



# Agenda Report



2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Unfinished Business

I.2.

1/24/2023

### Subject:

Approval RE: Request Approval of Brevard Energy LLC Landfill Gas Purchase Contract, Lease Contract, and Lease Resolution.

### Fiscal Impact:

Landfill Gas Purchase: \$200,000.00 to \$1,000,000.00 per year in income to Solid Waste (varies depending on landfill gas production).

Gas Collection System Expansion: \$5,000,000.00 of cost sharing over 25 years.

Land Lease: \$59,100.00 per year.

### Dept/Office:

Solid Waste Management Department

### Requested Action:

It is requested that the Board of County Commissioners approve and authorize the Chair to execute the following:

- Amended and Restated Landfill Gas Purchase Contract;
- Amended and Restated Lease Contract, and;
- Lease Resolution with Brevard Energy LLC.

### Summary Explanation and Background:

As is permissible under the current Landfill Gas Purchase Agreement, Brevard Energy LLC intends to expand their landfill gas processing to include construction and operation of a pipeline-quality landfill gas processing facility, conversion of the landfill gas-to-energy facility to a natural gas-to-energy facility, and utilize the generated electricity to power the pipeline-quality landfill gas processing facility. Expansion of the operation includes extending a natural gas pipeline from the processing facility to Adamson Road, where it will then extend across Adamson Road and connect to an existing Florida Gas Transmission pipeline that runs parallel to Interstate 95. Brevard County will not be paying for the construction, operation, or maintenance of the expanded gas processing facility. If for any reason Brevard Energy cannot construct the pipeline gas processing facility, they will continue to utilize landfill gas to generate electric power for supply and sale to the grid. Brevard Energy is requesting the current Gas Purchase Agreement and Lease Agreement be amended and restated, including modifying the contract and lease terms to 25 years from date of signature.

On October 11, 2022, the Board of County Commissioners in regular session directed Solid Waste staff to assemble a Negotiation Committee consisting of John Denninghoff, Assistant County Manager, Thomas Mulligan, Solid Waste Director, and Ron Beladi, Vice President of Neel-Schaffer, to negotiate requested amendments to the current Gas Purchase Agreement and Lease of Land between Brevard County and Brevard Energy LLC. The Negotiation Committee met with Brevard Energy LLC on October 18, 2022, and November 1,

2022 to discuss the Gas Purchase Contract and Lease. The Committee met once again on January 11, 2023 to agree on acceptance of negotiated terms of both contracts. Major modifications to the Landfill Gas Purchase Contract are as follows:

- Contract has a 25-year term from date of execution.
- County Manager can approve a 5-year extension at the end of the term.
- Fixed payment of \$35,000.000 per year for rights to landfill gas.
- Brevard Energy assumes responsibility for operation and maintenance costs of the County's backup Flare Station.
- Upon execution of contract, payment for landfill gas increases from \$0.11 per mmbTU to \$0.25 per mmbTU.
- Upon commercial operation of the pipeline LFG facility, payment for landfill gas increases from \$0.25 per mmbTU to \$0.3919 per mmbTU.
- As of April 1, 2028, payment for landfill gas will be based on a 5% revenue sharing with Brevard Energy.
- Brevard Energy to pay 50% of costs for future expansions of the landfill gas collection system at the Central Disposal Facility, with a 25-year cap of \$5,000,000.00.
- Brevard Energy will, at their own expense, install additional equipment to optimize monitoring and capture of landfill gas.

The Lease Contract and Resolution is for land located inside the Central Disposal Facility property, as depicted in Exhibit A of the Lease Contract. The land is currently leased for one dollar (\$1.00) per year and Brevard Energy LLC assumes all maintenance and environmental responsibility on the land. The Lease contract has been modified as follows:

- The term of the lease matches the term of the Gas Purchase Contract.
- The revised lease area has been reduced to approximately one-half of the area in the original Lease Agreement.
- The lease amount has been increased from \$1.00 per year to \$59,100.00 per year, 50% above Market Value Assessment based on highest and best use of the land (\$34,900.00 as appraised by W.H. Benson & Company, August 2022).
- If Brevard Energy ceases to use the property for its intended purpose, the lease will immediately terminate and possession of the property will immediately revert to the County.

**Attachments:**

- Landfill Gas Contract Amended and Restated
- Lease Contract Amended and Restated
- Resolution for Brevard Energy Lease
- Landfill Property Appraisal Report
- Brevard Energy Memo
- EPP Brevard County RNG Overview

**Clerk to the Board Instructions:**

Please sign and attest three (3) copies of both contracts and the Resolution and return two (2) originals of each to Solid Waste.



January 25, 2023

**M E M O R A N D U M**

TO: Tom Mulligan, Solid Waste Management Director

RE: Item I.2., Request for Approval of Brevard Energy LLC Landfill Gas Purchase Contract, Lease Contract, and Lease Resolution

The Board of County Commissioners, in regular session on January 24, 2023, adopted Resolution No. 23-009, authorizing the lease of County property; authorized and approved the Amended and Restated Landfill Gas Purchase Contract and Lease Contract with Brevard Energy, LLC. Enclosed are two fully-executed copies of the Lease Contract, Purchase Contract, and Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*Kimberly Powell*  
Kimberly Powell, Clerk to the Board

Encls. (6)

cc: Contracts Administration  
Finance  
Budget

**AMENDED AND RESTATED  
LANDFILL GAS PURCHASE CONTRACT**

This Amended and Restated LANDFILL GAS PURCHASE CONTRACT ("Landfill Gas Purchase Contract" or "Contract") is made and entered into the 24th day of January, 2023 by and between BREVARD ENERGY, LLC, a Florida Limited Liability company, doing business at 1605 N Cedar Crest Blvd, Suite 509, Allentown, Pennsylvania 18104, hereinafter referred to as the "DEVELOPER" and BREVARD COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 hereinafter referred to as the "COUNTY".

**WITNESSETH:**

**WHEREAS**, the COUNTY is authorized to construct, acquire, improve, maintain, and operate its Solid Waste Management Facilities in the County;

**WHEREAS**, the COUNTY has constructed an active landfill gas (LFG) collection and flaring system at the Central Disposal Facility (CDF) in order to remain in compliance with applicable federal, state, and local laws and regulations, and to control landfill gas migration and odor emissions;

**WHEREAS**, the COUNTY has constructed and plans to construct subsequent expansions to the LFG Management System;

**WHEREAS**, the COUNTY recognizes that the use of recovered LFG is of economic benefit to the COUNTY;

**WHEREAS**, on December 19<sup>th</sup> 2006 the COUNTY entered into a "piggyback" agreement with the DEVELOPER, whereby the DEVELOPER pays the COUNTY for the rights to and sale of landfill gas for a beneficial use in accordance with the terms and conditions set out in that certain Landfill Gas Purchase Agreement approved by the Seminole County Board of County Commissioners dated November 21, 2006 (herein referred to as "Seminole Agreement") and as amended by the "piggyback" agreement;

**WHEREAS**, on November 13, 2007, the COUNTY and DEVELOPER entered into a Lease Agreement (the "Original Lease Agreement") allowing DEVELOPER to site its landfill gas to electricity project at the Central Disposal Facility;

**WHEREAS**, on January 13, 2009, the COUNTY and DEVELOPER entered into Addendum No. 1 Landfill Gas Purchase Agreement (the "First Addendum") under which the DEVELOPER pays the COUNTY for the use of the COUNTY's flares as a backup emissions control device in the event the landfill gas to energy plant cannot use all the gas delivered from the landfill;

**WHEREAS**, under the current Agreement, the term may be extended if and when the COUNTY adds additional LFG extraction wells in the Landfill and the DEVELOPER agrees



to expend additional capital funds to increase the capacity of its LFG Utilization Facility, provided the COUNTY and the DEVELOPER consent in writing to the extension;

**WHEREAS**, the COUNTY has added additional LFG extraction wells in the Landfill and the DEVELOPER has expended additional capital funds to increase the capacity of its LFG Utilization Facility with the proposed construction of a new pipeline quality LFG facility ("Pipeline LFG Facility") in addition to the existing electric engine facility ("Engine Facility") as part of the LFG Utilization Facility to provide additional tangible financial gain for the COUNTY, and the Engine Facility may be partially or fully converted to utilize natural gas to support the Pipeline LFG Facility;

**WHEREAS**, given the LFG quality requirements of the Pipeline LFG Facility, The COUNTY will allow DEVELOPER to work cooperatively in review of the design, replacement, expansion, and additions and operations of the LFG Management System;

**WHEREAS**, COUNTY and DEVELOPER are entering into an Amended and Restated Lease Contract ("Lease Contract") contemporaneously herewith to replace the Original Lease Agreement in order to facilitate DEVELOPER's continued use of Landfill Gas to generate products derived from LFG that may include, but are not limited to: processed LFG, pipeline quality LFG, electric power, thermal energy, CO2, or any two or more of the foregoing (the "Intended Purpose"); and

**WHEREAS**, DEVELOPER is a for-profit corporation performing a function or service that promotes the public health, safety or welfare and could be provided by federal, state or local government; and

**WHEREAS**, this Amended and Restated Landfill Gas Purchase Contract will serve a public purpose, is in the best interest of the County, and the property will be used in a manner compatible with county purposes; and

**WHEREAS**, the COUNTY and the DEVELOPER wish to amend and restate the current Agreement in order to facilitate the Intended Purpose, including to amend the Term of the Contract and other modifications as set forth in this Landfill Gas Purchase Contract.

**NOW, THEREFORE**, in consideration of the premises and mutual promises and conditions contained herein, it is mutually agreed between the parties as follows:

#### **Section 1. Prior Agreements Amended and Replaced; Definitions.**

This Amended and Restated Landfill Gas Purchase Contract supersedes and replaces all prior Agreements. The current Agreement is hereby amended and replaced with this Amended and Restated Gas Purchase Contract effective upon execution of this Landfill Gas Purchase Contract by both parties.

Unless the context indicates otherwise, as used herein, the terms set forth below shall be defined as follows:

- A. Beneficial End Use Product means products derived from LFG that may include, but are not limited to: processed LFG, pipeline quality LFG, electric power, thermal

energy, CO<sub>2</sub>, or any two or more of the foregoing. The use of such products shall result in a tangible financial gain for the COUNTY and the DEVELOPER.

- B. British Thermal Unit (BTU) means the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit, for example from 58.5 to 59.5 degrees Fahrenheit, under standard pressure of 30 inches of mercury at or near its point of maximum density. One BTU equals 252 calories, (gram), 778 foot-pounds, 1,055 joules, 2.93110-4 kWh, or 0.293 watt hours.
- C. Dekatherm means one million BTU.
- D. BTU per Cubic Foot means a measure of the heat available or released when one cubic foot of gas is burned.
- E. Buyer means the party or parties to which DEVELOPER will sell a Beneficial End Use Product derived from the recovery and/or processing of LFG.
- F. CDF means the Central Disposal Facility (CDF) owned and operated by the COUNTY located at 2250 Adamson Road, Cocoa, Florida.
- G. Class I Solid Waste means solid waste that is not hazardous waste, and that is not prohibited from disposal in a lined landfill under Rule 62-701.300, F.A.C.
- H. Class III Solid Waste means yard trash, construction and demolition debris, processed tires, asbestos, carpet, cardboard, paper, glass, plastic, furniture other than appliances, or other materials approved by the Department, that are not expected to produce leachate that poses a threat to public health or the environment.
- I. Construction and demolition debris (C&D Debris) means discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, including such debris from construction of structures at a site remote from the construction or demolition project site.
- J. Commercial Operations means from the date when the DEVELOPER's LFG Utilization Facility begins deliveries of a Beneficial End Use Product to a Buyer.
- K. Commercial Quantities means an economically viable quantity of LFG (minimum of one (1) standard cubic feet per minute (scfm)) provided by the COUNTY at the Delivery Point pursuant to this Contract.
- L. CPI means Consumer Price Index - All Urban Consumers, US All Items, 1982-84 = 100, CPI Series 1.0. CUUR0000SA0.

- M. Condensate means the liquid formed from the condensing of the vapors that occurs during the collection, transportation, and processing of LFG.
- N. Day means a calendar day.
- O. Delivery Point(s) means the point(s) at which the LFG enters the DEVELOPER's header or connection piping for delivery to the DEVELOPER's LFG Utilization Facility. The point(s) are located at or near the COUNTY's Flare Station facilities.
- P. Blower and Flare Station means the equipment and appurtenances used to incinerate LFG. The Blower and Flare Station is used when the LFG Utilization Facility is down for maintenance or other reasons to incinerate LFG in compliance with applicable federal, state, and local rules and regulations, and to control odors. Under this Contract, the DEVELOPER is obligated to maintain, repair, and operate the COUNTY's Flare Station(s) in such a manner as to incinerate any excess LFG not used for beneficial use, in order to control odors and to comply with all applicable regulatory requirements.
- Q. Environmental Attributes means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable now or in the future to the use or destruction of Landfill Gas or the production of energy from Landfill Gas put through the LFG Utilization Facility. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of CO<sub>2</sub>, methane (CH<sub>4</sub>) and other greenhouse gases (GHGs); (3) tax credits or similar renewable energy attributes; (4) green tags and similar products; and (5) all other forms of subsidy or incentive allowed for by law and all related reporting rights.
- R. Environmental Claims means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, accusations, allegations, notices of noncompliance or violation, investigations (other than internal reports prepared by any Person in the ordinary course of its business and not in response to any third party action or request of any kind) or proceedings relating in any way to any actual or alleged violation of or liability under any Environmental Law or relating to any permit issued, or any approval given, under any such Environmental Law, including, without limitation, (i) any and all Claims by Governmental Authorities for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any applicable Environmental Law and (ii) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief resulting from Hazardous Substances or arising from alleged injury or threat of injury to human health

or the environment.

- S. Environmental Laws means any and all federal, state and local laws, statutes, ordinances, rules, regulations, permits, licenses, approvals, rules of common law and orders of courts or Governmental Authorities, relating to the protection of human health or occupational safety or the environment, now or hereafter in effect and in each case as amended from time to time, including, without limitation, requirements pertaining to the manufacture, processing, distribution, use, treatment, storage, disposal, transportation, handling, reporting, licensing, permitting, investigation or remediation of Hazardous Substances.
- T. Effective Date. This Contract shall become effective upon the execution and delivery hereof by the parties hereto (the "Effective Date"). Until the effective date, this Contract shall be of no force or effect.
- U. Force Majeure means acts of God; winds, hurricanes, tornadoes, fires, epidemics, landslides, floods; strikes, lock-outs, acts of public enemies; insurrections; military action; war, whether or not it is declared; sabotage riots; civil disturbances; explosions; a change in law not due to improper conduct or to any negligent or intentional act or omission; or any cause or event, not reasonably within the control of the party claiming Force Majeure other than the financial inability of such party caused by factors other than any of the foregoing factors.
- V. Heating Value means the amount of heat produced by the complete combustion of a unit quantity of fuel. The gross or higher heating value (HHV) is that which is obtained when all of the products of combustion are cooled to the temperature existing before combustion, the water vapor formed during combustion is condensed, and all the necessary corrections have been made. The net or lower heating value (LHV) is obtained by subtracting the latent heat of vaporization of the water vapor, formed by the combustion of the hydrogen in the fuel, from the gross or higher heating value.
- W. Landfill means the area within the CDF where Class I, Class III and other municipal solid wastes are permanently deposited in approved permitted disposal areas. The Landfill is currently defined as the two disposal units within the CDF, and would include any future disposal units. The Slurry Wall Landfill (SWL) and the Southern Expansion Area (SEA) are the existing permitted, constructed, operated or planned disposal areas at CDF.
- X. Landfill Gas (LFG) means any and all gases resulting from the decomposition of refuse material within the Landfill, consisting principally of methane, carbon dioxide and traces of other non-methane organic compounds and constituent gases.
- Y. Lease Contract means the Amended and Restated real property Lease Contract between the DEVELOPER and COUNTY as incorporated by

reference and attached as Attachment B.

