the production of such fuel or energy or any other tax credits that are available, or may become available in the future, arising out of transactions as described in this Agreement.
- (c) "Approved Rate" means the prime rate as quoted in the Money Rate section of the Wall Street Journal.
- (d) "Commercial Operability Date" means the date determined in accordance with Article 2.5.

(e) "Control" means (i) with respect to any corporation or other entity having (a) voting shares or the equivalent interest and (b) elected directors, managers or persons performing similar functions, the ownership or power to vote more than 50% of voting shares or the equivalent interest conferring the power to vote in the election of directors, managers or persons performing similar functions, and (ii) with respect to any other entity, the ability and responsibility to direct and manage its business and affairs.

(f) "Environmental Condition" means (a) any release or threatened release of a Hazardous Substance from, in, on, under or onto the Power Plant Site or the Landfill in violation of any Environmental Law; (b) any release or threatened release of a Hazardous Substance from the Power Plant Site or the Landfill in, on, under or onto any other property that results in any damages, loss, cost, expense or other liability; (c) any violation of any Environmental Law; or (d) any release or threatened release of a Hazardous Substance from, in, on, under or onto the Power Plant Site or the Landfill potentially resulting in exposure of third parties to Hazardous Substances in concentrations meeting or exceeding regulatory levels established under any applicable Environmental Law.

(g) "Environmental Laws" means applicable federal, state or local laws, rules, regulations, ordinances, orders, permits or determinations of any governmental authority relating to health, safety or the environment, including, without limitation, the Clean Air Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Superfund Amendments and Reauthorization Act of 1986, the Federal Water Pollution Control Act, the Occupational Safety and Health Act of 1970, the Resource Conservation and Recovery Act of 1976, the Safe Drinking Water Act, the Toxic Substances Control Act, and the Hazardous Materials Transportation Act and any amendments, rules, regulations, order or directives issues thereunder.

(h) "Excess Landfill Gas" means the quantity of Landfill Gas above that which is required to operate the Power Plant in accordance with the terms of this Agreement.

(i) "Force Majeure" means strikes, lockouts, or other industrial disturbances; official or unofficial acts, orders, regulations or restrictions of any foreign or domestic governmental agency (exclusive of Escambia County, Florida); wars; riots; insurrections; epidemics; landslides; lightening; earthquakes; fires; storms; freezing weather of a duration and severity not usually occurring at the Power Plant Site; floods; washouts; windstorms; hurricanes; tornados; explosions, breakage, accidents, injury or damage to machinery, equipment, valves, meters, regulators or lines of pipe; civil disturbances; and any other similar events not falling within the reasonable control of the party claiming Force Majeure and which, by the exercise of due diligence, the party claiming Force Majeure is unable to overcome. As used herein, the term "Force Majeure" shall not mean: (a) lack of financial resources, (b) changes in the cost of production, operations, or in market conditions, (c) events of commercial impracticability, or (d)

negligent or intentional acts, errors or omissions of the non-performing party or its contractors.

(j) "Flare" means the equipment at the Landfill used for the combustion of Landfill Gas that is not being used by the Power Plant to generate electricity or by the Landfill entity for some other purpose.

(k) "Hazardous Substances" means any hazardous substances, hazardous wastes, hazardous material or toxic substances, in each case as defined in the Environmental Laws, polychlorinated biphenyls or substances containing polychlorinated biphenyls, asbestos or materials containing asbestos, urea formaldehyde foam insulation, petroleum or petroleum products, flammable or explosive substances, radon gas, or any other wastes, pollutant, contaminant, material, chemical, gas or other substance which could subject any person to liability for costs of clean-up, removal, response or remediation under any Environmental Laws or the exposure to which is prohibited, limited or regulated under any Environmental Laws.

(l) "Landfill" is defined in the Recitals to this Agreement.

(m) "Landfill Gas" means (i) methane, carbon dioxide and other gases produced by the anaerobic decomposition of waste material within the Landfill (including all future expansions thereof), and (ii) any and all other materials, including entrained liquids, oxygen and nitrogen recovered in association with such methane, carbon dioxide and other gases.

(n) "Landfill Gas Collection Facilities" means gas wells and collectors, barometric traps, condensate sumps, flow lines, pipelines, valves, meters, filters, gas blowers, gas flares and other equipment and instrumentation used for or in connection with the collection of Landfill Gas, the flaring or other disposal of that gas, or the delivery of the gas to the Point of Delivery.

(o) "Point of Delivery" means the meter at which the Landfill Gas Collection Facilities connect to the Power Plant at the Landfill.

(p) "Power Plant" means a power plant or other type of energy plant comprising all the equipment required to take delivery of Landfill Gas at the Point of Delivery and generate electricity and includes all buildings housing the equipment and equipment enclosures.

(q) "Power Plant Package" means a site plan, prepared by Gulf Power or its subcontractors at its sole cost and expense, for a Power Plant showing the plant layout, the location and nature of perimeter fencing and landscaping around the Power Plant, the location of the switch gear, and the location of the gas pipeline from the Point of Delivery to the Power Plant.

(r) "Power Plant Site" means that part of the Landfill Entity's property which is mutually agreed to by Gulf Power and the Landfill Entity as the site on which the Power Plant is to be located.

(s) "Power Plant Site Lease" means a lease of a Power Plant Site given by the Landfill Entity in favor of Gulf Power.

(t) "Representative" means any employee, agent or consultant of a party hereto, or an Affiliate of a party or a third party contractor to a party or its Affiliate.

(u) "State" means the State of Florida.

(v) "Tax Credits, Renewable Energy Credits and Other Green Credits" means the use of Landfill Gas as a fuel source for electric power generation and includes, whether existing now or in the future, the associated (i) Alternative Energy Tax Credits and any and all renewable energy, production, investment, capital and other tax credits, (ii) credits, offsets and allowances for any public, private, mandatory or voluntary carbon or "greenhouse gas" cap and/or trading program and (iii) credits for renewable energy generated by the Landfill Gas or its subsequent conversion to electricity that could qualify or do qualify, in any of the above cases, for application toward compliance with any public, private, mandatory or voluntary local, state, regional, federal or international renewable energy portfolio standard, green pricing program, carbon cap and/or trading program or other renewable energy or "greenhouse gas" or other green mandate, law, rule or regulation or objective (whether related to taxes, the environment, the climate or otherwise).