- Z. LFG Collection System means the COUNTY operated network of LFG recovery wells and interconnecting pipes together with attendant valves, condensate sumps and pumps, monitoring devices and other related equipment installed for the purpose of extracting, collecting, and transporting LFG to the Delivery Point(s).
- AA. LFG Purchase Contract means this Contract, and any subsequent Amendments, between the COUNTY and DEVELOPER for: the construction and operation of the DEVELOPER's LFG Utilization Facility, the connection to the Delivery Point(s) for the recovery and utilization of LFG, and the purchase of the LFG provided by the COUNTY at the Delivery Point(s).
- BB. LFG Utilization Facility ("LFGUF") means the DEVELOPER's on-site buildings or enclosure and the equipment required for processing and delivery of the Beneficial End Use Product to the Buyer, such equipment may include, but is not limited to, compression equipment, an oil and gas cooler, a condensate knockout tank, scrub areas, generating equipment, and related facilities.
- CC. LFG Utilization Facility Site means an area located within the CDF property upon which the DEVELOPER may access, install, and construct the LFG Utilization Facility. The LFG Utilization Facility Site shall be adjacent to the current Facility as agreed to by the COUNTY and DEVELOPER.
- DD. Leachate means the liquid that has passed through or emerged from solid waste and may contain soluble, suspended, or miscible materials.
- EE. Utility Interface (i) in the case where LFG is used to generate electric power, this term shall mean the step-up transformer, metering facilities, protection circuitry, transmission lines, poles, and any other equipment necessary to interconnect the LFG Utilization Facility with the grid of the electric utility in whose franchise area the Landfill is located, or (ii) in the case where LFG is converted to other beneficial products, this term shall mean the metering facilities, pipelines, valves and any other equipment necessary to interconnect the LFG Utilization Facility with the transmission or distribution pipelines or other facility of the electric utility, pipeline company, or other Buyer.

## **Section 2. Rights Granted to DEVELOPER**

Subject to the limitations and other provisions of this Contract, and of the Lease, COUNTY hereby grants to DEVELOPER the following:

- A. Collected Landfill Gas. The right and license to connect, process, sell, and utilize the LFG that is collected from the Landfill and delivered by the COUNTY to the DEVELOPER at the Delivery Point(s) during the term of this

Contract. It shall be the DEVELOPER's responsibility to connect, collect, transmit, treat and utilize all LFG made available by the COUNTY for direct sale of the LFG as fuel or conversion of the LFG to a Beneficial End Use Product for sale to a third party. Title to and risk of loss for all the LFG will pass to DEVELOPER at the Delivery Point(s).

- B. DEVELOPER shall have the exclusive right to any Environmental Attributes that may be associated with the recovery of LFG. DEVELOPER shall also have the exclusive right to claim and utilize any current and future attributes, credits, emissions reductions, offsets, allowances and other benefits during the term of this Contract.
- C. Site Lease for LFG Utilization Facility. In accordance with the provisions of this Contract, the COUNTY will make available to DEVELOPER an additional area located adjacent to the current LFGUF, mutually agreeable to the COUNTY and DEVELOPER for construction of the expansion to the LFGUF. A Lease Contract commencing on of the effective date of this Amended and Restated Contract and terminating at the termination of this Contract will be executed between the DEVELOPER and the COUNTY. The new Lease Contract will include the existing site and the adjacent expansion area ("Leased Area"). DEVELOPER shall have exclusive use of the Leased Area for operation and maintenance of the LFGUF Site during the term of this Contract so long as DEVELOPER is not in default of its obligations under this Contract. The specific site area is defined in the Lease Contract between the Parties.
- D. Access. COUNTY will make available to the DEVELOPER access to the LFG Utilization Facility Site for construction, installation, operation, and maintenance of the DEVELOPER's supplied facility equipment, transmission lines, sewer, electric, water, and telephone lines that are necessary for the operation of the facility.

### **Section 3. Obligations of COUNTY.**

- A. It is understood and agreed by the parties that COUNTY's primary obligation and purpose is the efficient management of the Landfill and all associated environmental control systems, and that the interests conveyed under Section 2 shall remain secondary to such landfill management. The operation of the Landfill Gas Utilization Facility shall not, therefore, unreasonably interfere with the management and regulatory requirements of the Landfill and associated environmental control systems.
- B. Subject to the remaining provisions of this Contract, COUNTY hereby reserves the following rights for itself:
  - 1) Notwithstanding any provisions to the contrary contained in this Contract but subject to DEVELOPER's right of termination and County's other duties under this Agreement, COUNTY shall be free at all times during the Term hereof to take any action COUNTY deems reasonably necessary or

desirable, in COUNTY's sole judgment, to comply with any Requirements of Law, Environmental Laws, regulation or permit or order of any other Governmental Authority without regard to the effect on the quantity or quality of LFG provided to DEVELOPER under this Agreement, provided (a) COUNTY shall provide notification of its intent to take action pursuant to Section 14 of this Contract prior to taking the action, if time permits such notification, and in any event shall provide DEVELOPER notice after and a summary of actions taken if such actions impact the rights or duties of DEVELOPER under this Agreement and (b) if such changes materially impact DEVELOPER's ability to perform under this Agreement and there is no mutually agreeable modification to this Agreement to resolve such impact, then DEVELOPER may terminate and such termination shall be considered a termination by DEVELOPER under Section 14 of this Contract and;

- 2) COUNTY and its agents shall have the right to inspect the LFGUF site with advance notice and at reasonable times, and in a reasonable manner, to confirm that DEVELOPER's operations remain in compliance with the requirements of this Contract.
- 3) From time to time in accordance with all environmental laws and regulations related to Landfill disposal operations, surface emission limitations and the CAA Title V Air Emission Permit for the Landfill, the COUNTY at its own expense will design, construct, upgrade, expand, operate, and maintain the LFG Collection System as needed to maintain compliance with federal and state regulations. The COUNTY will inform the DEVELOPER in advance of any pending construction for replacement, expansion, and additions and will coordinate with the DEVELOPER during temporary interruption of the LFG Collection System. Cooperation can include but not be limited to the DEVELOPER providing review comments for COUNTY's consideration on pending LFG Collection System design updates, construction of additional LFG extraction wells to control odors and reduce emissions, and install additional pipes and controls to transmit the LFG to the DEVELOPER at the Delivery Point(s).
- 4) DEVELOPER's on-site staff shall provide close communications with COUNTY's CDF operations staff on the operations of LFG extraction wells by COUNTY, especially during unplanned situation such as, but not limited to unexpected air intrusion into an LFG Collection System or plant shut downs.
- 5) Upon execution of this Contract by both parties and as part of working cooperatively with COUNTY on LFG Collection System expansions, the DEVELOPER agrees to pay for 50% of the cost of construction by a third-party contractor of all future LFG Collection System expansions at the Landfill during the term of this Contract, limited to \$5,000,000.00 over the term of this Contract. DEVELOPER also reserves the right, at its sole discretion, to make additional payments to the COUNTY above the payments required in this Contract, which will be used solely to offset the COUNTY's cost associated with mutually agreed to LFG Collection System improvements.

C. Subject to these limitations and the other provisions of this Contract, COUNTY shall:

- 1) Cooperate in the construction, development, and operation of the Landfill so as to enhance the production of LFG, when it is possible to do so while controlling odors and maintaining compliance with all applicable regulations and in accordance with this Contract;
- 2) Not interfere with the DEVELOPER's operation and maintenance of the LFGUF, providing DEVELOPER is complying with all applicable laws, regulations, or as otherwise required under this contract;
- 3) Instruct its independent developers, agents and employees to avoid causing such interference, disruption, or destruction described above;
- 4) Will repair at its expense, major cracks, fissures, erosion or unstable sideslope, and differential settlements in the Landfill which have an adverse effect on the production of LFG or on the LFG Collection System in accordance with applicable LFG surface emission regulations;
- 5) Comply with applicable federal, state and local laws, rules, ordinances and regulations relating to or regulating the construction and operation of the Landfill except for said responsibilities of the DEVELOPER as established under this Contract; and;
- 6) Allow connection to the on-site sewer pump station for disposal of condensate generated at the LFG Processing Facility.
- 7) Allow extension of the existing Landfill water main and fire protection water supply pipe be extended by the DEVELOPER to the Leased site. DEVELOPER will be responsible for the purchase and installation of a separate meter, including any applicable permitting or connection fees, and establish a separate account with the City of Cocoa Utilities for water usage.
- 8) Allow disposal of stormwater runoff from the Leased Area to be disposed in the Landfill's stormwater ponds, with the requirement that any runoff or discharge from the Leased Area meets surface water quality standards. An oil-water separator shall be required to be installed and maintained at the LFGUF prior to discharge to the Landfill stormwater management system.
- 9) Maintain consistent cover on the Landfill to meet current federal and state requirements
- 10) Provide to the DEVELOPER the historical and projected data for estimated solid waste disposal at CDF for the DEVELOPER to estimate the quantity of LFG that is anticipated to be generated or collected. The COUNTY is not providing any guaranty as to the quantity and quality of LFG that is generated or expected to be generated at the Landfill. The COUNTY will provide the developer an annual summary of solid waste quantities disposed at the



Landfill.

- D. Access to the DEVELOPER's Facilities. Access to the DEVELOPER's LFG Utilization Facility shall be by the established entranceway to the Landfill via the scale-house. The COUNTY shall take appropriate steps to ensure that this access route to the LFG Utilization Facility is available to the DEVELOPER at all times (i.e., 24 hours per day, 7 days per week). The Parties acknowledge that in the case of an emergency or Force Majeure event that access may be unavailable for a period of time. When utilizing this access route, the DEVELOPER shall abide by all of the applicable policies and safety regulations of the COUNTY. In certain situations, the COUNTY may require access to the DEVELOPER's facilities. In such cases, the COUNTY will notify the DEVELOPER of the need to enter the DEVELOPER's premises.
- E. Documents. As reasonably requested by DEVELOPER, COUNTY shall:
- 1) Allow DEVELOPER to inspect, in accordance with Chapter 119, Florida Statutes, available documents in its possession regarding LFG collection from the Landfill, the quantity, age, and type of refuse in the Landfill, tipping records, etc.; and
  - 2) Allow DEVELOPER to inspect, in accordance with Chapter 119, Florida Statutes, any environmental information, environmental impact reports or studies, permits or permit applications, zoning information including variances or variance applications., and any other available data relating to the Landfill and COUNTY's or DEVELOPER's activities contemplated in this Contract, and allow DEVELOPER to copy any such material or documents as may be in COUNTY's possession.
  - 3) The number of documents requested under this section shall be subject to the costs and fees of the production pursuant to Florida Statutes and Brevard County Policy.
- F. Good Faith. COUNTY and DEVELOPER shall perform their respective obligations hereunder in good faith, and acting reasonably, cooperate fully so that both parties can meet their responsibilities and obligation under this Contract. DEVELOPER shall comply with all laws and regulations applicable to the work being performed under this Contract.
- G. Caveats. Notwithstanding any portion of this Contract to the contrary, it is understood and agreed to by DEVELOPER that the COUNTY does not warrant or guarantee the rates of generation, collection efficiency, the chemical composition, economic value or marketability, or heating content of the LFG from the Landfill, DEVELOPER is relying on its own calculations and evaluation of the Landfill in this regard.

#### Section 4. Obligations of DEVELOPER

- A. DEVELOPER shall, at its sole expenses, design permit, construct, operate, maintain, and perform any upgrades to the LFGUF in order to receive the landfill gas from the COUNTY at the Delivery Point(s) and utilize the gas for beneficial use in compliance with the Federal, State and local regulatory laws.
- B. DEVELOPER shall, at its sole expense, operate and maintain the Blower and Flare Station, and make all future expansions with respect thereto, all in accordance with federal, state and industry standards, and in compliance with CDF Title V Air Emission Permit.
- C. DEVELOPER shall operate and maintain the LFGUF in a reasonably prudent manner, expand the capacity of the Facility as landfill gas generation increases in accordance with good engineering practice and in a manner consistent with that used by industry specialists providing similar services.
- D. The operation of the LFG Utilization Facility and any other activity of DEVELOPER shall not interfere with the management, construction and operational requirements of the CDF and the Landfill.
- E. Delivery Point(s). DEVELOPER shall, at its sole expense, provide and install:
  - 1) Header piping, connection piping, valves, pipe supports, and any other auxiliary items from the DEVELOPER's LFG Utilization Facility to the Delivery Point(s).
  - 2) A tee, valve, and blind flange at the Delivery Point(s) for the purpose of connecting to the COUNTY's LFG Collection System.
  - 3) Any needed blower booster(s) or blower(s), flare(s) to manage the flow of LFG to the Blower and Flare Station, and from the Delivery Point(s) to the LFG Utilization Facility.
  - 4) For the COUNTY's use, the DEVELOPER, at its own expense shall install, operate and maintain a flowmeter, gas chromatograph, and continuous recorder at the Delivery Point(s) for the purpose of determining the quantity and composition of LFG delivered to the DEVELOPER. The COUNTY and DEVELOPER shall mutually select the final locations. Flow meter(s) shall be calibrated quarterly by the DEVELOPER's representative certified to perform such calibrations and certified results be submitted to COUNTY promptly. The COUNTY may independently pay for calibration of the meter(s) by a third party certified to perform such calibrations to verify meter accuracy.
  - 5) On the first day of each month, the DEVELOPER shall submit to County a table showing total daily LFG flow, methane content, calculated MMBTU. The table shall indicate the total LFG flow to the DEVELOPER (LFGUF, Blower & Flare Station, and Pipeline LFG Processing Facility). The reports shall be

certified for accuracy by the DEVELOPER and shall be used to calculate compensation of the COUNTY in accordance with Section 6 of this Contract. a copy of the quarterly meter testing certification shall be included.

- F. Commercial Operations. DEVELOPER shall construct the additions to the existing LFGUF for treatment of the LFG to pipeline quality gas (Pipeline LFG Facility) including all associated underground pipelines in accordance with applicable standards, ordinances, permits, rules and regulations. The Pipeline LFG Facility may include an additional candlestick flare to destroy excess LFG not used directly by the Pipeline LFG Facility. DEVELOPER shall submit an air permit application to the regulatory agency within six (6) months of the Effective Date. The Pipeline LFG Facility shall commence Commercial Operations within 36 months from the effective date of this Landfill Gas Purchase Contract, unless (i) there are documented third party or COUNTY delays provided in writing by the DEVELOPER which will extend the schedule day for day, or (ii) the date is mutually extended, or (iii) DEVELOPER does not receive permits and funding approval. Should Commercial Operations of the Pipeline LFG Facility not commence within 36 months, unless extended under (i) or (ii) above, DEVELOPER shall continue use of the LFG for its Intended Purpose.
- G. Operations. DEVELOPER shall operate the LFGUF as follows:
- 1) Operate the LFGUF and all associated DEVELOPER supplied equipment in a prudent manner in accordance with good engineering practices and in a manner consistent with that used by industry specialists providing similar services.
  - 2) Maintain the LFG Utilization Facility and all associated DEVELOPER supplied equipment in good working order throughout the term of this Contract.
  - 3) Repair the LFG Utilization Facility and all associated DEVELOPER supplied equipment, as necessary, to restore normal operations and system redundancies to ensure compliance with the terms of this Contract.
  - 4) Operate and Maintain the COUNTY's Blower and Fare including all future expansions with respect thereto, all in accordance with the existing federal, state and local regulations and industry best practice standards.
  - 5) Maximize the use of the available LFG from the COUNTY and sell and deliver Beneficial End Use Product to a Buyer.
  - 6) Maintain a constant and balanced draw from the COUNTY's LFG Collection System in order for the COUNTY to maintain an effective vacuum to balance of the active LFG collection system.
  - 7) Maintain air emission generated by the operations to any applicable standards, federal and state law requirements and permits.