## ARTICLE 2 LANDFILL GAS; POWER PLANT

2.1 Taking Landfill Gas. Gulf Power shall take and pay for all Landfill Gas required for operation of the Power Plant up to full load. Gulf Power agrees to use its best efforts to operate the Power Plant at a 90% capacity factor for the duration of this Agreement. In the event that Gulf Power fails to achieve a minimum Power Plant capacity factor of 50% for ninety (90) or more consecutive days, and such failure is not attributable to an event of Force Majeure or the actions or omissions of the Landfill Entity or its representatives, Gulf Power shall pay the Landfill Entity as though Gulf Power was operating the Power Plant at a 75% capacity factor until the Power Plant resumes operation at a capacity factor of 90% or more, at which time, payments shall resume in accordance with Article 3.1. If the amount of Landfill Gas delivered to the Point of Delivery exceeds the amount that can be used in the Power Plant, the Landfill Entity agrees to deliver such Excess Landfill Gas to the Flare or such other end-use as determined by the Landfill Entity. Gulf Power shall not be required to pay for Excess Landfill Gas unless Gulf Power exercises its Rights of First Refusal pursuant to Article 5.3.

2.2 Building the Power Plant. As soon as reasonably possible after the execution of this Agreement, and subject to Article 16, Gulf Power shall build the Power Plant on the Power Plant Site and in accordance with the Power Plant Package. All costs associated with the

development of the Power Plant Site including but not limited to local and State permitting (including the Title V Permit for the Power Plant), access road, utilities, stormwater controls and all other improvements are the sole responsibility and cost of Gulf Power. Provided, however, that the Landfill Entity shall be responsible for any necessary land use or zoning changes for the Power Plant Site and the costs of same shall be borne solely by the Landfill Entity. The Power Plant Site will be within the area located on Figure 1 on will not exceed 5 acres unless otherwise agreed upon.

2.3 Condensate Return. The Landfill Entity agrees to accept without cost to Gulf Power condensate removed by Gulf Power from the Landfill Gas for the Power Plant operations and charges incurred as a result of the hauling and disposal of such condensate shall be paid by the Landfill Entity. Condensate from the Power Plant will not contain any oils, solvents or other chemicals added as a waste or byproduct of Power Plant operations. Gulf Power will perform a chemical analysis of condensate from the Power Plant within 60 days of start-up and provide the results to the Landfill Entity. The results of the condensate testing from the Power Plant will be compared to condensate sampled from the Flare. If Condensate from the Power Plant contains other chemicals or in stronger concentrations as compared to condensate from the Flare the Landfill Entity has the right to stop accepting condensate until the problem is corrected by Gulf Power. Testing of condensate will be performed once per year at a minimum by Gulf Power and more frequently if contamination is identified.

Gulf Power will be responsible to convey condensate from the Power Plant to a location specified by the Landfill Entity at the Flare. Condensate from the Power Plant will not exceed the capacity of the Landfill Entity's condensate storage and pumping system capacity. Temporary storage of condensate at the Power Plant will be provided by Gulf Power to hold a maximum of two (2) days' capacity.

2.4 Landfill Entity Facilities. The Gas Collection Facilities, Flare, and all other facilities related to collection, transport, use or disposal of Landfill Gas which are located outside the boundaries of the Power Plant Site shall be constructed, owned, operated and maintained exclusively by the Landfill Entity or its Representatives. Provided, however, that the length of the Landfill Gas transmission pipeline to be constructed by the Landfill Entity shall not exceed 4,200 feet beyond the current point of termination. If the Power Plant Site is located beyond this distance, the cost of added length of pipeline will be the responsibility of Gulf Power.

2.5 Commercial Operability Date. The Power Plant will be commercially operable and Gulf Power will begin purchasing Landfill Gas from the Landfill Entity in accordance with Article 3 within one (1) year of the approval of this Agreement by the Florida Public Service Commission in accordance with Article 16.1, or Gulf Power's securing all necessary air, environmental, building and other permits necessary to construct and operate the Power Plant, whichever occurs later.

### ARTICLE 3

#### CONSIDERATION TO THE LANDFILL ENTITY FOR SALE OF LANDFILL GAS.

3.1 Consideration for Landfill Gas. During the term of this Agreement and as consideration for the Landfill Gas sold by the Landfill Entity to Gulf Power described in Section

2.1. Gulf Power shall pay to the Landfill Entity \$2.47 per MMBTU of Landfill Gas delivered to the Point of Delivery and utilized by the Power Plant in accordance with Article 2.1. This payment shall be escalated at 3% per year beginning on the first anniversary of the Commercial Operability Date.

3.2 Payments Due. Within thirty (30) days after the end of each calendar quarter during the term of this Agreement, the Landfill Entity shall provide Gulf Power an invoice setting forth (a) the total MMBTUs of Landfill Gas delivered by the Landfill Entity to the Point of Delivery during such quarter, as measured by Gulf Power's meter as referenced in Section 11.2, and (b) the calculation of the amounts due and owing by Gulf Power for such quarter pursuant to Section 3.1. Gulf Power shall pay such invoice within thirty (30) days of receipt.

3.3 Dispersion of Funds. The Bureau Chief of the Escambia County Neighborhoods & Community Services Bureau shall have the option to require Gulf Power to pay a portion of any or all of Gulf Power's quarterly payments directly to the operator of the Landfill Gas Collection Facilities. In the event that the Bureau Chief exercises this option, the invoice sent pursuant to section 3.2 must specify the amount to be paid to the operator. In no event shall payment to the operator be deemed to create a relationship with any entity or person, or obligation or liability to any entity or person, with respect to the Landfill Gas Collection Facilities or the Landfill itself.