- 8) Flare all LFG that may be available due to excess quantity, scheduled and unscheduled maintenance, or shut-off by Buyer.
  - 9) Control on-site odors from the DEVELOPER's facilities in order to control on-site and off-site impacts in accordance with applicable standards, ordinances, permits, rules and regulations. Upon the request of the COUNTY, DEVELOPER shall make a reasonable effort to further reduce or limit odors and noise determined to have an offsite impact.
  - 10) Maintain noise levels from the operation of the DEVELOPER's facility at any point of the Landfill site boundary in accordance with Section 62-2271 of the COUNTY's Land Development Regulations. The DEVELOPER shall not be responsible for the noise from the COUNTY's landfill operations.
  - 11) Control and dispose of all wastes generated from the DEVELOPER's facilities according to current Federal, State, and local environmental regulations, including gas condensate and waste cooling water. Any contamination or other environmental condition, including clean-up actions or remediation work, resulting from DEVELOPER's operations, at the COUNTY's landfill, shall be DEVELOPER's responsibility.
  - 12) Comply with all applicable federal, state and local laws, rules, ordinances and regulations and any other said responsibilities of the DEVELOPER as established under this Contract.
  - 13) Provide information to COUNTY, as necessary, for COUNTY to comply with New Source Performance Standards (NSPS) reporting requirements, or other regulatory reporting requirement.
  - 14) Comply with annual inspection and implement recommendations made by the COUNTY's consulting engineer on annual inspection of the flare and facility property.
- H. Good Faith. DEVELOPER shall perform its obligations hereunder in good faith and acting reasonably, cooperate fully with COUNTY so that COUNTY can meet its responsibilities and obligation under this Contract. DEVELOPER shall comply with all laws and regulations applicable to the work being performed under this Contract.
- I. Drawings Review. DEVELOPER shall submit to COUNTY for review and comment plans, specifications and drawings for the procurement, installation and construction of the Pipeline LFG Facility. The purpose of such review is to ensure that the facilities constructed on the COUNTY's property will not interfere with the COUNTY's operations, and will comply with all applicable laws (e.g., permitting, zoning, and environmental requirements), as well as the provisions of this Contract. Following the development of the Pipeline LFG Facility, DEVELOPER will provide COUNTY with a complete set of "as built" plans for the Pipeline LFG Facility. The review process described in this paragraph does not relieve the DEVELOPER of its obligations to obtain the

required building permits and site plan review approval, or any other local, state or federal approvals required for the DEVELOPER's LFG Utilization Facility.

Neither the COUNTY's authority to review plans, specifications or drawings relating to the implementation of this Contract nor any comment made by the COUNTY in good faith in conjunction with such review and approval shall give rise to any duty or responsibility of COUNTY to DEVELOPER, any subcontractor, any supplier, or any other person or organization performing any of the work, or to any surety for any of them.

The COUNTY's actions pursuant to this section shall not create any vested rights for the DEVELOPER. Nothing in this Contract shall be construed to eliminate the need for the DEVELOPER to comply with all applicable laws and regulations.

- J. Permits. DEVELOPER shall, at its own expense, prepare and file permit applications and diligently prosecute the processing of such permit applications for the purpose of obtaining all environmental and other permits which are required under applicable local, state, and federal laws and regulations for the construction, installation, and operation of the LFG Utilization Facility, associated electrical transmission lines, and/or steam, or LFG transmission pipelines, on and off-site. In connection therewith, the COUNTY agrees to make available to the DEVELOPER all known public records within the COUNTY's possession of environmental information reports, environmental impact reports, air impact assessment studies, copies of all environmental applications filed, and other available data relating to and used in connection with obtaining any environmental permits necessary for the installation and operation of any equipment or the conducting of any other activities at the Landfill.

Any permit modifications or applications that may affect existing COUNTY permits and/or require the COUNTY to attest or sign the applications shall be submitted to the COUNTY for review, comment, and concurrence prior to submission to the applicable regulatory agency. The DEVELOPER shall incorporate any comments from the COUNTY subsequent to final review by the COUNTY and re-submit to COUNTY for final approval, authorization, and signature.

- K. Laws and Regulations. The DEVELOPER must agree to abide by and conduct its programs and provide its services in compliance with the applicable provisions of
- Florida Worker's Compensation Statutes and Regulations, Florida Statutes, Chapter 440 and Florida Administrative Code (F.A.C), Rule 38F
  - Florida Workplace Safety and Health Regulations, F.A.C - Rule 381
  - Federal Civil Rights Act of 1866
  - Federal Civil Rights Act of 1871
  - Federal Equal Pay Act of 1963

- Federal Civil Rights Act of 1964
- Federal Age Discrimination and Employment Acts of 1967
- Federal Rehabilitation Act of 1973
- Federal Americans with Disabilities Act of 1990
- Federal Civil Rights Act of 1991
- Florida Civil Right Act of 1992
- American National Standards Institute
- National Fire Protection Association
- Occupational Safety and Health Act, Code of Federal. Regulation, Chapter 29, Parts 1910 and 1926, General Industry Standards and Construction Industry Standards, as amended, with particular attention to the Hazard Communications, Trenching and Shoring and Confined Space Entry Standards.
- E-Verify
- All other applicable ordinances, statutes, laws and amendments thereto.

The DEVELOPER is presumed to be familiar with all applicable federal, state and local laws, ordinances, code rules and regulations that may in any way affect the work. Ignorance on the part of the DEVELOPER will in no way relieve them of responsibility or transfer any liability to the COUNTY. The DEVELOPER shall indemnify the COUNTY for any fine or penalty caused by DEVELOPERS violation of a rule or law.

- L. Site Security. The LFG Utilization Facility Site shall be fenced and gated and locked during construction and operations. The fencing shall contain signage on each side, warning of any hazards and providing telephone numbers for notification of emergency situations. Employees of the COUNTY shall not be permitted on the LFG Utilization Facility Site, except in the event of an emergency or disaster, unless accompanied by an authorized employee of the DEVELOPER. Subject to the exemptions included in this subsection for entry onto the LFG Utilization Facility Site, the COUNTY's employees shall not enter the site unless:

- 1) DEVELOPER's employee is on the site at the same time, or
- 2) DEVELOPER requests assistance from the COUNTY or a duly authorized representative, or
- 3) It is necessary for the COUNTY to collect samples from the discharges of the DEVELOPER's facility, or
- 4) A situation that requires immediate attention. The COUNTY will notify the DEVELOPER within 24 hours of entrance onto the DEVELOPER's site.

The fencing, gating, and site security requirements of this subsection shall be limited to the DEVELOPER's LFG Utilization Facility Site.

The DEVELOPER shall provide a key to the facility to the COUNTY which will be kept on site so that the COUNTY may access the Facility in the case of emergency.

- M. Project Plan. The DEVELOPER must prepare and submit to the COUNTY a preliminary Project Plan for the LFGUF and Pipeline LFG Facility, during the construction process. The Plan will cover a number of aspects of the DEVELOPER's operations and will include at a minimum:

- Testing requirements for startup of the LFG Utilization Facility;
- LFG Utilization Facility Operating Plan that demonstrates at a minimum the facility's ability to process the initial LFG flows (LFG available from the COUNTY at startup of the Facility) from the Landfill;
- Reporting requirements to governmental agencies for permits associated with the LFG Utilization Facility;
- Testing and monitoring procedures of the LFG Utilization Facility to assure compliance with permit conditions;
- An Emergency, Disaster and Safety Plan

The Project Plan will be reviewed, finalized and accepted by the COUNTY prior to the startup of the LFG Utilization Facility. The DEVELOPER shall reasonably accommodate the COUNTY'S requests that may not be legally required, but would be in the best interests of the Parties. Once accepted by the COUNTY, the DEVELOPER is obligated to adhere to the Plan. Deviations from the plan are only permissible if they are made in writing to the COUNTY and accepted in writing by the COUNTY. Operations will commence after completion of the startup period and approval of the Project Plan by the COUNTY.

- N. Project Schedule. The DEVELOPER shall be responsible for developing and keeping current a project schedule for each of the elements of the LFG Utilization Facility construction which show: the sequence of project development, permitting, design, construction, startup, commencement of operations, system testing and monitoring, and reporting to governmental agencies. The COUNTY will review the Project Schedule and will be informed of monthly progress and changes in the schedule by the DEVELOPER.

- O. Transmission Line. Any off-site pipeline or transmission line to the Buyer's premises shall comply with and be included within the requirements and liabilities assumed by the DEVELOPER under this Contract. Any portion of the pipeline or transmission line on public right of way shall be clearly marked according to industry or governmental standards. The depth of the pipeline or transmission line shall comply with local permitting code and/ Federal or State law whichever is applicable.

- P. Performance Bond or Other Financial Security Instrument. The DEVELOPER shall provide affidavit that a performance bond or other financial security instrument acceptable to the COUNTY, in the amount of Five Hundred Thousand and No/100 Dollars (\$500,000.00) is furnished to the COUNTY for the term of this Contract. The bond or other financial security instrument shall

be conditioned upon full performance of all obligations imposed upon the DEVELOPER by this Contract, without limitation. The bond shall be executed by a company licensed to do business as a qualified surety in the State of Florida and acceptable to the COUNTY. The specific terms of the performance bond or other financial security shall be subject to the prior approval of the County Attorney.

#### **Section 5. Term and Effective Date.**

- A. Contract Term. This Contract shall have a term ending on the date that is twenty-five (25) years after the date that both parties sign this Contract. DEVELOPER shall commence Commercial Operations of the Pipeline LFG Utilization Facility (as provided in writing by DEVELOPER), consistent with the provisions of this Contract.
- B. The County Manager shall have the authority to renew this Contract for an additional five (5) years. At least one year (365 days) prior to the expiration of this Contract, a request for renewal must be made by the DEVELOPER. Nothing in this language shall be construed to require renewal by the COUNTY.
- C. At the end of the term, this Contract shall terminate, unless extended by mutual written agreement of the COUNTY and DEVELOPER. The DEVELOPER shall provide written notice to COUNTY at least one year (365 days) prior to expiration of the term their intention not to extend this Contract. This will allow the COUNTY sufficient time to issue RFI and RFP for a new operator.

#### **Section 6. Payment.**

##### **A. Expansion Payment**

- 1) As part of working cooperatively with COUNTY on LFG Collection System expansions, the DEVELOPER agrees to pay for 50% of third-party contractor costs of all future LFG Collection System expansions at the Landfill during the term of this Contract. Payments will be made directly to the COUNTY as third-party contractor invoices for LFG Collection System expansion construction are received.
- 2) The total maximum payment to the COUNTY by the DEVELOPER for expansion of the LFG Collection System shall be Five Million dollars (\$5,000,000.00).

##### **B. Prior to Commercial Operations of the Pipeline LFG Facility:**

- 1) Payment for Right to and Use of LFG from the Landfill: DEVELOPER shall pay a fixed fee of Thirty-five Thousand and No/100 Dollars (\$35,000.00) per year, payable in equal monthly installments of Two Thousand Nine Hundred Sixteen and 67/100 Dollars (\$2,916.67). This payment shall cover an



exclusive right to and use of LFG from the Landfill and a license for the LFG Utilization Facility Site. This fee shall be adjusted by CPI on an annual basis, on the anniversary date of the Contract.

Payment for LFG Delivered: DEVELOPER shall pay a unit rate fee of \$0.25 per mmBTU, payable in monthly installments for the totaled LFG delivered to the DEVELOPER, by recording the total quantity of LFG delivered to the DEVELOPER on a monthly basis as determined by the flow meters at the Delivery Point(s). This unit rate fee shall be annually adjusted by the CPI on the anniversary date of the Contract.

Calculation of mmBTU for the billing period is by the following method:

$$\text{mmBTU per billing period} = \frac{A \times B \times C}{D}$$

where:

A= Totalized Landfill Gas flow recorded in the respective billing period.

B = Methane Content of Landfill Gas stated in a decimal percentage.

C = Constant Value of 1,012.32 BTU (HHV) per Cubic Foot

D = Factor of 1,000,000

**C. Upon Commercial Operations of the Pipeline LFG Facility and until April 1, 2028:**

- 1) Payment for Right to and Use of LFG from the Landfill: DEVELOPER shall pay a fixed fee of Thirty-five Thousand and No/100 Dollars (\$35,000.00) per year, payable in equal monthly installments of Two Thousand Nine Hundred Sixteen and 67/100 Dollars (\$2,916.67). This payment shall cover an exclusive right to and use of LFG from the Landfill and a license for the LFG Utilization Facility Site. This fee shall be adjusted by CPI on an annual basis, on the anniversary date of the Contract.
- 2) Payment for LFG Delivered: DEVELOPER shall pay a unit rate fee of \$0.3919 per mmBTU, payable in monthly installments for the total LFG delivered by the DEVELOPER in the preceding month, by recording the total quantity of LFG delivered to the DEVELOPER on a monthly basis as determined by the flow meters at the Delivery Point(s).

Calculation of mmBTU for the billing period is by the following method:

$$\text{mmBTU per billing period} = \frac{A \times B \times C}{D}$$

where:

A= Totalized Landfill Gas flow recorded in the respective billing period.

B=Methane Content of Landfill Gas stated in a decimal percentage.

C=Constant Value of 1,012.32 BTU (HHV) per Cubic Foot

D=Factor of 1,000,000

- D. **Beginning on April 1, 2028 through the end of the Term:**
- 1) Payment for Right to and Use of LFG from the Landfill: DEVELOPER shall pay a fixed fee of Thirty-five Thousand and No/100 Dollars (\$35,000.00) per year, payable in equal monthly installments of Two Thousand Nine Hundred Sixteen and 67/100 Dollars (\$2,916.67). This payment shall cover an exclusive right to and use of LFG from the Landfill and a license for the LFG Utilization Facility Site. This fee shall be adjusted by CPI on an annual basis, on the anniversary date of the Contract.
  - 2) Payment for LFG Delivered: DEVELOPER shall pay the COUNTY an amount equal to five percent (5%) of actual revenues received by DEVELOPER from the sale of Beneficial End Use Products, payable in monthly installments. The actual revenues are net of third-party costs (not to exceed 5% of gross revenue) associated with the sale and transportation of Beneficial End Use Products.
- E. **Payment Due Date:** All monies due to the COUNTY on a monthly payment basis shall be payable in arrears along with documentation of revenues receipts, monthly LFG quantities delivered to the DEVELOPER, and calculations of the monthly payment are due on or before the twenty-fifth (25th) day of the calendar month following the month in which DEVELOPER actually receives revenues from its sale of the Beneficial End Use Products converted from the LFG from the Landfill. The COUNTY shall have the right to inspect, copy, and audit during reasonable business hours the sales journal and any other pertinent books and records of the DEVELOPER relating to the calculations of the revenues upon which the payment of LFG delivered will be based or any other payment to the COUNTY. If the above indexes are not available for any reason, the parties shall mutually agree on the use of a replacement index or indexes.

## **Section 7. Financing.**

COUNTY acknowledges that DEVELOPER may desire to finance some or all of the equipment or personal property required to undertake work to be performed under this Contract and hereby consents to any encumbrance or lien on the machinery, equipment, fixtures, and buildings that make up the LFG Utilization Facility and Utility Interface for the purpose of obtaining such financing, provided:

- A. DEVELOPER shall give COUNTY notice of the existence of such encumbrance or lien together with the name and address of the holder of such encumbrance or lien, and a copy of the encumbrance or lien.
- B. That the existence of such encumbrance or lien shall not relieve DEVELOPER from any liability or responsibility for the performance of its obligations under this Contract.

Under no circumstances shall DEVELOPER cause any mortgage or lien to exist on the COUNTY property, Landfill, access road, or LFG Utilization Facility Site, and no security

interests may be granted in any underground transmission lines, pipelines, or underground equipment or fixtures associated with the project.

#### **Section 8. General Obligations.**

- A. Planning and Expansion. DEVELOPER recognizes that future development of the COUNTY Landfill may include additional facilities. COUNTY and DEVELOPER agree to exchange information on a regular basis for planning and coordination of all activities to promote the safe and orderly development and operation of the Landfill.
- B. Interests Retained by COUNTY. All materials, minerals, water, natural gas, and other items existing in, on, or under the Landfill (including, but not limited to, the refuse, cell liners, leachate, condensate, and waste spoilage removed from Landfill during construction of LFG Management System and cover) shall at all times remain the property of COUNTY.
- C. Independent Contractor. In the performance of any activities pursuant to this Contract, the DEVELOPER will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of the COUNTY. The DEVELOPER shall be solely responsible for the means, methods, sequences, and procedures utilized by the DEVELOPER in the full performance of this Contract. Neither the DEVELOPER nor any of its employees, officers, agents or any other individual directed to act on behalf of the DEVELOPER for any act related to the Contract shall represent, act, purport to act, or be deemed to be the agent, representative, employee or servant of the COUNTY.
- D. Condensate. The DEVELOPER is responsible for the collection and removal of condensate from the DEVELOPER's condensate sumps. DEVELOPER's condensate knockout vessel(s) and the LFG Utilization Facility, and the proper handling and delivery of the condensate to the COUNTY's leachate collection system (leachate manhole) or leachate storage tanks. The DEVELOPER has no other right to discharge or dispose of any other materials to the COUNTY's facilities unless approved in advance and in writing. COUNTY is responsible for the proper handling and disposal of all condensate from the time it is received at the COUNTY's leachate collection system or leachate storage tanks. The COUNTY shall have the right to collect and test samples from the DEVELOPER's facilities before discharging into the COUNTY's facilities.
- E. Gas Migration and Emissions. DEVELOPER and COUNTY acknowledge that the primary objective of the LFG Management System is and will continue to be to control LFG migration, emissions and odors, in order to meet all local, state and federal regulatory requirements and the requirements of existing and future landfill permits. DEVELOPER shall operate the LFG Utilization Facility in a manner that is conducive to this primary objective.