3.4 Delinquent Payments. All amounts payable under Section 3.1 shall accrue interest at the Approved Rate for the period of time during which such amounts are sixty (60) days or more past due until paid, with the interest being calculated from the actual due date of the unpaid payment.

3.5 Audit Right. The Landfill Entity shall have the right, at its own expense, upon reasonable notice and at reasonable times, to examine the books and records of Gulf Power to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made pursuant to this Agreement. This examination right shall not be available with respect to proprietary information not directly relevant to transactions under this Agreement. All invoices and billings shall be conclusively presumed final and accurate unless objected to in writing, with adequate explanation and or documentation, within two years after the calendar quarter of the related Landfill Gas delivery. All retroactive adjustments under Section 3.5 shall be paid in full within 30 days of notice and of substantiation of such inaccuracy. Any amount not paid within the applicable 30-day period shall be subject to interest payments as provided in Section 3.4.

#### ARTICLE 4 TERM

This Agreement shall be effective as of the date first above written and continue in full force and effect for a period ending on the twentieth anniversary of the Commercial Operability Date. Thereafter, this Agreement shall automatically renew for additional, successive twelve (12) month periods until terminated by either Party upon at least one hundred eighty days (180) days prior written notice.

**ARTICLE 5**  
**LANDFILL**

5.1 No Mineral Rights or Production Rights. Nothing in this Agreement shall be deemed to grant to Gulf Power any rights to Landfill Gas in place or any production rights or other rights to, or interest in, any oil or natural gas or other minerals located under or in the Landfill except for the rights to Landfill Gas delivered to the Point of Delivery, and Gulf Power shall have no right to drill for or otherwise collect the Landfill Gas.

5.2 Discharge of Third Party Claims. The Landfill Entity and Gulf Power, respectively shall pay and timely discharge all its respective debts that may result in the assertion of any lien, mortgage, security interest or encumbrance, or any judgment, against the property of the other.

5.3 Right of First Refusal. In the event the Landfill Entity's production of Landfill Gas increases above the amounts which are required to operate the Power Plant at full load, Gulf Power will have the first right of refusal to purchase such Excess Landfill Gas. Gulf Power's first right of refusal shall arise each time that Excess Landfill Gas is produced in a quantity required to operate an additional generating unit. If Excess Landfill Gas is available, Gulf Power will have sixty (60) days to exercise its Right of First Refusal. If Gulf Power exercises its Right of First Refusal, Gulf Power will have one hundred eighty days (180) to commence utilization of and payment for the Landfill Gas in accordance with Article 3, or relinquish its rights to the Landfill Gas. If Gulf Power does not exercise or relinquishes its rights to Excess Landfill Gas, the Landfill Entity shall direct the Excess Landfill Gas to the Flare as described in Article 2.1, or utilize the Landfill Gas in some other manner.

5.4 Obligation to Expand Plant Capacity. Subject to Florida Public Service Commission approval and Gulf Power's securing all necessary permits, Gulf Power shall be obligated to install a third generating unit to utilize Excess Landfill Gas when the amount of Excess Landfill Gas produced by the Landfill reaches 700 scfm (600 scfm necessary for operation of the third generating unit, plus 100 scfm retained by the Landfill Entity in accordance with Article 8.2) and meets the criteria in Table 1. The expansion will be completed no later than one hundred eighty days (180) following the latter of (a) entry of an order by the Florida Public Service Commission approving direct and immediate cost recovery (outside of a base rate proceeding or limited proceeding pursuant to Section 366.076, Florida Statutes) for all costs associated with such expansion, including, but not limited to, capital expenditures, operation and maintenance expenses and fuel expense, or (b) Gulf Power's securing all necessary air, environmental, building and other permits necessary to enable the expansion.

**ARTICLE 6**  
**COMPLIANCE WITH LAWS**

6.1 Except as otherwise specifically agreed in writing, the Landfill Entity at its sole expense, shall comply with all federal, state and local laws, rules, regulations and orders applicable to the Landfill, whether now in existence or hereinafter enacted, issued or promulgated, including but not limited to all Environmental Laws.



6.2 Except as otherwise specifically agreed in writing, Gulf Power shall comply with all federal, state and local laws, rules, regulations and orders applicable to the Power Plant, whether now in existence or hereinafter enacted, issued or promulgated, including but not limited to all Environmental Laws.

6.3 Gulf Power will submit recordkeeping and reports associated with the Power Plant to the Landfill Entity as required by the Landfill Entity to demonstrate compliance with all Laws.

**ARTICLE 7**  
**FORCE MAJEURE**

7.1 Effect of Event of Force Majeure. If any party is prevented, hindered or delayed from performing any of its obligations under this Agreement (other than an obligation to pay money) by an Event of Force Majeure, then so long as that situation continues, that party shall be excused from performance of such obligations to the extent it is so prevented, hindered or delayed, and the time for performance of such obligations shall be extended accordingly. Notwithstanding the foregoing, if an Event of Force Majeure prevents a party from performing any of its obligations under this Agreement for three (3) consecutive months during the term of this Agreement, the other party, as its sole remedy, may terminate this Agreement by giving written notice to the affected party.

7.2 Notice of Events of Force Majeure. A party affected by an Event of Force Majeure promptly shall notify the other party in writing within 7 days after its occurrence and its effect or likely effect and, subject to Section 7.3, shall use all reasonable endeavors to minimize the effect of the Event of Force Majeure and to bring it to an end.

7.3 Labor Actions. No party shall be obliged to settle any strike or other labor actions, labor disputes or labor disturbances of any kind, except on terms wholly satisfactory to it.

**ARTICLE 8**  
**TITLE**

8.1 The Landfill Entity has title to all Landfill Gas to be sold hereunder and shall retain title to the Landfill Gas until such time as the Landfill Gas is delivered to Gulf Power by the Landfill Entity at the Point of Delivery.

8.2 The Landfill Entity shall have the right and option to retain up to 100 scfm of Landfill Gas for its sole use when Landfill Gas is produced in amounts above amounts which are required to operate the Power Plant at full load.

**ARTICLE 9**  
**TERMINATION**

9.1 Event of Default. The following shall constitute an "Event of Default":

(a) A party (the "Defaulting Party") commits, permits or suffers any breach or default in the due and punctual performance and observance of any of the representations, warranties, covenants or agreements contained in this Agreement, on the part of the Defaulting Party to be performed and observed, and such breach or default:

(i) is not due to an Event of Force Majeure; and

(ii) continues for a period of 60 days after written notice of such breach or default has been given by the other party (the "Other Party") to the Defaulting Party.

(b) A party (also called the "Defaulting Party"):

(i) commences a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; or

(ii) has an involuntary case or other proceeding commenced against it seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property and such involuntary case or other proceeding shall remain undismissed for a period of 60 days, or an order for relief shall be entered against it under the federal bankruptcy laws as now or hereafter in effect.

9.2 Remedy Upon the Occurrence of an Event of Default. Upon the occurrence of an Event of Default, the Other Party may, by written notice to the Defaulting Party terminate this Agreement without prejudice to any rights or remedies it may have in respect of any breach or default of this Agreement or any rights or obligations which expressly survive termination of this Agreement.

**ARTICLE 10**  
**INDEMNITIES AND LIMITATION OF LIABILITY**

10.1 The Landfill Entity's Obligation to Indemnify. To the extent permitted under Florida law and subject to any final non-appealable judicial determination as to the applicability of Section 768.28, Florida Statutes, if any, the Landfill Entity shall indemnify, defend and hold Gulf Power, its parent, Affiliates, and their respective Representatives harmless from and against all claims, demands, actions, causes of action, debts, liabilities, damages, costs (including, but not limited to, any costs of clean-up, removal and disposal, response or remediation under any Environmental Law), expenses (including reasonable attorneys' fees and costs of investigation), penalties and fines whether for damage to or loss of property, injury or death to persons or otherwise (the "Claims") to the extent any such Claim is:

(a) a result of the breach of this Agreement by the Landfill Entity, its Affiliates or their respective Representatives;

(b) attributable to the negligent or reckless act or omission or willful misconduct of the Landfill Entity, its Affiliates or their respective Representatives; or

(c) caused by an Environmental Condition at the Landfill including, but without limitation, the Landfill Gas Collection Systems which (i) exists at the date of execution of this Agreement or (ii) which comes into existence after the date of this Agreement otherwise than as a result of the matters described in Section 10.2(c) below.

10.2 Gulf Power's Obligation to Indemnify. Except as otherwise expressly provided in this Agreement, Gulf Power shall indemnify, defend and hold the Landfill Entity harmless from and against any Claims to the extent any such Claim is:

(a) a result of the breach of this Agreement by Gulf Power, its Affiliates or their respective Representatives; or

(b) attributable to the negligent or reckless act or omission or willful misconduct of Gulf Power, its Affiliates or their respective Representatives; or

(c) caused by an Environmental Condition at the Power Plant which arises out of the operation by Gulf Power, its Affiliates or their respective Representatives or invitees (other than the Landfill Entity- its Affiliates or their respective Representatives) at the Power Plant or which otherwise comes into existence after the date of execution of this Agreement as a result of the operations of Gulf Power, its Affiliates or their respective Representatives, a breach of this Agreement by Gulf Power, its Affiliates or their respective Representatives, or the negligent or reckless acts or omissions or willful misconduct of Gulf Power, its Affiliates or their respective Representatives or invitees (other than the Landfill Entity, its Affiliates or their respective Representatives) at the Power Plant.

10.3 Same Representative. In the event that the Landfill Entity and Gulf Power use the same Representative for operation of the Landfill Gas Collection Facilities and the Power Plant, respectively, then the provisions above with respect to such parties' Representatives shall be construed based on whether such Representative is acting in its capacity as a Representative for

the Landfill Entity with respect to the Landfill Gas Collection Facilities or in its capacity as a Representative for Gulf Power with respect to the Power Plant

10.4 Survival. The indemnity obligations contained in this Agreement shall survive its termination.

## ARTICLE 11 MEASUREMENT AND GAS QUALITY

11.1 Measurement Standards. The unit of volume for measurement of Landfill Gas delivered hereunder shall be one thousand (1,000) cubic feet of Landfill Gas at a base temperature of sixty (60) degrees Fahrenheit and at an absolute pressure of 14.65 pounds per square inch and saturated with water vapor. All fundamental constants, observations, records and procedures involved in determining the quantity of Landfill Gas delivered hereunder shall be in accordance with the standards prescribed in Report No. 3 of the American Gas Association, as now in effect and from time to time amended or supplemented.

11.2 Meter Station. Gulf Power shall, at its own cost, install, maintain and operate a measuring station on the recipient side of the Point of Delivery. Said measuring station shall be equipped with orifice meters, recording gauges, or other types of meter or meters of standard make and design commonly acceptable in the industry, as to accomplish the accurate measurement of Landfill Gas delivered hereunder. The calibrating and adjusting of meters shall be performed by Gulf Power, or its Representatives at its own cost. Landfill Gas flow will be continuously monitored by Gulf Power.

11.3 Check Meters. The Landfill Entity may, at its option and expense, install check meters for checking Gulf Power's metering equipment, and the same shall be so installed as not to interfere with the operation of Gulf Power's metering equipment.

11.4 Temperature. The temperature of the Landfill Gas flowing through the meter shall be determined by the continuous use of a recording thermometer installed by Gulf Power at its own cost on the upstream side of the meter so that it will properly record the temperature of the Landfill Gas flowing through the meter.

11.5 Gross Heating Value. The gross heating value of the Landfill Gas flowing through the meter shall be determined by methods commonly accepted in the industry. The gross heating value shall be determined by Gulf Power once per month by calculation based on the composition determined by gas chromatographic analysis. The Landfill Entity may request the gross heating value to be calculated more often at their expense. Compositions so determined will be used in calculating Landfill Gas deliveries for the day on which the test is made, and for all following days until the next composition test is made. Notwithstanding the foregoing general statements, the parties anticipate the Landfill Gas delivered hereunder will have a minimum heating value of no less than 400 Btu's per cubic foot as defined by the American Gas Association Report No. 3, printed as ANSI/API 2530 and an oxygen content of less than two (2) percent.