**FURTHERMORE**, the COUNTY is to provide all of the needed LFG Management System components and all replacement, expansions, and additions and the operation thereof to collect the LFG generated at the Landfill so that (i) the operation of the Landfill will remain in compliance with applicable federal, state and local laws and regulations, and (ii) the operation of the Landfill will control LFG migration and odors.

- F. COUNTY's Landfill Gas Flare Station. The COUNTY currently owns one flare station at the CDF. The flare station is enclosed by a security fence and includes three (3) LFG Specialties Utility Flares with peripheral equipment (capacity 301-3014 scfm each of landfill gas at 30-50% methane content.) Also included are three all aluminum flame arresters, two (2) Gardner Denver/Lamson multistage centrifugal landfill gas blowers with 40 hp, 460 VAC, three phase motor (blower rated for 2083 SCFM @50 in. w.c. inlet vacuum and 10 in. w.c. discharge pressure; propane pilot assembly with automatic igniter system, automatic flare controller, blower motor controls, and condensate knockout tank.

LFG that is not used in a beneficial manner shall be incinerated at the COUNTY's Flare Station. When necessary the DEVELOPER shall operate the COUNTY's Flare Station to control odors and comply with all applicable regulatory requirements.

The DEVELOPER shall maintain, repair and replace the COUNTY's Flare Station in good working order throughout the term of the Contract. The COUNTY shall design, permit, construct and pay for any additional equipment or other improvements to the COUNTY's Flare Station(s) if such actions become necessary to ensure compliance with applicable regulations due to (i) a change in applicable laws or regulations, that occurs after the effective date of this Contract or (ii) an expansion of or other change in the COUNTY's LFG Management System. The COUNTY shall also be responsible for damages, fines or corrective action related to or required by any catastrophic failure of the COUNTY's Flare Station, not caused by any acts or omissions of DEVELOPER, their agents, or employees.

- G. Non Waiver.

- 1) The failure of either party to exercise any right shall not be considered a waiver of such right in the event of any further default or noncompliance.
- 2) No action taken by COUNTY or DEVELOPER after the effective date of the termination of this Contract pursuant to Section 14 in accepting one or more payments from the other or undertaking any other activity which would have been authorized by this Contract but for its termination, shall be construed that this Contract is not terminated or as a waiver of the termination.

- H. Inspections. COUNTY has the right to conduct inspections of the DEVELOPER's facilities to verify operations compliance, environmental compliance, and compliance with applicable local, state, and federal

regulations and said responsibilities of this Contract.

#### **Section 9. Limitations of Liability.**

- A. Except as otherwise provided herein, COUNTY provides no warranties or guarantees, either expressed or implied, as to the amount or chemical composition of the LFG to be extracted and made available to the DEVELOPER at the Delivery Point(s) hereunder, including, but without limitation, any warranty of merchantability or fitness of the LFG for a particular purpose; provided, however, if the Landfill does not produce Commercial Quantities of LFG, DEVELOPER may terminate this Contract as provided in Section 14(d).
- B. Provided DEVELOPER is complying with applicable laws and regulations, DEVELOPER will be solely responsible for the determination of the suitability of the LFG to be used under this Contract for any and all purposes contemplated by DEVELOPER.
- C. With the exception of operation of the Flare Station and the LFG utilization facility as specified in Section 4 (e), nothing contained within this Contract shall be construed to mean that DEVELOPER has assumed any of the COUNTY's responsibilities to comply with any environmental laws and regulations, whether federal, state, or local.
- D. In no event shall DEVELOPER be liable to COUNTY with respect to any claims arising from the solid waste related operations of the Landfill which do not arise from the actions or omissions of the DEVELOPER.
- E. COUNTY shall not be liable for damages, including consequential damages, loss of revenues and/or lost profits, for COUNTY employees' entry on the LFG Utilization Facility Site at the Landfill pursuant to Section 4) L herein. Further, COUNTY shall not be liable for consequential damages, loss of revenues and/or lost profits for any reason whatsoever.
- F. DEVELOPER is liable for any fines and/or repair for any environmental damage due to the DEVELOPER's facilities construction and operations.
- G. Nothing contained in this Contract constitutes a waiver of the COUNTY's sovereign immunity or the limitations on liability contained in Section 768.28, Florida Statutes.

#### **Section 10. Indemnification.**

To the fullest extent permitted by Laws and Regulations, the DEVELOPER shall indemnify and hold harmless the COUNTY and the officers, directors, employees, agents and other consultants of the COUNTY from and against all claims, expenses, fines, penalties, losses and damages (including but not limited to all fees and charges of the DEVELOPER, engineers, architects, attorneys and other professionals) caused by, arising out of or resulting from the DEVELOPER's design and construction activities and/or operation of facilities, provided that any

such claim, damage, loss or expense: (1) is attributable to bodily injury, sickness, disease, death, or personal injury, or to property damage, including the loss of use resulting therefrom, and (2) is caused in whole or in part by any act or omission of the DEVELOPER, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the services or anyone for whose acts any of them may be liable. The DEVELOPER agrees that it will pay the costs of the COUNTY's legal defense, including fees of attorneys as may be selected by the COUNTY and shall defend, satisfy, and pay any judgments which may be rendered against the COUNTY in connection with the above hold harmless agreement. The DEVELOPER acknowledges that specific consideration has been received for this hold harmless/indemnification provision.

The provisions of this Section 10 shall survive the termination of this Contract.

### **Section 11. Insurance.**

Before starting and throughout the Term of this Contract, the DEVELOPER shall procure and maintain insurance of the types and to the limits specified in Section A below.

The DEVELOPER shall require each of its Subcontractors, if any, to procure and maintain, until completion of that Subcontractor's work, insurance of types and to the limits specified in Section A 1) through 5) inclusive below. It shall be the responsibility of the DEVELOPER to ensure that all its Subcontractors meet these requirements.

- A. Coverage. Except as otherwise stated, the amounts and types of insurance shall conform to the following minimum requirements.
- 1) Workers' Compensation: Coverage to apply for all employees at the STATUTORY limits in compliance with applicable state and federal laws. If any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act, and Jones Act. In addition, the policy must include EMPLOYERS LIABILITY for limits of Five Hundred Thousand and No/100 Dollars (\$500,000.00)/each accident; One Million and No/100 Dollars (\$1,000,000.00)/disease - policy limit; Five Hundred Thousand and No/100 Dollars (\$500,000.00)/disease - each employee, and a waiver of subrogation in favor of COUNTY, its agents, employees and officials.
  - 2) Commercial General Liability: Coverage must be afforded, under a per occurrence form policy, including Premises, Operations, Products and Completed Operations, Broad Form Property Damage Endorsement, and naming the COUNTY as an Additional Insured on the certificates of insurance. General Liability coverage shall be a minimum of Two Million and No/100 Dollars (\$2,000,000.00) for each occurrence for bodily injury/property damage, and at least Four Million and No/100 Dollars (\$4,000,000.00) in general liability aggregate coverage; Two Million and No/100 Dollars (\$2,000,000.00)/products-completed operations (aggregate); Fifty Thousand and No/100 Dollars (\$50,000.00)/fire damage legal; X-C-U shall be indicated as included. Limits may be satisfied with a combination of primary and umbrella/excess liability coverage subject to the approval of the County's Risk Management Office.

- 3) Business Auto Policy: Coverage must be afforded including coverage for all owned vehicles, hired/non-owned vehicles, with an Additional Named Insured Endorsement in favor of the COUNTY, for a combined single limit (bodily injury and property damage) of not less than One Million and No/100 Dollars (\$1,000,000.00).
- 4) Builder's Risk /Installation Floater: When this Contract includes construction of or additions to above ground buildings or structures, or installation of machinery or equipment, Builder's Risk, and/or Installation Floater coverage must be provided as follows:
- a. All Risk Coverage - All risk Coverage on a completed value form shall provide primary, non-contributory coverage with a waiver of subrogation in favor of the COUNTY.
  - b. Amount of Insurance - one-hundred percent (100%) of the Project value of such addition(s), buildings(s), or structures(s), or machinery and equipment.
  - c. Waiver of Occupancy Clause or Warranty - Policy must be specifically endorsed to eliminate any "Occupancy Clause" or similar warranty or representation that the building(s), addition(s), or structure(s) will not be occupied by the COUNTY.
  - d. Maximum Deductible - Five Thousand and No/100 Dollars (\$5,000.00) each claim. Higher deductibles are permitted subject to COUNTY approval.
  - e. Additional Insured - The COUNTY must be included as an additional insured.
  - f. Notice of Cancellation and/or Restriction - The policy must be specifically endorsed to provide the COUNTY with thirty (30) days' notice of cancellation and/or restriction, except ten (10) days for non-payment of premium.
- 5) Pollution Liability Coverage: Pollution Liability insurance covering bodily injury and property damage in an amount not less than Five Million and No/1000 Dollars (\$5,000,000.00) per claim. The coverage shall apply to, but not be limited to, loss, damage, or injury to the COUNTY's premises and to all third-party claims, including remediation, as a result of pollution arising from DEVELOPER's use, operation and maintenance, as well as any design, construction, and/or installation.
- 6) Flood Insurance: When the buildings or structures are located within an identified special flood hazard area, flood insurance protecting the interest of the DEVELOPER and the COUNTY must be afforded for the lesser of the total insurable value of such buildings or structures, or the maximum amount of

flood insurance coverage available under the National Flood Insurance Program.

- B. **Certificates of Insurance.** Certificates of all insurance (COI) required from the DEVELOPER shall be filed with the COUNTY showing "Brevard County" as the Certificate Holder, before operations are commenced. The insurance indicated on the COI shall be subject to the COUNTY's approval for adequacy and protection. The insurer, as well as the DEVELOPER, shall be required to provide the COUNTY with thirty (30) days advance written notice of any cancellation or modification of coverage which shall be reflected on the COI, except ten (10) days for non-payment of premium. The COI will state the types of coverage provided, limits of liability, expiration dates, additional insured status, waiver of subrogation on the workers compensation policy, notice of cancellation requirement and shall be accompanied by the appropriate endorsement pages for review. The COUNTY shall be identified as an Additional Insured for each type of coverage required by Section A (2) through A (5) above. The required COI(s) may refer specifically to this Contract and the above sections in accordance with which such insurance is being furnished, and may state that such insurance is as required by such sections of this Contract.

In the event any policy or coverage is issued in a "claims made" form, the COI will show a retroactive date, which should be the same date as the Contract (original date if Contract is renewed) or prior and such policy or coverage shall be maintained for a period of four (4) years beyond the expiration or termination of this Contract.

If the initial insurance expires prior to the completion of the work or expiration of the Contract, renewal certificates and/or required copies of policies shall be furnished thirty (30) days prior to the date of their expiration.

Given the term of the Contract, the insurance requirements stated herein shall be subject to regular review by the County and subject to appropriate increase as may be commercially reasonably determined by the County.

## **Section 12. Removal and Restoration.**

- A. **Ownership of Equipment.** Except as otherwise provided in this Contract, the LFG Utilization Facility and related equipment shall remain the personal property and/or responsibility of DEVELOPER (collectively "DEVELOPER's Equipment"), notwithstanding this method or mode of installation or attachment to the Landfill. Upon written request by DEVELOPER, COUNTY shall provide a waiver or estoppel certificate from COUNTY or any lessee operator of the Landfill, in a form satisfactory to DEVELOPER and COUNTY, acknowledging that DEVELOPER's Equipment is personal property owned by DEVELOPER subject to right of removal by DEVELOPER. Notwithstanding the above, however, no equipment shall be removed that will affect the operations of the COUNTY's Flare stations needed to remain in compliance with applicable federal, state, and local laws and regulations, and to control



landfill gas migration and atmospheric emissions, including odors. All equipment, fixtures, or improvements made for or purchased to maintain operation of the Flare Station shall remain the property of the COUNTY.

- B. Transfer of Ownership upon Expiration or Termination. Upon the expiration or termination of this Contract, at the COUNTY'S option, the below ground portions of the LFG Utilization Facility and the building shall become the personal property and responsibility of COUNTY. DEVELOPER shall have no further responsibility with respect to the below ground portions of the LFG Utilization Facility after DEVELOPER conveys title to such equipment, free and clear of any encumbrances, liens or security interest.
- C. Flare Station. The Flare Station shall be turned over to COUNTY operation and maintenance responsibilities in good working condition and able to maintain compliance with all applicable environmental regulatory requirements.
- D. Removal and Restoration Bond. Before starting and throughout the term of this Contract, DEVELOPER shall procure and maintain a bond or financial security instrument as provided in Section 4.n. In addition to other obligations of DEVELOPER, such bond or financial security instrument may be used to ensure the removal of the DEVELOPER's facilities and the restoration of the land upon the expiration or termination of this Contract.

Notwithstanding the above, within thirty (30) days after the expiration or termination of this Contract, DEVELOPER shall offer to sell the above-ground portions of the LFG Utilization Facility including any DEVELOPER owned transmission equipment to COUNTY for an amount equal to the Fair Market Value as determined hereinbelow. COUNTY shall have ninety (90) days to accept or reject such offer, in all or in part, and notify DEVELOPER of its decision. Should COUNTY purchase some or all of the above-ground portions of the LFG Utilization Facility including any DEVELOPER owned transmission equipment, DEVELOPER will convey title to COUNTY free and clear from any and all liens and security interests. All property to be conveyed by DEVELOPER under this subsection must be in good operating condition. In determining the Fair Market Value, the cost of repairs shall be deducted from the purchase price. If the COUNTY chooses not to purchase the LFG Utilization Facility, within ninety (90) days, the DEVELOPER shall, at its sole expense, remove all LFG Utilization Facility and any associated transmission equipment except for the building from the Landfill and return the LFG Utilization Facility Site to its original condition.

Nothing in this Section 12 shall be construed to create an obligation on the COUNTY to buy any portions of the LFG Utilization Facility. Should DEVELOPER fail to remove DEVELOPER's Equipment as required under this Section 12, such property shall be deemed abandoned and shall become the property of COUNTY. Should the COUNTY incur cost associated with the removal of abandoned equipment and/or site restoration associated with such abandonment, the DEVELOPER shall be liable for such cost. This liability shall expire twelve (12) months after the abandonment if the COUNTY has not notified the DEVELOPER in writing that site clean-up has been completed or is underway including the actual or an estimated cost of such clean-up.

For purposes of this Contract, the Fair Market Value (FMV) of any equipment shall be determined by means of an appraisal by persons professionally qualified to make appraisals of industrial equipment as follows: (i) DEVELOPER shall appoint an appraiser who shall estimate the FMV as of the time indicated and provide a written determination of the FMV to both DEVELOPER and the COUNTY; (ii) COUNTY shall appoint its own appraiser to provide a second estimate of the FMV, which shall be provided in writing to both COUNTY and DEVELOPER; (iii) if COUNTY's appraiser's estimate of the FMV is within fifteen percent (15%) of DEVELOPER's appraiser's estimate of the FMV, the FMV shall be deemed to be the average of the two appraisals; (iv) if the COUNTY's appraiser's estimate of the FMV differs from the DEVELOPER's appraiser's estimate by more than fifteen percent (15%), then the COUNTY and the DEVELOPER shall select a third appraiser, and the FMV shall be deemed to be average of the three (3) appraisals. Each party shall bear their respective costs of undertaking the first two (2) appraisals required by this paragraph. The parties shall share equally in the cost of the third appraisal.

### **Section 13. Force Majeure.**

If by reason of Force Majeure either party is unable to carry out, either in whole or in part, its obligations herein contained, such party shall not be deemed in default during the continuation of such inability, provided that:

- A. The non-performing party, as soon as possible but no later than two (2) weeks after the occurrence of the cause of the Force Majeure, gives the other party. written notice describing the particulars of the occurrence; and
- B. The suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure; and
- C. No obligations of either party which arose prior to the occurrence causing the suspension of performance be excused as a result of the occurrence; and
- D. That the non-performing party endeavors to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.