11.6 Delivery Pressure. The Landfill Entity will deliver Landfill Gas to Gulf Power hereunder at a positive pressure.

11.7 Tests, Records and Calibration. Each party shall have the right to be present at the time of any installing, reading, sampling, cleaning, changing, repairing, inspecting, testing, calibrating, or adjusting done in connection with the other's measuring equipment used in measuring deliveries hereunder. The records from such measuring equipment shall remain the property of their owner, but upon request, each will submit to the other its records and charts, together with calculations therefrom subject to return within 30 days after receipt thereof. The charts shall be kept on file for a period of 10 years, or such longer period as may be required by law or as may be required for Gulf Power to obtain the Tax Credits, Renewable Energy Credit, and Other Green Credits. If a party hereto elects to request the other's charts as provided above on a continuous basis, such charts will only be provided to the other party once each quarter. Once annually, or more often if necessary, each party shall calibrate the meters and instruments installed by it, or cause the same to be calibrated. Each party shall give the other sufficient notice in advance of such tests so that the latter may, at its election, be present in person or by its representative, to observe adjustments, if any, that are made. For the purpose of measurement and meter calibration, the atmospheric pressure shall be determined by Gulf Power at the Point of Delivery.

11.8 Corrections. If upon any test, the metering equipment is found to be inaccurate by two percent (2%) or more, registration thereof and any payment based upon such registration shall be corrected at the rate of such inaccuracy for any period of inaccuracy which is definitely known or agreed upon, or if not known or agreed upon, then for a period extending back one-half (1/2) of the time elapsed since the last day of the previous calibration, not exceeding, however, 45 days. Following any test, any metering equipment found to be inaccurate to any degree shall be adjusted immediately to measure accurately. If for any reason any meter is out of service or out of repair so that the quantity of Landfill Gas delivered through such meter cannot be ascertained or computed from the readings thereof, the quantity of Landfill Gas so delivered during such period shall be estimated and agreed upon by the parties hereto upon the basis of the best available data using the first of the following methods that is feasible:

(a) by using the registration of any check measuring equipment of Gulf Power, if installed and registering accurately;

(b) by correcting the error if the percentage of error is ascertainable by calibration, test or mathematical calculation; or

(c) by estimating the quantity of deliveries during preceding periods under similar conditions when the meter was registering accurately.

11.9 Costs of Tests. If the Landfill Entity shall notify Gulf Power, or if Gulf Power shall notify the Landfill Entity, at any time that a special test of any meter is desired, the parties shall cooperate to secure an immediate verification of the accuracy of such meter and joint observation of any adjustments. All tests of Gulf Power's measuring equipment shall be made at Gulf Power's expense, except that the Landfill Entity shall bear the expense of test made at its request if the inaccuracy found is two percent (2%) or less. Expense as used herein shall be limited to actual costs of Gulf Power as the result of testing.

11.10 Monthly Reports. Gulf Power will provide monthly reports to the Landfill Entity detailing the amount of Landfill Gas consumed by the Power Plant, such reports to be used by the Landfill Entity to prepare invoices to Gulf Power as described in Article 3.2. Reports will be due to the Landfill Entity within seven (7) days from the end of each month.

## ARTICLE 12 ASSIGNMENT

12.1 Assignment. The rights and obligations of either the Landfill Entity or Gulf Power under this Agreement may not be assigned by either party except upon receipt of the written consent of the other party, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however, (i) Gulf Power may subcontract work to be provided by it hereunder to LFG Technologies Development, LLC or any other reputable Power Plant operator without the consent of the Landfill Entity and (ii) either party may, without the consent of the other party, assign its rights to any Affiliate. For the purposes of this Agreement, a change in Control of a party that is not listed on a recognized stock exchange shall be deemed to be an assignment of that party's rights and obligations under this Agreement and must comply with the terms of this Agreement relating to assignment. The assigning party shall require any permitted assignee of this Agreement to agree in writing to be bound by all the terms and conditions of this Agreement, and no assignment shall relieve the assigning party of its obligations under the terms of this Agreement to the extent such obligations arose or relate to acts or omissions occurring prior to such assignment.

12.2 Power Plant Operator. In the event that Gulf Power changes the Power Plant operator, Gulf Power will provide the Landfill Entity a minimum thirty (30) days prior written notification. In addition, Gulf Power will provide information regarding the qualifications, experience, contact information and resumes of project personnel for the new plant operator to the same level of detail as presented in the original RFP selection process as demonstration of reputability.

## ARTICLE 13 TAXES AND RENEWABLE ATTRIBUTES

13.1 Definition. For purpose of Sections 13.2 and 13.3 below, the term "taxes" shall include, but not be limited to, income, sales, franchise, property, production, wellhead, and ad valorem taxes.

13.2 Landfill and Facilities. The Landfill Entity shall pay all taxes that may be levied upon or assessed against the Landfill and improvements thereon, including the Landfill Gas Collection Facilities, except the Power Plant. Gulf Power shall pay all taxes that may be levied upon or assessed against the Power Plant.

13.3 Landfill Gas. Gulf Power shall pay any sales tax that is assessed against either party based on the sale or purchase of Landfill Gas and Gulf Power shall be responsible for collecting and remitting same and shall be responsible for any errors or omissions in connection therewith.

13.3 Tax Credits, Renewable Energy Credits and Other Green Credits. Gulf Power shall own and be entitled to one hundred percent (100%) of the Tax Credits, the Renewable Energy Credits and Other Green Credits associated with Landfill Gas purchased by Gulf Power under this Agreement. The Landfill entity shall be entitled to one hundred percent (100%) of the Tax Credits, the Renewable Energy Credits and Other Green Credits associated with Landfill Gas which is not purchased by Gulf Power under this Agreement.

13.4 Availability and Preservation of Records. Gulf Power shall make available to the Landfill Entity and retain for at least ten (10) years, or such longer term if required by any applicable law, rule or regulation, a copy of all of its records which are necessary to prove Gulf Power's eligibility for the Tax Credits, the Renewable Energy Credits and Other Green Credits, including, but not limited to, records of Landfill Gas accepted by Gulf Power and but content of such Landfill Gas.

13.5 Public Disclosure. Gulf Power acknowledges that this Agreement and any related financial records, audits, reports, plans, correspondence and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended, and Gulf Power shall respond to all public records requests to the extent the records requested do not contain proprietary information or information protected by a legitimate trade secret privilege or are otherwise exempt from disclosure.

13.6 Responsibility for Tax Consequences. Except as otherwise provided herein, the Landfill Entity and Gulf Power are each responsible for their own respective tax consequences in connection with the transactions contemplated hereby and neither of them shall be responsible for such other party's tax consequences.

#### ARTICLE 14 NOTICES

14.1 Address for and Method of Notice. All notices and other communications required or permitted to be given under this Agreement shall be in writing, shall be addressed to the address of the applicable party set out below or at such other address as any such party may have substituted therefor by notice to all other parties, and shall be either delivered personally, facsimile or sent by registered mail, return receipt requested.

Landfill Entity:

Address: Escambia County  
Neighborhoods & Community Services Bureau  
221 Palafox Place, Suite 210  
Pensacola, FL 32502  
Facsimile: (850) 595-4431  
Attention: Sandra Jennings, Bureau Chief

Gulf Power:

Address: Gulf Power Company  
One Energy Place  
Pensacola, FL 32520  
Facsimile: (850) 444-6080  
Attention: Steven Wright

14.2 Timing of Notice. In the case of a notice sent by facsimile communication, it shall be deemed to be received on the day of actual receipt if it is a business day and received between the hours of 9:00 a.m. and 4:30 p.m. at the place of receipt, or otherwise on the next following business day in the place of receipt. In the case of a notice sent by mail, it shall be deemed to have been received only when actually received by the addressee provided that refusal to accept delivery shall be deemed to be receipt.

#### **ARTICLE 15** **MISCELLANEOUS**

15.1 Modification. This Agreement shall not be changed or modified except by a subsequent agreement in writing signed by both parties hereto.

15.2 Waiver. The waiver by either party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing failure, whether similar or dissimilar thereto. Except as otherwise expressly provided herein, no waiver of any right shall be implied by any delay by a party in enforcing or acting under such right. Waivers shall be effective only if specifically set forth in writing signed by the party to be charged with such waiver.

15.3 Relationship of Parties. Nothing in this Agreement shall be construed as constituting the relationship between the parties as a partnership, quasi-partnership, joint venture or other relationship in which a party may be liable generally for the acts or omissions of the other party. No party to this Agreement shall have the authority to act on behalf of or to bind any other party to this Agreement as a result of entering into this Agreement.

15.4 Remedies Cumulative. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

15.5 Governing Law. This Agreement, and all provisions contained herein, shall be governed by and construed in accordance with the laws of the State of Florida without regard to its conflict of laws principles. The parties hereto consent to personal jurisdiction for purposes of this Agreement in the State of Florida, and each of them agrees that Escambia County, Florida, shall be proper venue for any action brought under this Agreement.



## ARTICLE 16

### REQUIRED REGULATORY APPROVAL AND RELATED AGREEMENTS

16.1 Termination for Failure to Obtain Florida Public Service Commission Approval. Gulf Power's obligations under this Agreement are expressly contingent upon receiving prior approval of direct and immediate cost recovery (outside of a base rate proceeding or a limited proceeding pursuant to Section 366.076, Florida Statutes) by the Florida Public Service Commission ("FPSC") for all costs associated with the construction and operation of the Power Plant, including, but not limited to, capital expenditures, operation and maintenance expenses and fuel expense. Gulf Power intends to file a petition with the FPSC as soon as reasonably practicable after the execution of this Agreement. If after two hundred forty (240) days from the filing date of Gulf Power's petition with the FPSC, the FPSC has not approved the direct and immediate recovery of costs associated with the Power Plant and this Agreement through the issuance of an order, then either party may terminate this Agreement upon written notice to the other party, provided that such notice is delivered to such other party, no later than thirty (30) days after two hundred forty (240) days from the filing date. If such party fails to exercise the aforementioned termination right within such thirty (30) day period, then such party shall be deemed to have waived such termination right. Gulf Power will provide written notification to the Landfill Entity within fourteen (14) days of receipt of an order from the PSC, or two hundred fifty (250) days from the filing date, whichever occurs first.

16.2 Termination for Failure to Execute Related Agreements. Gulf Power's obligations under this Agreement are expressly contingent upon Gulf Power entering into all necessary agreements with LFG Technologies Development, LLC, for the construction and operation of the Power Plant. In the event that Gulf Power and LFG Technologies Development, LLC are unable to enter into mutually acceptable agreements for the construction and operation of the Power Plant, then Gulf Power shall have the right to terminate this Agreement. In the event of such termination, neither party shall have any further obligation to the other hereunder. Gulf Power will provide a minimum of thirty (30) days written notice prior to such termination.

16.3 Termination for Unsuitability of Power Plant Site. Gulf Power's obligations under this Agreement are expressly contingent upon the Power Plant Site being suitable for the construction and location of the Power Plant. Within sixty (60) days of the execution of this Agreement, Gulf Power will conduct detailed due diligence including environmental assessments and geotechnical analysis of the Power Plant Site. In the event that such due diligence reveals that the Power Plant Site is not suitable, as determined in Gulf Power's sole discretion, for the construction or location of the Power Plant, then Gulf Power shall have the right negotiate with the Landfill Entity for an alternative location, or to terminate this Agreement and neither party shall have any further obligation to the other under this Agreement. Gulf Power will provide a minimum of thirty (30) days written notice prior to such termination.