Neither party shall be required to settle strikes, lockouts, or other industrial disturbances by acceding to the demands of the opposing party or parties when such course is, in its judgment, not in its best interest. The fee required to be paid by DEVELOPER set forth in Section 6(b) shall not apply, and DEVELOPER shall be relieved of its obligation therefrom, so long as an event of Force Majeure has occurred and is continuing.

### **Section 14. Termination.**

- A. DEVELOPER's Default. The failure of the DEVELOPER to comply with any provision of this Contract shall place the DEVELOPER in default. Prior to terminating the Contract, the COUNTY shall notify the DEVELOPER in writing. Notification shall make specific reference to the provision which gave rise to the default. The COUNTY shall provide the DEVELOPER thirty (30) days to propose a written remedy and schedule which shall set forth the specific time frame for curing default. The COUNTY shall approve or disapprove the

DEVELOPER's proposed remedy and schedule, which shall not be unreasonably withheld, delayed, or conditioned. If the COUNTY disapproves DEVELOPER's proposed remedy and schedule, the COUNTY may, at its sole option, direct the proposed remedy and schedule or provide DEVELOPER with ninety (90) days prior written notice of termination. In the event that the Premises is not used for the Intended Purpose or ceases to be used for the Intended Purpose, as stated in this Contract, this Contract shall immediately terminate following the notification and remedy procedure outlined above and the possession of the Premises shall immediately revert back to the County which shall thereafter have the right to re-enter and repossess the Premises.

Events of default by DEVELOPER warranting termination by COUNTY shall include, but not be limited to, one or more of the following:

- 1) The filing by or against DEVELOPER of a petition in bankruptcy or the complete cessation of the business operations of DEVELOPER;
- 2) Failure by DEVELOPER to pay the fees due the COUNTY pursuant to Section 6, Payment;
- 3) Failure by the DEVELOPER to operate the LFG Utilization Facility and all associated DEVELOPER supplied equipment in a prudent manner, in accordance with good engineering practices and in a manner consistent with that used by industry specialists providing similar services;
- 4) Failure by the DEVELOPER to maintain the LFG Utilization Facility and all associated DEVELOPER supplied equipment in good working order throughout the term of this Contract;
- 5) Failure to operate the system or to maintain compliance with environmental regulations and noise limitation and odor control requirements;
- 6) Failure to pay for any damages assessed to the DEVELOPER;
- 7) Failure to commence Commercial Operations or continue operations for the Intended Purpose within 36 months from the effective date of this Contract.

In the event of a default by the DEVELOPER, the building and below ground portions of the LFG Utilization Facility at the Landfill shall become the personal property and responsibility of COUNTY, and the DEVELOPER shall offer to sell the above ground portions of the LFG Utilization Facility to the COUNTY in accordance with Section 12, Removal and Restoration.

- B. Repeated Defaults by DEVELOPER. In the event that the DEVELOPER's record of performance shows that the DEVELOPER has frequently, regularly or repetitively defaulted in the performance of any of the material covenants and conditions required herein to be kept and performed by the DEVELOPER and regardless of whether the DEVELOPER has corrected each individual condition of default, the DEVELOPER may be deemed a "habitual violator"

and all of said defaults may be considered collectively to constitute a condition of default. The COUNTY may thereupon issue the DEVELOPER a final warning citing the circumstances therefore, and any single material default by the DEVELOPER within one (1) year after said warning shall be grounds for termination of this Contract. In the event of any such single subsequent default within one (1) year, the COUNTY may terminate this Contract upon the giving of written final notice to the DEVELOPER. The COUNTY's Solid Waste Management Director shall be the sole authority to determine and deem the DEVELOPER as a "habitual violator".

- C. COUNTY's Default. The failure of the COUNTY to comply with any provision of this Contract shall place the COUNTY in default. Prior to terminating the Contract, the DEVELOPER shall notify the COUNTY in writing. Notification shall make specific reference to the provision which gave rise to the default. The DEVELOPER shall provide the COUNTY thirty (30) days to propose a written remedy and schedule which shall set forth the specific timeframe for curing default. In the event of a default by the COUNTY, the COUNTY shall pay DEVELOPER an amount for capital expenditures for the LFG Utilization Facility consistent with Section 12(b) of the Contract, or the DEVELOPER may remove the above ground portion of the LFG Utilization Facility at the DEVELOPER's option.
- D. Termination for Insufficient Quantities of LFG. Should the DEVELOPER determine, following LFG Utilization Facility start-up, that LFG can no longer be reasonably recovered from the Landfill in Commercial Quantities or the LFG can no longer be provided with reasonable LFG Quality Specifications as required by the LFG Utilization Facility, DEVELOPER shall have the right to surrender and terminate this Contract including its rights to the LFG upon one hundred eighty (180) days prior written notice to COUNTY. In the event of such termination by the DEVELOPER:
- 1) The DEVELOPER shall continue to make payments to the COUNTY for the right to and use of the LFG in accordance with Section B(b), whichever is in effect at the time, for a six (6) month period following notification of termination;
  - 2) The DEVELOPER shall continue to make payments for any monies due to the COUNTY for the sale of the Beneficial End Use Product and any other monies required by the provisions of this Contract;
  - 3) The building and below ground portions of the LFG Utilization Facility on the Landfill shall become the personal property and responsibility of COUNTY at the end of the one hundred eighty (180) days period following notification of termination; and
  - 4) The DEVELOPER shall offer to sell the above-ground portions of the LFG Utilization Facility to the COUNTY in accordance with Section 12, Removal and Restoration.
- E. Facility Operation Following Termination. In the event of termination of the

Contract, the COUNTY may require the use of the DEVELOPER's employees to operate and maintain the LFG processing equipment for a period of up to ninety (90) days. The costs for use of the DEVELOPER's employees will be negotiated between the COUNTY and the DEVELOPER.

#### **Section 15. Damages and Administrative Charges.**

Except where otherwise specifically provided, the measure of damages to be paid by the DEVELOPER to the COUNTY due to any failure by the DEVELOPER to meet any of its obligations under this Contract shall be the actual damages incurred by the COUNTY. Said damages shall include, but shall not be limited to, the following damages:

- A. The COUNTY's Damages in the Event of Termination of DEVELOPER. If the COUNTY terminates this Contract because of a default by the DEVELOPER, the DEVELOPER shall be liable to the COUNTY for all actual damages incurred by the COUNTY as a result of DEVELOPER's default. The foregoing shall apply without regard to the COUNTY's rights pursuant to any Performance Bond or other financial security instrument.
- B. The COUNTY's Damages Due to the DEVELOPER's Failure to Repair and Maintain the LFG Utilization Facility. If at any time during the term of the Contract, the DEVELOPER fails or refuses to maintain the LFG Utilization Facility, the COUNTY shall have the right to take all necessary actions to place the facility in good repair (including but not limited to contracting with third parties) and the DEVELOPER shall pay the COUNTY all costs and expenses incurred by the COUNTY in placing the Project in good repair. At the sole option of the COUNTY, such costs and expenses may be added to any monies owed to COUNTY. The foregoing shall apply regardless of whether the COUNTY terminates the DEVELOPER and shall be in addition to any other damages for which the DEVELOPER may be liable pursuant to other sections of this Contract.
- C. The COUNTY's Damages Due to DEVELOPER's Failure to Comply with Environmental Regulations. If the DEVELOPER fails to comply with any applicable environmental regulations, the DEVELOPER shall pay to the COUNTY the following:
  - 1) All lawful fines, penalties, and forfeitures charged to the COUNTY by any governmental agency charged with enforcement of environmental laws and regulations or judicial orders.
  - 2) The actual costs, including, but not limited to, legal, administrative and any associated fees, incurred by the COUNTY as a result of the failure to comply with the environmental regulations including any costs incurred in investigating and remedying the conditions which led to the failure to comply with the environmental regulations.
- D. Administrative Charges. The parties acknowledge and agree that it is difficult or impossible to accurately determine the amount of damages that would, or

might, be incurred by the COUNTY due to those failures or circumstances described in this section of the Contract and for which the DEVELOPER would otherwise be liable. Accordingly, administrative charges may be assessed against the DEVELOPER for the following failures to comply with the Contract:

- 1) If DEVELOPER fails to operate and perform the system within permit and/or regulatory requirements or standards, the COUNTY shall give Notice to the DEVELOPER of the foregoing failure. If the DEVELOPER fails to remedy the foregoing failure within two (2) days of the Notice from the COUNTY, administrative charges in an amount equal to one hundred percent (100%) of the "daily average payment" to the COUNTY for the sale of the COUNTY's LFG shall be assessed against the DEVELOPER per day until such time as the COUNTY determines that the DEVELOPER has remedied the foregoing failure. The "daily average payment" shall be based on normal historical operating days for the six (6) month period immediately preceding the COUNTY's Notice.
- 2) If DEVELOPER fails to keep and utilize the LFG Utilization Facility at the levels of manpower and equipment necessary to adequately operate the system, the COUNTY shall give Notice to the DEVELOPER of the foregoing failure. If the DEVELOPER fails to remedy the foregoing failure within one (1) week of the Notice from the COUNTY, administrative charges in an amount equal to fifty percent (50%) of the "daily average payment" to the COUNTY for the sale of the COUNTY's LFG shall be assessed against the DEVELOPER per day until such time as the COUNTY determines that the DEVELOPER has remedied the foregoing failure. The "daily average payment" shall be based on normal historical operating days for the six (6) month period immediately preceding the COUNTY's Notice.
- 3) If DEVELOPER fails to supply information or reports required by the COUNTY and/or any regulatory agency within the timeframe agreed to by the COUNTY and/or regulatory agency, the COUNTY shall give Notice to the DEVELOPER of the foregoing failure. If the DEVELOPER fails to remedy the foregoing failure within one (1) day of the Notice from the COUNTY, administrative charges in the amount of Five Hundred and No/100 Dollars (\$500.00) per day shall be assessed against the DEVELOPER until such time as the COUNTY determines that the DEVELOPER has remedied the foregoing failure.
- 4) If the Developer's activities related to LFG Management violates any permit conditions that results in a fine by any regulatory agencies, the Developer shall compensate the County 100% of the costs of any fines, and the cost of legal and engineering assistance.

#### **Section 16. Representations and Warranties.**

- A. Warranties of COUNTY. COUNTY hereby agrees, warrants, and represents to DEVELOPER, as of the date of execution of this Contract, that:

- 1) The COUNTY has not entered into any other Contracts with respect to the LFG conveyed to DEVELOPER under this Contract or with respect to any of the other rights conveyed to DEVELOPER pursuant to Section 2 of this Contract. COUNTY warrants that DEVELOPER shall take the LFG free and clear of any liens or encumbrances. COUNTY hereby warrants to DEVELOPER that COUNTY has the title to the LFG Utilization Facility Site, access to the site, the Landfill, and the LFG.
  - 2) No part of the LFG project was financed by grants or subsidized energy financing and the energy credit was not claimed with respect to property used in such recovery Project.
  - 3) The execution and delivery of this Contract and related documents have been duly authorized, and constitute legal, valid, and binding obligations of the COUNTY which are enforceable in accordance with their terms and do not violate any law, rule or regulation.
  - 4) As of the effective date of this Contract, the solid waste that the COUNTY accepts for disposal within the solid waste disposal units is nonhazardous solid waste as defined by Chapter 62-701, F.A.C. COUNTY also covenants that during the term of the Contract, COUNTY will continue to accept only nonhazardous solid waste or material deemed nonhazardous in nature as defined by Chapter 62-701, F.A.C. and will not seek to modify permits and authorizations applicable to the Landfill so as to enable the COUNTY to accept wastes other than nonhazardous solid waste or material deemed nonhazardous in nature as defined by Chapter 62-701, F.A.C.
- B. Warranties of DEVELOPER. DEVELOPER hereby agrees, warrants and represents to COUNTY, as of the date of execution of this Contract, that
- 1) DEVELOPER is a duly organized, validly existing entity in good standing under the laws of the State of Florida. DEVELOPER has all requisite corporate power to own its properties and to carry on the business that is now being conducted, to execute and deliver this Contract and to engage in the transactions contemplated in this Contract.
  - 2) The execution, delivery and performance by DEVELOPER of this Contract is within the corporate powers of DEVELOPER, have been duly authorized by all necessary corporate action, and do not violate any law, rule or regulation, or the terms of the articles of incorporation or bylaws of DEVELOPER.

#### **Section 17. Assignment.**

The COUNTY and DEVELOPER shall bind themselves and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Contract. Neither party hereto may sell, assign or transfer this Contract or any interest it may have hereunder, without prior written approval of the other party, such approval to be not unreasonably withheld, and provided that any such assignment shall not unduly interfere with the rights of the non-assigning party hereunder, and further provided that such assignee agrees

to be bound by the terms of this Contract to the same extent as assignor. In no event will assignment relieve the assignor of its obligations hereunder. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of COUNTY or DEVELOPER, nor shall it be construed as giving any right or benefit hereunder to anyone other than the COUNTY or the DEVELOPER.

#### **Section 18. Notices.**

Any notice to be given under this Contract shall be in writing and shall be deemed to have been properly given and received (i) when delivered in person to the authorized representative of the party to whom the notice is addressed, or (ii) on the date received as indicated on the prepaid certified or registered receipt when sent by prepaid mail, return receipt requested, to the party to be notified at the address indicated as follows:

**To DEVELOPER:**

Brevard Energy, LLC  
1605 N Cedar Crest Blvd, Suite 509  
Allentown, PA 18104  
Email: [AP@eppservice.com](mailto:AP@eppservice.com)  
Attn: President

**To COUNTY:**

Brevard County Solid Waste Management Department  
Building A, Suite 118  
2725 Judge Fran Jamieson Way  
Viera, Florida 32940

Either party may change such representative or address under this Contract by providing written notice to the other party.

#### **Section 19. Taxes.**

DEVELOPER shall, during the term of this Contract, pay or arrange for the payment of all general taxes that may be levied upon or assessed against the system, facilities, equipment, machinery and improvements constructed or installed by it in, on, or adjacent to the Landfill.

#### **Section 20. Interest of Members of COUNTY and Others.**

No officers, members, or employees of the COUNTY, no member of its governing body, no other public official of the governing body of the locality or localities in which services for the facilities under this Contract are to be carried out, who exercise any functions or responsibilities in the review or approval of the undertaking or carrying out of this Project, shall participate in any decision relating to this Contract which affects their personal interest, or have any personal interest, direct or indirect, in this Contract or the proceeds thereof.

#### **Section 21. Interest of DEVELOPER.**

DEVELOPER covenants that it presently has no interest and shall not acquire an interest, direct or indirect, which shall conflict with the performances or services required to be



performed under this Contract. DEVELOPER further covenants that in the performance of this Contract, the DEVELOPER shall employ no person having any such interest.

#### **Section 22. Covenant against Contingent Fees.**

DEVELOPER warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for DEVELOPER, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for DEVELOPER, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this section, the COUNTY shall have the right, but not the duty, to terminate this Contract without liability, and, at its discretion, to deduct from the Contract such price, or otherwise recover the full amount of such fee, commission, percentage, gift or other consideration.

#### **Section 23. Potential Conflicts of Interest.**

DEVELOPER is specifically aware of, and concurs with, the public need for the COUNTY to prohibit any potential conflicts of interest that may arise as a result of the execution of this Contract. As a result, DEVELOPER has extensively reviewed all of its contracts, letters of agreement, and any other indication of commitment on its behalf to perform services for any client other than the COUNTY, which could in any way present the reasonable possibility of an actual conflict of interest with the COUNTY. As of the Effective Date of this Contract, DEVELOPER has no knowledge of any conflicts of interest.

In view of the potential of this Contract being a long-term contractual relationship between the parties, DEVELOPER specifically agrees to comply with the following organizational requirements in performing its services under this Contract:

- A. Direct supervision of DEVELOPER employees and agents under this Project shall be given by the designated Project Managers assigned to each specific Project.

#### **Section 24. Records and Audits.**

If federal funds are used for any work under this Contract, the Comptroller General of the United States, or any of his duly authorized representatives, shall have access to any books, documents, papers, and records of DEVELOPER which are directly pertinent to work performed under this Contract, for purposes of making audit, examination, excerpts, and transcription.

- A. In performance of this Contract, the DEVELOPER shall keep books, records, and accounts of all activities related to this Contract in compliance with generally accepted accounting procedures.
- B. All documents, papers, books, records and accounts made or received by the DEVELOPER in conjunction with this Contract, and the performance of this Contract shall be open to inspection during regular business hours by an authorized representative of the COUNTY. The COUNTY or any of its duly authorized representatives reserves the right to audit the DEVELOPER's

records related to this Contract at any time during the prosecution of this Contract and for a period of one (1) year after final payment is made.

- C. All records or documents created by or provided to the DEVELOPER by the COUNTY in connection with this Contract are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the COUNTY in a format compatible with the technology systems of the COUNTY.
- D. Both Parties understand that Brevard County is subject to the Florida Public Records Law, Chapter 119, Florida Statutes. The DEVELOPER agrees and understands that Florida has broad public records disclosure laws, and that any written communication with the DEVELOPER, to include emails, email addresses, a copy of this contract, and any supporting documentation are subject to public disclosure upon request, unless otherwise exempt or confidential under Florida Statute.
- E. "Public Records" are defined "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." (section 119.011(12), Florida Statutes).
- F. Pursuant to Florida Statute Chapter 119, generally, and 119.0701 specifically, if records created by the COUNTY or the DEVELOPER related to the performance of the services under this Contract do not fall under a specific exemption under Florida or federal law, the records - whether created or maintained by the DEVELOPER or the COUNTY must be provided to anyone making a public records request. It will be the DEVELOPER'S duty to identify any information in records created by the DEVELOPER which it deems is exempt under Florida or federal law and identify the statute number which requires the information be held exempt.
- G. Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Contract must be made directly to the COUNTY. The DEVELOPER shall direct individuals requesting public records to the public records custodian listed below. If the COUNTY does not possess the requested records, the COUNTY shall immediately notify the DEVELOPER of the request and the DEVELOPER must provide the records to the COUNTY or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the COUNTY can comply with the requirements of section 119.07, Florida Statutes. The DEVELOPER may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated by this reference. A copy of AO-47 is available upon request from the COUNTY's public records custodian designated below.

- H. Should any person or entity make a public records request of the COUNTY which requires or would require the COUNTY to allow inspection or provide copies of records which the DEVELOPER maintains are exempt under the Public Records Law or otherwise confidential, it shall be the DEVELOPER'S obligation to provide the County within a reasonable time of notification by the COUNTY to the DEVELOPER of the records request, of the specific exemption or confidentiality provision to allow the COUNTY to comply with the requirements of section 119.07(1)(e) and (f), Florida Statutes.
- I. Should the COUNTY face any kind of legal action to require or enforce inspection or production of any records provided by the DEVELOPER to the COUNTY which the DEVELOPER maintains are exempt or confidential from such inspection/production as a public record, the DEVELOPER agrees to indemnify the COUNTY for all damages and expenses, including attorney's fees and costs. The DEVELOPER shall hire and compensate attorney(s) who shall represent the interests of the COUNTY as well as the DEVELOPER in defending such action. The DEVELOPER shall also pay any costs to defend such action and shall pay any costs and attorney's fees which may be awarded pursuant to Fla. Stat. 119.12.
- J. Should the DEVELOPER fail to provide the public records to the COUNTY within a reasonable time, the DEVELOPER may be subject to penalties under section 119.10, Florida Statutes, including civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. The DEVELOPER's failure to comply with public records requests is considered a material breach of this Contract and grounds for termination.
- K. The DEVELOPER shall ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the DEVELOPER does not transfer the records to the COUNTY.
- L. Upon completion of the Contract, the DEVELOPER shall transfer, at no cost, to the COUNTY all public records in possession of the DEVELOPER or keep and maintain public records required by the COUNTY to perform the service. If the DEVELOPER transfers all public records to the COUNTY upon completion of the Contract, the DEVELOPER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the DEVELOPER keeps and maintains public records upon completion of the Contract, the DEVELOPER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

IF DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT BREVARD COUNTY, MS. MIRANDA GUPPENBERGER, [MIRANDA.GUPPENBERGER@BREVARDFL.GOV](mailto:MIRANDA.GUPPENBERGER@BREVARDFL.GOV), 2725 JUDGE FRAN JAMIESON WAY, A 118, VIERA, FLORIDA 32940.

**Section 25. Employment Eligibility Verification (E-Verify).**

- A. The DEVELOPER shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the DEVELOPER during the term of the Contract. DEVELOPER shall provide acceptable evidence of their enrollment. Acceptable evidence shall include, but not be limited to, a copy of the fully executed E-Verify Memorandum of Understanding for the business.
- B. DEVELOPER shall expressly require any sub-DEVELOPERs performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the sub-DEVELOPER during the term of this Contract.
- C. DEVELOPER agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its sub-developers as provided above, and to make such records available to the COUNTY consistent with the terms of DEVELOPER's enrollment in the program. This includes maintaining a copy of proof of DEVELOPER's and any sub-developers' enrollment in the E-Verify Program.
- D. Compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach of this Contract.
- E. A DEVELOPER who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-verify program, the DEVELOPER hires or employs a person who is not eligible for employment.
- F. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

**Section 26. Scrutinized Companies.**

- A. DEVELOPER certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Contract at its sole option if the

DEVELOPER or its subcontractors are found to have submitted a false certification; or if DEVELOPER, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Contract.

- B. If this Contract is for more than one million dollars, DEVELOPER certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Contract at its sole option if DEVELOPER, its affiliates, or its subcontractors are found to have submitted a false certification; or if DEVELOPER, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of this Contract.
- C. DEVELOPER agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.
- D. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

#### **Section 27. Equal Opportunity Employment.**

DEVELOPER agrees that it will not discriminate against any employee or applicant for employment for work under this Contract because of race; color, religion, sex, age, national origin, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin, or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfers; recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

#### **Section 28. Claims for Services.**

No claim for services rendered by DEVELOPER not specifically provided for in this Contract Will be honored by the COUNTY.

#### **Section 29. Severability.**

If any of the provisions contained in this Contract are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

### **Section 30. Modifications or Amendments in Writing.**

No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by the parties with the same formality as herewith.

### **Section 31. General Provisions.**

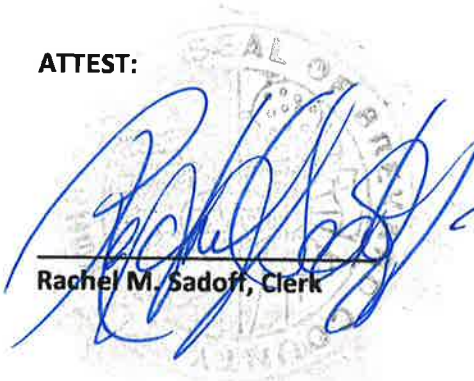
- A. Headings. The headings appearing in this Contract are intended for convenience and reference only, and are not to be considered in construing this Contract.
- B. Disclaimer of Joint Venture, Partnership and Agency. This Contract shall not be interpreted or construed as creating an association, joint venture or partnership between COUNTY and DEVELOPER or Buyer or to impose any partnership obligation or liability upon such parties. Neither COUNTY nor DEVELOPER or Buyer shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another party.
- C. Governing Law and Waiver of Jury Trial. All questions with respect to the construction of this Contract and the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Florida. Venue shall be in Brevard County, Florida. The COUNTY and DEVELOPER agree to waive the right to jury trial. The DEVELOPER expressly waives removal of any claim or action arising under this Contract to federal court.
- D. Amendment to Contract. The COUNTY and DEVELOPER agree that this Contract sets forth the entire Contract between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, deleted, modified, superseded or otherwise altered, except by written amendment executed by the parties hereto. Such amendment(s) are not valid, binding and enforceable unless signed by the Board of County Commissioners or by a COUNTY representative duly authorized by the Board of County Commissioners.
- E. Successors and Assigns. All of the terms and provisions of this Contract shall be binding upon and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.
- F. DEVELOPER Right to Utilization Facility Design. It is acknowledged that the DEVELOPER and Buyer have or will have expended considerable time and expense in developing the design for the LFG Utilization Facility and associated electrical transmission, steam or LFG transmission lines, and, therefore, could consider such design to be proprietary.

- G. Remedies Not Exclusive. The remedies in this Contract are not exclusive and supplement any other remedies provided at law or in equity.

<Signature Page Follows>

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused this Landfill Gas Purchase Contract to be executed and delivered by their duly authorized officers or representatives as of the date first above written.

ATTEST:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



Rita Pritchett, Chair

As approved by the Board on January 24, 2022

SEAL

Reviewed for legal form and content.



Justin E. Caron, Esq., Assistant County Attorney

WITNESS:

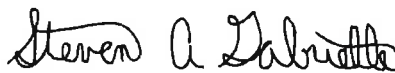


Signature

Dave Baran

Printed Name

BREVARD ENERGY LLC.



Signature

Steven A. Gabrielle, Senior Vice President

Printed Name



## **ATTACHMENT A FEMA REQUIRED CONTRACT PROVISIONS**

**This Attachment A is provided for reference and only applies in the case of a FEMA declared emergency and there is a separate contract awarded by FEMA to the COUNTY or DEVELOPER. The term "contract" or "Contract" in this Attachment A does not refer to the Landfill Gas Purchase Contract or the Lease between the COUNTY and DEVELOPER.**

**This Attachment A is designed to help FEMA grant recipients and subrecipients navigate Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, including providing mandatory language and/or suggested language for each required contract provision.**

### **1 TERMINATION OF THIS CONTRACT FOR CAUSE**

Either party may terminate this contract for cause based upon the failure of the other party to comply with the terms and/or conditions of the contract, or failure to fulfill its performance obligations pursuant to this contract, provided that the non-defaulting party shall give the defaulting party written notice specifying the party's default. If within thirty (30) days after receipt of such notice, the defaulting party shall not have corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct such failure and thereafter proceeded diligently to complete such correction, then the non-defaulting party may, at its option, place the defaulting party in default and the contract shall terminate on the date specified in such notice.

### **2 TERMINATION OF THIS CONTRACT FOR CONVENIENCE**

Either party may terminate this Contract at any time by giving thirty (30) days written notice to the other party of such termination.

The CONTRACTOR shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily.

### **3 OWNERSHIP**

If required by law, all records, reports, documents, or other material related to this contract and/or obtained or prepared by CONTRACTOR in connection with the performance of the services contracted for herein shall become the property of COUNTY, and shall, upon request, be returned by CONTRACTOR to COUNTY at CONTRACTOR's expense, at termination or expiration of this contract.

If required by law, all records, reports, documents and other material delivered or transmitted to CONTRACTOR by the COUNTY shall remain the property of the COUNTY and shall be returned by CONTRACTOR to the COUNTY at CONTRACTOR's expense, at termination or expiration of this contract.

### **4 PERFORMANCE BOND**

CONTRACTOR shall provide a Performance Bond (Surety Bond) in the amount of Five Hundred Thousand dollars (\$500,000.00) to insure the successful performance under the terms and conditions of this Contract. The performance bond shall be written by a surety or insurance

company currently on the U.S. Department of the Treasury Financial Management Services list of approved bonding companies which is published annually in the Federal Register, or by a Florida domiciled insurance company with at least an A-rating in the latest printing of the A.M. Best's Key Rating Guide to write individual bonds up to 10 percent of policyholder's surplus as shown in the A.M. Best's Key Rating Guide or by an insurance company that is either domiciled in Florida or owned by Florida residents and is licensed to write surety bonds.

No surety or insurance company shall write a performance bond which is in excess of the amount indicated as approved by the U.S. Department of the Treasury Financial Management Service list or by a Florida domiciled insurance company with an A-rating by A.M. Best up to a limit of 10 percent of policyholders' surplus as shown by A.M. Best; companies authorized by this Paragraph who are not on the treasury list shall not write a performance bond when the penalty exceeds 15 percent of its capital and surplus, such capital and surplus being the amount by which the company's assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Department of Insurance.

In addition, any performance bond furnished shall be written by a surety or insurance company that is currently licensed to do business in the State of Florida.

The CONTRACTOR shall maintain the performance bond for the full term of this contract. Failure to comply shall be grounds for termination of this contract.

## **5 SUSPENSION OF CONTRACT**

(1) COUNTY Suspension for Cause. The COUNTY may issue a written partial or full Stop Work Notice in the event CONTRACTOR fails to comply with or is negligent in performing any provision hereof. All performance shall immediately cease as per such notice and no further billable costs shall be incurred. The CONTRACTOR shall be entitled to payment for completed work and deliverables in progress, to the extent work has been performed satisfactorily prior to the Stop Work Notice.

(2) Contractor's Right to Stop Work. The CONTRACTOR may stop work only under the following circumstances:

- A. The Work is ordered temporarily discontinued by a court or other public authority;
- B. It is necessary to stop work in order to protect the safety of CONTRACTOR or third persons; or
- C. The COUNTY fails to pay CONTRACTOR when due any undisputed and adequately documented sum certified for payment by the COUNTY Project Manager. In such event, CONTRACTOR shall provide the COUNTY not less than seven (7) days prior written notice of its intention to stop work, except in emergency circumstances or when necessary to prevent injury to persons or property.

(3) Dispute Resolution.

- A. During the course of work. In the event any dispute arises during the course of the Work, CONTRACTOR shall fully perform the Work in accordance with the COUNTY's written instructions (or applicable law) and may claim additional compensation. CONTRACTOR is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute by submitting a formal request for additional compensation,

schedule adjustment, or other dispute resolution to the COUNTY's Project Manager no later than fifteen (15) calendar days after the precipitating event. If not resolved by the Project Manager within five (5) business days, the Project Manager shall forward the request to the County Manager who shall issue a written decision within fifteen (15) calendar days of receipt. This determination shall constitute final action of the COUNTY and shall then be subject to judicial review upon completion of the Work. CONTRACTOR shall proceed with the Work in accordance with said determination. This shall not waive CONTRACTOR's position regarding the matter in dispute.

- B. Invoices. In the event the COUNTY rejects an invoice as improper, and the CONTRACTOR declines to modify the invoice, the CONTRACTOR must notify the COUNTY in writing within ten (10) calendar days of receipt of notice of rejection that the CONTRACTOR will not modify the invoice and state the reason(s) therefor. Within five (5) business days of receipt of such notice, if not informally resolved through discussion with the COUNTY Project Manager, the Project Manager shall forward the disputed invoice and the CONTRACTOR's written response to the County Manager. The matter shall then proceed as described in subsection A, above.

## **7 RIGHT TO AUDIT**

The State Auditor General, State Division of Emergency Management, US DHS-OIG, FEMA, and Federal auditors or State internal auditors shall have the option to audit all accounts directly pertaining to the contract for a period of three (3) years from the date of final payment or as required by applicable State and Federal law. Records shall be made available during normal working hours, upon prior reasonable notice, for this purpose for three (3) years after final payment.

## **8 EQUAL EMPLOYMENT OPPORTUNITY**

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's

essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

#### **9 DAVIS-BACON ACT**

(1) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

(2) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

(3) Additionally, contractors are required to pay wages not less than once a week.

#### **10 COPELAND ANTI-KICKBACK ACT**

(1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12."

## **11 CONTRACT WORK HOUR AND SAFETY STANDARDS ACT**

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 11(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 11(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 11(1) of this section.

**(3) Withholding for unpaid wages and liquidated damages.** The COUNTY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

**(4) Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

## **12 CLEAN AIR ACT**

**(1)** The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

**(2)** The contractor agrees to report each violation to the COUNTY and understands and agrees that the COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

**(3)** The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### **13 FEDERAL WATER POLLUTION CONTROL ACT**

(1) The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the COUNTY and understands and agrees that the COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### **14 CLEAN WATER ACT**

The CONTRACTOR hereby agrees to adhere to the provisions which require compliance with all applicable standards, orders, or requirements issued under Section 508 of the Clean Water Act which prohibits the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities.

### **15 ENERGY POLICY AND CONSERVATION ACT**

The CONTRACTOR hereby recognizes the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

### **16 DEBARMENT AND SUSPENSION**

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by the COUNTY. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

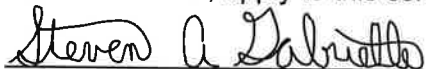
### **17 BYRD ANTI-LOBBYING AMENDMENT**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence

an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

**Certification for Contracts, Grants, Loans, and Cooperative Agreements** The undersigned certifies, to the best of his or her knowledge and belief, that: No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure."

"The Contractor, Brevard Energy, LLC certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Steven A. Gabrielle, Senior Vice President  
Name and Title of Contractor's Authorized Official

1/24/2023  
Date

## **18 PROCUREMENT OF RECOVERED MATERIALS**

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired

- Competitively within a timeframe providing for compliance with the contract performance schedule;
- Meeting contract performance requirements; or
- At a reasonable price.