16.4 Termination for Failure to Obtain Permits. Gulf Power's obligations under this Agreement are expressly contingent upon Gulf Power obtaining all necessary air, environmental and building permits necessary to construct the Power Plant. In the event that Gulf Power is unable, after the exercise of reasonable good faith efforts, to obtain such permits, then Gulf Power shall have the right to terminate this Agreement and neither party shall have any further

obligation to the other under this Agreement. Gulf Power will provide a minimum of thirty (30) days written notice prior to such termination.

**ARTICLE 17**  
**COMPOSITION AND QUANTITY OF LANDFILL GAS**

17.1 Continued Operation of Landfill; Landfill Gas Collection Facilities. The Landfill Entity and its Affiliates and their respective Representatives shall have no obligation to continue to operate the Landfill for disposal of waste, but the Landfill Entity and its Affiliates and their respective Representatives shall have the obligation to continue to operate and maintain the Landfill Gas Collection Facilities and use reasonable efforts to maximize the amount of Landfill Gas delivered by the Landfill Entity from the Landfill such that the Landfill Gas supply is sufficient to enable the Power Plant to operate at maximum capacity, and to also assure that such Landfill Gas is delivered to the Power Plant in an even flow to maximize its use at the Power Plant. In the event that the Landfill Entity fails to supply Landfill Gas meeting the Btu, flow, pressure and/or oxygen specifications listed in Table 1 for a period of sixty (60) or more days, Gulf Power may terminate this Agreement upon providing thirty (30) days' written notice to the Landfill Entity. In the event that the Landfill Entity fails to supply Landfill Gas meeting the specifications in Table 1 other than Btu, flow, pressure or oxygen for a period of sixty (60) days, the Landfill Entity shall have fourteen (14) days to notify Gulf Power of its desire that Gulf Power install a pre-treatment system to enable the Landfill Gas to meet those specifications unless pre-treatment will (in Gulf Power's reasonable opinion), result in the generation of a Hazardous Substance or cause an Environmental Condition. Assuming pre-treatment will not result in the generation of a Hazardous Substance or cause an Environmental Condition, Gulf Power will purchase, install, own, operate and maintain the pre-treatment system and reduce the compensation paid to the Landfill Entity for Landfill Gas pursuant to Article 3.1 to a level which will reimburse Gulf Power for costs incurred to purchase, operate and maintain the pre-treatment system. Provided, however, that any waste or by-products associated with the operation of the pre-treatment system will be disposed of by the Landfill Entity at no cost to Gulf Power. In the event that: (a) the Landfill Entity does not exercise its option to require Gulf Power to install a pre-treatment system as specified above, or (b) the pre-treatment will (in Gulf Power's reasonable opinion) result in the generation of a Hazardous Substance or cause Environmental Condition, Gulf Power may terminate this Agreement upon providing fourteen (14) days' written notification to the Landfill Entity. In the event that Gulf Power terminates this Agreement, the Landfill Entity shall owe Gulf Power an amount of damages equal to the capital expenditures, including financing costs, which Gulf Power incurred to construct the Power Plant, less accumulated depreciation. In no event, however, shall such damages exceed \$6,100,00.00. Damages owed by the Landfill Entity shall not include loss of revenue or the value of Tax Credits, Renewable Energy Credits and Other Green Credits, or any other costs other than those listed above.

17.2 Term. The Landfill Entity agrees to maintain the Landfill Gas specifications referenced in Table 1 for only the initial twenty (20) year term of the Agreement. Upon expiration of the initial twenty (20) year term, the Landfill entity shall not be subject to damages for failing to provide Landfill Gas meeting the specifications in Table 1.

**ARTICLE 18**  
**INSURANCE**

18.1 Gulf Power. Gulf Power represents that it qualifies under Florida law as a self-insured corporation for workers' compensation and general liability. Gulf Power maintains a comprehensive program of workers' compensation, employer's liability and general liability insurance with limits in excess of \$1,000,000. Gulf Power's general liability coverage includes auto liability, broad form contractual liability, products completed operations and property damage liability. Gulf Power accepts a minimum deductible of \$1,000,000.00 under this program (the "Self-Insured Retention"). Gulf Power agrees to maintain said Self-Insurance Retention for the duration of this Agreement. Gulf Power further represents that said Self-Insurance Retention will be available to satisfy Gulf Power's indemnity obligations to the Landfill Entity under this Agreement.

18.2 Landfill Entity. Landfill Entity represents that it is a qualified self-insured under the provisions of section 768.28(16), Florida Statutes. Landfill Entity further represents that said self-insurance retention will be available to satisfy Landfill Entity's indemnity obligations to Gulf Power under this Agreement.

**ARTICLE 19**  
**REMOVAL AND RESTORATION**

The Power Plant and related equipment shall remain the property and/or responsibility of Gulf Power, notwithstanding the method or mode of installation or attachment to real property. Gulf Power shall have an obligation, within six (6) months after the expiration or termination of this Agreement, to remove or to cause the removal of the above ground portion of Gulf Power's Equipment and to permanently seal and cap all openings for pipes or equipments left in the Power Plant Site in accordance with the then applicable industry standards and Applicable Laws relating to the closure of the Power Plant Site and in such a manner as to not cause violations of the Title V permit conditions, damage, or otherwise render the site inoperable for future use by the Landfill Entity.

**ARTICLE 20**  
**LEASE OF POWER PLANT SITE**

On equal date with the execution of this Agreement, the Landfill Entity and Gulf Power will enter into a separate Power Plant Site Lease agreement whereby Gulf Power will pay the Landfill Entity \$100.00 per year to lease and have access to the Power Plant Site.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the date and year first hereinabove set forth.