(2) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

### **19 ACCESS TO RECORDS**

(1) The Contractor agrees to provide the State of Florida, the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the COUNTY and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

### **20 DHS SEAL, LOGO, AND FLAGS**

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

### **21 COMPLIANCE WITH FEDERAL LAWS, REGULATIONS, AND EXECUTIVE ORDERS**

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

### **22 NO OBLIGATION BY FEDERAL GOVERNMENT**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

### **23 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

VENDOR AGREES TO COMPLY WITH ALL APPLICATBLE FEDERAL, STATE, AND LOCAL LAWS, RULES, REFULATIONS, AND ORDINANCES. IT IS FURTHER ACKNOWLEDGED THAT VENDOR CERTIFIES COMPLIANCE WITH ALL PROVISIONS, LAWS, ACTS REGUALTIONS, ETC. AS SPECIFICALLY NOTED ABOVE

Company Name  
Brevard Energy, LLC

Address

1605 N Cedar Crest Blvd, Ste 509, Allentown, PA 18104

Telephone 510-556-1873 Fax

Email Address sgabrielle@eppservice.com

Name and Title of Authorized Signature

Steven A. Gabrielle, Senior Vice President

Authorized Signature

Steven A Gabrielle

**ATTACHMENT B**  
**LEASE CONTRACT**

**AMENDED AND RESTATED  
LEASE CONTRACT**

THIS Amended and Restated Lease Contract ("Lease Contract") is made on January 24, 2023 between Brevard County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, located at 2725 Judge Fran Jamieson Way, Viera, Florida 32940 ("Lessor") and Brevard Energy, LLC, a Florida Limited Liability Company ("Lessee"), doing business at 1605 N Cedar Crest Blvd, Suite 509, Allentown, Pennsylvania 18104.

WHEREAS, on December 19, 2006, the Lessor and Lessee entered into a Landfill Gas Purchase Agreement for the purpose of selling landfill gas produced at the Central Disposal Facility to Lessee for the production of electricity as modified by Addendum No. 1 to Landfill Gas Purchase Agreement dated as of January 13, 2009 (together, the "Original Landfill Gas Agreement");

WHEREAS, on November 13, 2007, Lessor and Lessee entered into (i) a Lease Agreement (the "Original Lease Agreement") allowing Lessee to site its landfill gas to electricity project at the Central Disposal Facility and (ii) an Access and Utility Easement (the "Access and Utility Easement"), a copy of which is attached hereto as Exhibit B, granting Lessee an easement for constructing, operating and replacing utility lines with full right of ingress and egress;

WHEREAS, the Original Landfill Gas Purchase Agreement provided Lessee the right to locate facilities and equipment necessary to make beneficial use of landfill gas produced at the Central Disposal Facility; and

WHEREAS, Lessee is a for-profit corporation performing a function or service that promotes the public health, safety or welfare and could be provided by federal, state or local government; and

WHEREAS, this Amended and Restated Lease Contract will serve a public purpose, is in the best interest of the County, and the property will be used in a manner compatible with county purposes; and

WHEREAS, Lessor and Lessee are entering into an Amended and Restated Landfill Gas Purchase Contract (as defined below, "Landfill Gas Purchase Contract") contemporaneously herewith in order to confirm the terms of Lessee's continued use of Landfill Gas to generate products derived from LFG that may include, but are not limited to: processed LFG, pipeline quality LFG, electric power, thermal energy, CO<sub>2</sub>, or any two or more of the foregoing.(the "Intended Purpose") at the Central Disposal Facility, said Landfill Gas Purchase Contract is incorporated by reference; and

WHEREAS, in association with the implementation of the Landfill Gas Purchase Contract, the parties wish to amend and restate the Original Lease Agreement on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the premises and mutual promises and conditions contained herein, Lessor and Lessee agree as follows:

**1. Prior Agreements Amended and Replaced; Definitions.**

A. This Amended and Restated Lease Contract supersedes and replaces the Original Lease Agreement in its entirety. The Original Lease Agreement is hereby amended and replaced with this Amended and Restated Lease Contract effective upon execution of this Agreement by both parties; provided, however, that Access and Utility Easement shall remain in full force and effect for the duration of this Lease Contract and all claims and references to indemnification for work and services completed under the previous lease shall remain in full force and effect.

B. When used in this Lease Contract, the following terms will have the meanings stated, unless the context clearly indicates to the contrary:

I. "Premises" means the land at the Central Disposal Facility, identified generally on Exhibit A and Exhibits "A" and "B" of Exhibit B.

II. "Rent" means the rent to be paid by Lessee to Lessor pursuant to the provisions of paragraph 8 of this Lease Contract.

III. "Landfill Gas Purchase Contract" means that certain Amended and Restated Landfill Gas Purchase Contract contemporaneously entered into by and between Brevard Energy, LLC, and the Brevard County. This Landfill Gas Purchase Contract is hereby incorporated by reference

**2. Lease of Premises.**

Lessor leases the Premises to Lessee, and Lessee leases the Premises from Lessor, on the terms and subject to the conditions contained in this Lease Contract and the Landfill Gas Purchase Contract, for the "Lease Term." The "Lease Term" shall begin as of the effective date of this Contract and end when the Landfill Gas Purchase Contract is terminated or when terminated in accordance with this Lease Contract. This Lease Contract may be extended, prior to termination, by mutual written agreement of the Lessor and Lessee, provided that the party wishing to extend gives the other at least one hundred eighty (180) days written notice of such desire.

**3. Possession and Effective Date.**

Possession of the Premises was delivered by Lessor to Lessee under the Original Lease Agreement and continues under this Lease Contract as modified herein. This Contract shall become effective upon the execution and delivery hereof by the parties hereto (the "Effective Date").

**4. Use of Premises.**

Lessee will:

- I. use and occupy the Premises to construct and operate those LFG Utilization Facility described in the Landfill Gas Purchase Contract between the Lessor

and Lessee.

- II. not use the Premises or permit the Premises to be used, in a manner that constitutes a violation of any law, order, ordinance, or regulation or that may be dangerous or cause a health hazard.
- III. not dispose any waste or conduct or permit to be conducted any activity within or on the Premises which unreasonably interferes with the reasonable use of property adjoining the Premises.
- IV. shall comply with all laws, ordinances, orders or regulations affecting its use or occupancy of the Premises or any alterations it makes to the Premises.

**5. Condition of Premises.**

Except as Lessor and Lessee may otherwise agree in writing, Lessee's entry into possession will constitute conclusive evidence that it has inspected the Premises and found them to be in good order and satisfactory condition.

**6. Representations.**

Except as stated otherwise in this Lease Contract, Lessor has made no representation or warranty with respect to the physical condition of the Premises or any other matter pertaining to the Premises or this Lease Contract.

**7. Quiet Enjoyment.**

Upon Lessee paying the Rent and observing and performing all the terms and conditions of this Lease Contract, Lessee may peaceably enjoy the Premises for the Lease Term. Lessee agrees that inconveniences, such as noise, dust, odors traffic detours, or other activity caused or associated with the operation of the landfill shall not constitute abreach of quiet enjoyment of the leased Premises.

**8. Amount and Payment of Rent.**

Lessee shall pay Lessor an annual rent of fifty-nine thousand one hundred dollars (\$59,100.00) per year, escalated at the national Consumer Price Index ("CPI") every 12 months.

**9. Indemnification and Insurance.**

Indemnification and Insurance shall be in accordance with the Landfill Gas Purchase Contract.

**10. Construction by Lessee.**

The Lessee shall have the right, at any time and from time to time during the term of this Lease Contract, to erect, maintain, alter, remodel, reconstruct, rebuild, and replace buildings and other improvements on the Premises, and correct and change the contour of the Premises, subject to the following conditions:

- I. The cost of any such construction, permitting, reconstruction, demolition, or of any change, alteration, or improvements shall be borne and paid for by the Lessee.
- II. In order to provide for the more orderly development of the Premises, it may be necessary, desirable, or required that right-of-way, street, water, sewer, drainage, gas, power line, and other easements or licenses, or similar rights, be granted over or within portions of said Premises. The Lessor shall, upon request of the Lessee, join with the Lessee in executing and delivering such documents, from time to time, and throughout the term of the Lease Contract, as may be appropriate, necessary, or required by any governmental agencies, public utilities, and companies for the purpose of granting such easements.
- III. The Lessee shall be subject to Brevard County's adopted land development regulations, where applicable, and will take all necessary actions to obtain any zoning, subdivision, site plan, environmental, or building approvals and permits on the Premises, or any part thereof.
- IV. In each of the foregoing instances, the Lessor shall be without expense therefor; the cost and expense of, including, but not limited to, said approvals, permits, and impact fees, to be borne solely by the Lessee.

**11. Lessee's Ownership of Fixtures and Machinery.**

It is expressly understood and agreed that any and all fixtures, machinery, and equipment of whatsoever nature at any time constructed, placed, or maintained upon any part of the Premises shall be and remain the property of the Lessee, or its lessees or licensees, as their interests may appear. At the termination of this lease and Contract, the Lessor, in its sole discretion, shall at no additional cost have the option to retain any fixed, building structures constructed on the Premises, or to require the Lessee to remove said fixed, building structures. The removal of the structure and any costs associated with, shall be the responsibility of the Lessee. All other fixtures, machinery and equipment removal requirements shall be in accordance with Section 12 of the Landfill Gas Contract.

The Lessee shall have the right at any time during the Lessee's occupancy of the Premises, or within a reasonable time thereafter, to remove any equipment owned or placed by the Lessee, its lessees or licensees, in or upon the Premises, or acquired by the Lessee, whether before or during this Lease Contract, but the Lessee shall not be obliged to do so.

**12. Lessee's Property.**

Lessee's property is brought and kept on the Premises solely at his own risk. Lessor is not liable for any damage, destruction or theft of Lessee's property not caused by Lessor.

**13. Events of Default.**

The occurrence of a default under the Landfill Gas Purchase Contract between

Lessor and Lessee will constitute a default under this Lease Contract ("Default"):

**14. Lessor's Remedies on Default.**

Upon Default, Lessor may, but need not, treat the Default as a breach of this Lease Contract, and may, at its option, have any one or more of the remedies described in the Landfill Gas Purchase Contract between Lessor and Lessee.

**15. Lessor's Access to Premises.**

Lessor may enter the Premises, including all buildings, structures and improvements erected thereon, upon reasonable notice to Lessee, for the purpose of inspecting or showing them, preventing waste, loss or destruction, enforcing any of their rights or powers under this Lease Contract. Lessor shall be entitled to enter the Premises without notice in the case of emergency. In the case of a natural disaster or act of god requiring the securing or other preventative action of the Lessee's equipment or facility on the Premises by Lessor, the Lessee shall be responsible for the costs associated with said action by Lessor.

**16. Utilities and Maintenance.**

The Lessee shall be responsible for and promptly pay all charges for all utility services provided to the Premises, and the Lessee shall be responsible for all maintenance, repairs, and any improvements to the Premises. The Lessee shall not allow any claim of lien to attach to the Premises due to their non-payment to a third party. Lessee shall indemnify the Lessor from any claim of lien to the leased Premises, including the costs of satisfaction and any fees, including legal fees associated with the lien.

**17. Termination.**

The parties agree that the Lease Term shall continue until the expiration or termination of the Landfill Gas Purchase Contract. If the Landfill Gas Purchase Contract terminates pursuant to Section 14 of the Landfill Gas Purchase Contract, this Lease Contract shall simultaneously terminate. In the event that the Premises is not used for the Intended Purpose or ceases to be used for the Intended Purpose, as stated in this Lease and the Landfill Gas Purchase Contract, this Lease shall immediately terminate and the possession of the Premises shall immediately revert to the County which shall thereafter have the right to re-enter and repossess the Premises, following the notification and remedy procedure outlined in Section 14.a. of the Landfill Gas Purchase Agreement.

**18. Surrender of Premises.**

The Lessee shall remove all of its equipment before surrendering the Premises and shall repair any damage to the leased Premises caused thereby. At the expiration of the tenancy hereby created, ownership of all buildings and improvements shall be deemed transferred to the Lessor, without further action. The Lessee shall surrender the Premises in good condition, reasonable wear and tear excepted, and damage by unavoidable casualty excepted. The Lessee's obligation shall survive the expiration or other termination of the term of this Lease Contract. Provided, however, if the Lessee holds over after termination of this



Lease Contract, the Lessee, shall be considered a tenant at sufferance. Such action shall not be deemed to constitute a waiver by the Lessor of its rights or reentry or right to evict the Lessee or take other action against the Lessee.

**19. Notices.**

All communications required under this Lease Contract shall be to the Brevard County Solid Waste Management Department Director and will be in writing and will be deemed to have been given if either delivered personally or mailed by certified or registered mail to a party at the addresses stated on the first page of this Lease Contract. The parties' addresses may from time to time be changed by written notice.

**20. Governing Law.**

This Lease Contract will be governed by and construed in accordance with the laws of Florida.

**21. Severability.**

It is understood and agreed that in the event any provision of this Lease Contract shall be held to be invalid, such portion shall be deemed severable, and it shall not invalidate or impair this Lease Contract as a whole or any other provision of this Lease Contract. If a court of competent jurisdiction determines the entire Lease Contract to be void or illegal, this Contract shall be immediately terminated.

**22. Amendment.**

This Lease Contract, and the Landfill Gas Purchase Contract, represents the entire agreement between the parties. No oral or written, prior or contemporaneous agreements will have any force or effect, and this Lease Contract may not be amended, altered or modified unless by a written instrument signed by both parties.

**23. Successors and Assigns.**

The terms and conditions contained in this Lease Contract will bind and inure to the benefit of Lessor and Lessee and to those assignees permitted by the Landfill Gas Purchase Contract.

**24. Brokers.**

Lessee represents and warrants that he has dealt with no broker in connection with this Lease Contract, and owes no commission to any person on account of this transaction.

**25. Sublease or assignment.**

The Lessee shall not sublease or assign the Premises or any part thereof without the expressed written consent of the Lessor.

**26. Damages to Property.**

The Lessor shall have no liability to the Lessee or its subleases, contractors, guests or invitees for any damage to their property caused by fire, tornado, windstorm or other causality, or for damage caused by the act or omission of a third party.

**27. Audits / Public Records.**

a. The Lessee shall keep books, records, and accounts of all activities related to this Lease in compliance with generally accepted accounting procedures.

b. All documents, papers, books, records and accounts made or received by the Lessee in conjunction with this Lease shall be open to inspection during regular business hours by an authorized representative of the COUNTY. The COUNTY or any of its duly authorized representatives reserves the right to audit the Lessee's records related to this Lease at any time during the prosecution of this Lease and for a period of one (1) year after final payment is made.

c. All records or documents created by or provided to the Lessee by the COUNTY in connection with this Lease are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the COUNTY in a format compatible with the technology systems of the COUNTY.

d. Both Parties understand that Brevard County is subject to the Florida Public Records Law, Chapter 119, Florida Statutes. The Lessee agrees and understands that Florida has broad public records disclosure laws, and that any written communication with the Lessee, to include emails, email addresses, a copy of this contract, and any supporting documentation are subject to public disclosure upon request, unless otherwise exempt or confidential under Florida Statute.

e. "Public Records" are defined "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." (section 119.011(12), Florida Statutes).

f. Pursuant to Florida Statute Chapter 119, generally, and 119.0701 specifically, if records created by the COUNTY or the Lessee related to the performance of the services under this Lease do not fall under a specific exemption under Florida or federal law, the records - whether created or maintained by the Lessee or the COUNTY must be provided to anyone making a public records request. It will be the Lessee's duty to identify any information in records created by the Lessee which it deems is exempt under Florida or federal law and identify the statute number which requires the information be held exempt.

g. Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Lease must be made directly to the COUNTY. The Lessee shall direct individuals requesting public records to the public records custodian listed below. If the COUNTY does not possess the requested records, the COUNTY shall immediately notify the Lessee of the request and the Lessee must provide the records to the COUNTY or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the COUNTY can comply with the requirements of section 119.07, Florida Statutes. The Lessee may also provide a cost estimate to produce the requested documents consistent

with the policy set forth in Brevard County Administrative Order AO-47, incorporated by this reference. A copy of AO-47 is available upon request from the COUNTY's public records custodian designated below.

h. Should any person or entity make a public records request of the COUNTY which requires or would require the COUNTY to allow inspection or provide copies of records which the Lessee maintains are exempt under the Public Records Law or otherwise confidential, it shall be the Lessee's obligation to provide the COUNTY within a reasonable time of notification by the COUNTY to the Lessee of the records request, of the specific exemption or confidentiality provision to allow the COUNTY to comply with the requirements of section 119.07(1)(e) and (f), Florida Statutes.

i. Should the COUNTY face any kind of legal action to require or enforce inspection or production of any records provided by the Lessee to the COUNTY which the Lessee maintains are exempt or confidential from such inspection/production as a public record, the Lessee agrees to indemnify the COUNTY for all damages and expenses, including attorney's fees and costs. The Lessee shall hire and compensate attorney(s) who shall represent the interests of the COUNTY as well as the Lessee in defending such action. The Lessee shall also pay any costs to defend such action and shall pay any costs and attorney's fees which may be awarded pursuant to Fla. Stat. 119.12.

j. Should the Lessee fail to provide the public records to the COUNTY within a reasonable time, the Lessee may be subject to penalties under section 119.10, Florida Statutes, including civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. The Lessee's failure to comply with public records requests is considered a material breach of this Lease and grounds for termination.

k. The Lessee shall ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Lease term and following completion of the Lease if the Lessee does not transfer the records to the COUNTY.

l. Upon completion of the Lease, the Lessee shall transfer, at no cost, to the COUNTY all public records in possession of the Lessee or keep and maintain public records required by the COUNTY to perform the service. If the Lessee transfers all public records to the COUNTY upon completion of the Lease, the Lessee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Lessee keeps and maintains public records upon completion of the Lease, the Lessee shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

IF LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LESSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT BREVARD COUNTY, MS. MIRANDA GUPPENBERGER, [MIRANDA.GUPPENBERGER@BREVARDFL.GOV](mailto:MIRANDA.GUPPENBERGER@BREVARDFL.GOV), 2725 JUDGE FRAN

JAMIESON WAY, A 118, VIERA, FLORIDA 32940..