**TABLE 1**  
**MIN./MAX. LANDFILL GAS COMPOSITION SPECIFICATIONS**

<b>Landfill Gas Composition Specifications</b>		
<b>Minimum Conditions</b>		
LHV	Btu/Scf	400
Flow Rate	SCFM	*1200
Gas Pressure	-	Positive
<b>Maximum Contaminants and Conditions</b>		
Oxygen Content	%	2.0
Temperature	°F	120
Sulfur Compounds as H <sub>2</sub> S	ug H <sub>2</sub> S/Btu	60
Halide Compounds as Cl	ug Cl/Btu	20
Ammonia	ug NH <sub>3</sub> /Btu	2.96
Oil Content	ug/Btu	1.25
Silicon	ug Si/Btu	0.6
*Flow rate indicated is for a two engine/generator set		

LANDFILL GAS SALES AGREEMENT BETWEEN GULF POWER  
COMPANY AND ESCAMBIA COUNTY, FLORIDA

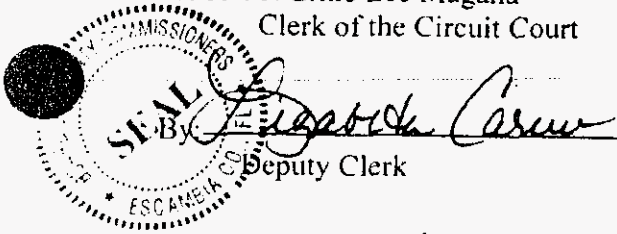
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the date  
and year first hereinabove set forth.

ESCAMBIA COUNTY, FLORIDA  
by and through its duly authorized Board of  
County Commissioners

By: Marie Young  
Marie Young, Chairman

Date: August 25, 2009

ATTEST: Ernie Lee Magaha  
Clerk of the Circuit Court



BCC Approved: 7/9/2009

This document approved as to form  
and legal sufficiency

By: [Signature]  
Title: [Signature]  
Date: 8/25/09

Supplier  
Gulf Power Company, a Florida corporation

By: T.J. McCullough  
Name: FREDDORE J. McCULLOUGH

Title: VICE PRESIDENT & SPO

Date: 8/04/09

Attest: Susan D. Ritenour  
**SUSAN D. RITENOUR**  
Secretary & Treasurer

**AMENDMENT #1 TO THE LANDFILL GAS SALES AGREEMENT  
BETWEEN GULF POWER COMPANY AND ESCAMBIA COUNTY, FLORIDA**

**THIS IS THE FIRST AMENDMENT TO THE AGREEMENT** entered into on the 25<sup>th</sup> day of August 2009, between Escambia County, Florida, a political subdivision of the State of Florida (hereinafter referred to as "County"), with administrative offices at 221 Palafox Place, Pensacola, Florida 32502, and Gulf Power Company, a Florida Corporation, (hereinafter referred to as "Landfill Entity"), with administrative offices located at One Energy Place, Pensacola, Florida, 32520 (each at times referred to as "Party" or collectively as "Parties").

**WITNESSETH:**

**WHEREAS**, on August 25, 2009, the County entered into a Landfill Gas Sales Agreement with Gulf Power Company; and

**WHEREAS**, the Parties have agreed to revise paragraph 16.1 relating to Termination for Failure to Obtain Florida Public Service Commission Approval; and

**WHEREAS**, as a result of such revisions, the Board of County Commissioners finds it in the best interest of the health, safety and welfare of the citizens of Escambia County that the Agreement should be amended as provided herein.

**NOW, THEREFORE**, in consideration of the mutual terms, conditions, promises and covenants hereinafter set forth, the County and Landfill Entity agree to amend the Agreement dated August 25, 2009, as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Article 16, paragraph 16.1 Termination for Failure to Obtain Florida Public Service Commission Approval is amended to read as follows:

**ARTICLE 16**

**REQUIRED REGULATORY APPROVAL AND RELATED AGREEMENTS**

~~16.1 Termination for Failure to Obtain Florida Public Service Commission Approval. Gulf Power's obligations under this Agreement are expressly contingent upon receiving prior approval of direct and immediate cost recovery (outside of a base rate proceeding or a limited proceeding pursuant to Section 366076, Florida Statutes) by the Florida Public Service Commission ("FPSC") for all costs associated with the construction and operation of the Power Plant, including, but not limited to capital expenditures, operation and maintenance expenses and fuel expense. Gulf Power intends to file a petition with the FPSC as soon as reasonably practicable after the execution of this Agreement. If after two hundred forty (240) days from the filing date of Gulf Power's petition with the FPSC, the FPSC has not approved the direct and immediate recovery of costs associated with the Power Plant and this Agreement through the issuance of an order, then either party may terminate this Agreement upon~~

~~written notice to the other party, provided that such notice is delivered to such other party, no later than thirty (30) days after two hundred forty (240) days from the filing date. If such party fails to exercise the aforementioned termination right within such thirty (30) day period, then such party shall be deemed to have waived such termination right. Gulf Power will provide written notification to the Landfill Entity within fourteen (14) days if receipt or and order from the PSC, or two hundred fifty (250) days from the filing date, whichever occurs first.~~


3. The Parties hereby agree that all other provisions of the Agreement of August 25, 2009, that are not in conflict with the provisions of the First Amendment shall remain in full force and effect.

4. The effective date of this First Amendment shall be on the last date executed by the Parties hereto.

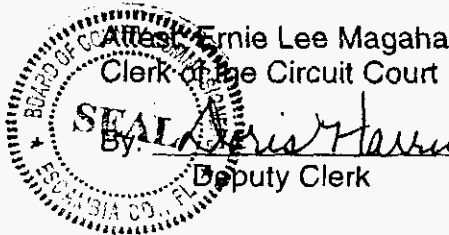
5. This Agreement and any amendments thereto shall be governed by and construed in accordance with the laws of the State of Florida, and the Parties stipulate that venue for any state or federal court action or other proceeding relating to any matter which is the subject of this Agreement shall be in Escambia County, Florida.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement the date and year first hereinabove set forth.

**ESCAMBIA COUNTY, FLORIDA**, a political subdivision of the State of Florida, by its Board of County Commissioners

By:   
Grover C. Robinson, IV, Chairman

Date: February 4, 2010



BCC Approved: 2-4-2010

This document approved as to form and legal sufficiency.

By: 

Title: A. J. H. H. H.

Date: 1/22/10

GULF POWER COMPANY, a Florida Corporation

By: T. J. McCullough

Printed Name: Ted McCullough

Title: Vice President

Date: 12/23/09

Attest: Terry A. Davis

TERRY A. DAVIS ASST. SECRETARY