**28. Venue and Waiver of Jury Trial.**

Venue for any legal action brought by any party to this Lease Contract to interpret, construe or enforce this Contract shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be non-jury. Lessee expressly waives removal of any claim or action arising under this Contract to federal court.

**29. Attorneys' Fees.**

If any action at law or equity shall be brought on breach of, or to enforce or interpret any covenants, terms or conditions of this Lease Contract, or for recovery of possession of the Premises, each party shall be responsible for payment of its own costs and attorney's fees.

**30. Scrutinized Companies.**

(a) Lessee certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Contract at its sole option if the Lessee, or its subcontractors, is found to have submitted a false certification; or if Lessee or its subcontractors, is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Lease.

(b) If this Lease is for more than one million dollars, Lessee certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Contract at its sole option if Lessee, its affiliates, or its subcontractors are found to have submitted a false certification; or if CONTRACTOR, its affiliates, or its subcontractors, are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of this Lease.

(c) Lessee agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Lease.

(d) As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

**31. Employment Eligibility Verification (E-Verify).**

The Lessee shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Lessee during the term of the Contract. Lessee shall provide acceptable evidence of their enrollment at the time of the submission of the Lessee bid. Acceptable evidence shall include, but not be limited to, a copy of the fully executed E-Verify Memorandum of Understanding for the business.

b. Lessee shall expressly require any sub- Lessee's performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the sub-Lessee during the term of this Lease.

c. Lessee agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its sub- Lessee's as provided above, and to make such records available to the Lessor consistent with the terms of Lessee's enrollment in the program. This includes maintaining a copy of proof of Lessee's and any sub-Lessee's enrollment in the E-Verify Program.

d. Compliance with the terms of this section is made an express condition of this Lease and the Lessor may treat a failure to comply as a material breach of this Contract.

e. A Lessee who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the Lessee hires or employs a person who is not eligible for employment.

f. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

### **32. Notices.**

All notices required or permitted under this Section and any written consents or approvals required shall be in writing and are in effect upon receipt. Notices shall be transmitted either by personal hand delivery; United States Postal Service (USPS), certified mail return receipt requested; or, overnight express mail delivery. E-mail and facsimile transmission may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses set forth below for the respective Parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

The Parties' designated representatives and their respective addresses for purposes of this Section are as follows:

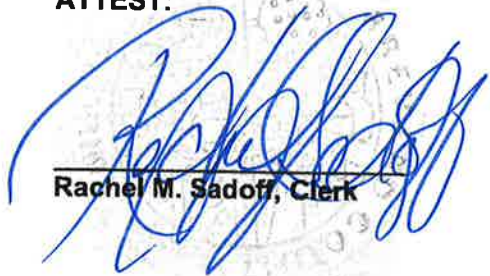
To Lessor:  
Brevard County Solid Waste Management Department  
Director  
2725 Judge Fran Jamieson Way, Suite A118  
Viera, Florida 32940  
Phone: (321) 633-2042

To Lessee:  
Brevard Energy, LLC  
1605 N Cedar Crest Blvd, Suite 509  
Allentown, PA 18104  
Email: [AP@eppservice.com](mailto:AP@eppservice.com)  
Attn: President

<Signature Page Follows>

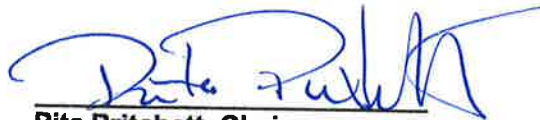
IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused this Lease Contract to be executed and delivered by their duly authorized officers or representatives as of the date first above written.

**ATTEST:**



Rachel M. Sadoff, Clerk

**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**



Rita Pritchett, Chair

As approved the by the Board on January 24, 2023

**SEAL**

Reviewed for legal form and content.



Justin E. Caron, Esq., Assistant County Attorney

**WITNESS:**

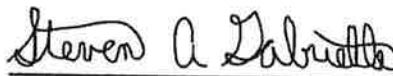


Signature

Dave Baran

Printed Name

**BREVARD ENERGY LLC.**



Signature

Steven A. Gabrielle, Senior Vice President

Printed Name

EXHIBIT A

1

# SURVEYOR'S NOTES:

THIS IS NOT A SURVEY  
DESCRIPTION SKETCH

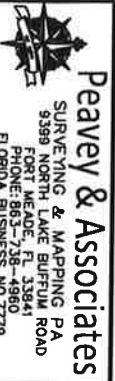
1. NORTH, COORDINATES SHOWN ARE BASED ON THE STATE PLANE COORDINATE SYSTEM, FLORIDA EAST ZONE NAD 1983 2011 ADJUSTMENT. SURVEY UTILIZED RTK FFRN NETWORK AND EXISTING SITE CONTROL TO ESTABLISH THE HORIZONTAL CONTROL. NORTH AND THE BEARINGS SHOWN HEREON ARE REFERENCED TO THE FIELD BEARING OF SOUTH 00°01'34" EAST ALONG THE EAST LINE OF SECTION 16, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA.
2. THE PARCEL DATA SHOWN HEREON ARE FROM BREVARD COUNTY PROPERTY APPRAISER'S ON-LINE DATA BASE.
3. THE PARCEL A CONTAINS 5.15 ACRES. PARCEL B CONTAINS 4.65 ACRES.
4. THE 150' RIGHT OF WAY SHOWN HEREON ARE BASED ON OR BOOK 7092, PAGE 2752, OR BOOK 2926, PAGE 719 AND PLAT OF ADAMSON CREEK PHASE ONE-B PLAT BOOK 67, PAGE 78, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
5. THE DESCRIPTION SHOWN HEREON IS BASED ON DEED OF RECORD. THIS SKETCH WAS PREPARED FOR OBTAINING A LEASE AREA FOR THE ENERGY PLANT AND PIPELINE.

## PARCEL A - DESCRIPTION

That part of South Half of Section 16, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows:  
BEGIN at the Northwest corner of the South Half of the Southeast Quarter of Section 16, Township 24 South, Range 35 East, Brevard County, Florida, said point having a Northing of 1475584.32 and Easting of 711120.22; thence North 90°00'00" East a distance of 659.43 feet; thence South 00°00'00" East a distance of 410.00 feet; thence South 90°00'00" West a distance of 605.00 feet to the beginning of a curve concave to the northeast having a radius of 75.00 feet; thence northwesterly along said curve to the right through a central angle of 90°00'00"; an arc distance of 117.81 feet (chord=106.07 feet bearing=North 45°00'00" West); thence North 00°00'00" West a distance of 335.00 feet; thence North 90°00'00" East a distance of 20.57 feet to the Point of Beginning.

## PARCEL B - DESCRIPTION

That part of South Half of Section 16, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows:  
Commence at the Northwest corner of the South Half of the Southeast Quarter of Section 16, Township 24 South, Range 35 East, Brevard County, Florida; said point having a Northing of 1475584.32 and Easting of 711120.22; thence North 90°00'00" East a distance of 659.43 feet; thence South 00°00'00" East a distance of 410.00 feet to the POINT OF BEGINNING; thence North 90°00'00" East a distance of 425.00 feet; thence North 87°13'13" East a distance of 110.00 feet; thence North 90°00'00" East a distance of 674.57 feet to the beginning of a curve concave to the northwest having a radius of 185.00 feet; thence northeasterly along said curve concave to the left through a central angle of 44°48'02"; an arc distance of 144.65 feet; (chord=141.00 feet bearing=North 67°35'59" East); thence North 45°11'58" East a distance of 145.31 feet to the beginning of a curve concave to the southeast having a radius of 285.00 feet; thence northeasterly along said curve to the right through a central angle of 44°48'02"; an arc distance of 222.85 feet; (chord=217.21 feet bearing=North 67°35'59" East); thence North 90°00'00" East a distance of 290.44 feet to the West right of way line of Adamson Road (150' right of way); thence North 00°01'22" West along said West right of way line a distance of 820.00 feet; thence South 90°00'00" West a distance of 75.00 feet; thence South 00°01'22" East a distance of 745.00 feet; thence South 90°00'00" West a distance of 215.41 feet to the beginning of a curve concave to the southwest having a radius of 360.00 feet; thence southwesterly along said curve to the left through a central angle of 44°48'02"; an arc distance of 281.49 feet; (chord=274.37 feet bearing=South 67°35'59" West); thence South 45°11'58" West a distance of 145.31 feet to the beginning of a concave to the northwest having a radius of feet 110.00 feet; thence southwesterly along said curve to the right through a central angle of 44°48'02"; an arc distance of 86.01 feet; (chord=83.84 feet bearing=South 67°35'59" West); thence South 90°00'00" West a distance of 676.39 feet; thence South 87°13'13" West a distance of 110.00 feet; thence South 90°00'00" West a distance of 423.18 feet; thence South 00°00'00" East a distance of 75.00 feet to the POINT OF BEGINNING.



SURVEYING & MAPPING P.A.  
5399 FOREST LAKE BLVD. SUITE 100  
FORT LAUDERDALE, FL 33309  
PHONE: 863.776.1960  
FLORIDA BUSINESS NO. 77739

**Peavey & Associates**

**Description Sketch**  
**PARCELS 'A' AND 'B'**  
Part of Section 16, Township 24 South,  
Range 35 East, Brevard County, Florida

1 OF 2 SHEETS

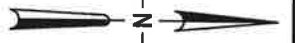
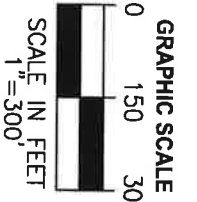


**CLIENT**  
Energy Power Management I, LLC  
Brevard Energy RNG  
1620 Adamson Road  
Cocoa, FL 32926

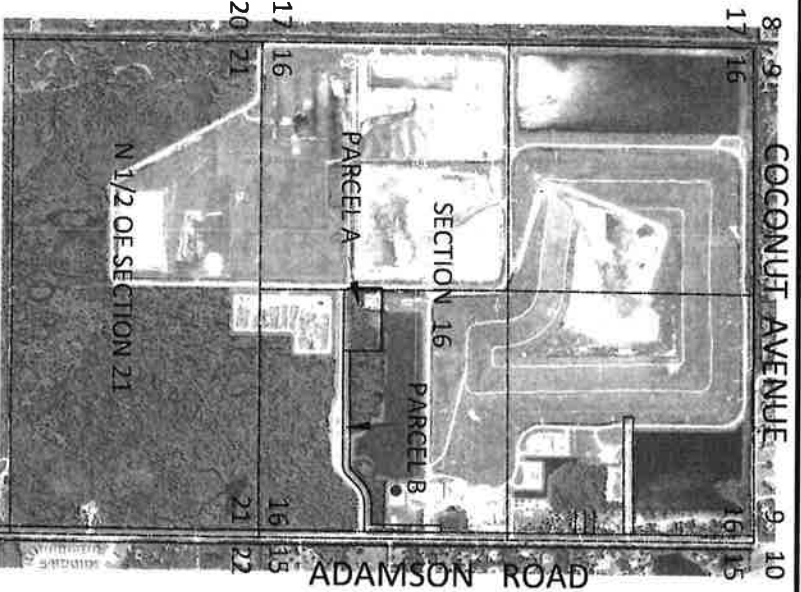
The seal appearing on this document  
was authorized by Deborah L. P. 474  
PSM No. 6345 on 8/22/2022.



LINE	BEARING	DISTANCE
L1	N87°13'13"E	110.00'
L2	N45°11'58"E	145.31'
L3	S90°00'00"W	75.00'
L4	S45°11'58"W	145.31'
L5	S87°13'13"W	110.00'
L6	S00°00'00"E	75.00'
L7	N90°00'00"E	20.57'



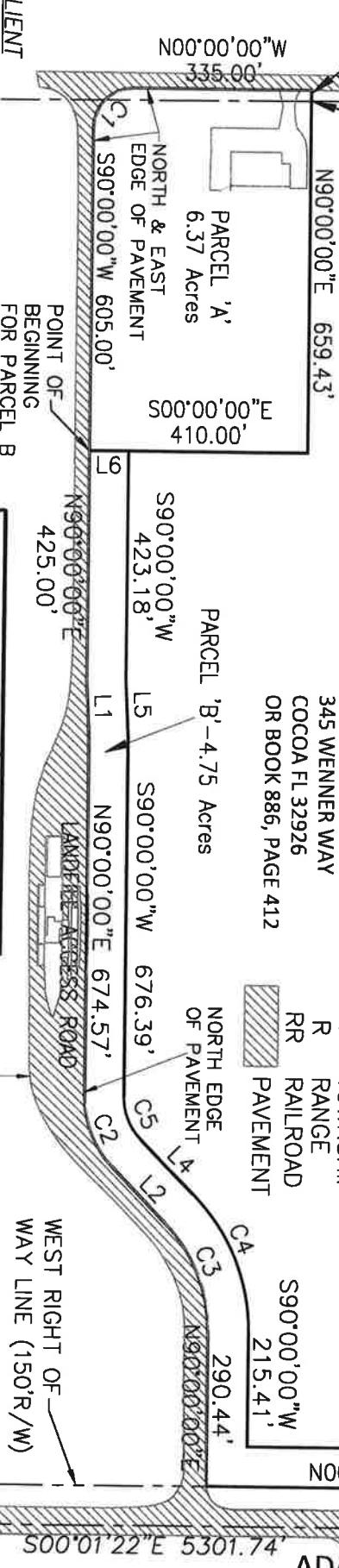
CURVE	RADIUS	ARC	CHORD	BEARING	ANGLE
C1	75.00'	117.81'	106.07'	N45°00'00"W	90°00'00"
C2	185.00'	144.65'	141.00'	N67°35'59"E	44°48'02"
C3	285.00'	222.85'	217.21'	N67°35'59"E	44°48'02"
C4	360.00'	281.49'	274.37'	S67°35'59"W	44°48'02"
C5	110.00'	86.01'	83.84'	S67°35'59"W	44°48'02"



POINT OF BEGINNING FOR PARCEL A  
POINT OF COMMENCEMENT FOR PARCEL B  
FOUND DAMAGED CONCRETE MARKER STEEL  
ROD IN TACT AND IN GOOD CONDITION AT  
NW CORNER OF SOUTH 1/2 OF SE 1/4 OF  
SECTION 16 NORTHING=1475584.32  
EASTING=711120.22

PARCEL ID 24-35-16-00-2  
BREVARD COUNTY  
C/O ASSET MANAGEMENT  
345 WENNER WAY  
COCOA FL 32926  
OR BOOK 886, PAGE 412

LEGEND:  
C1 CURVE NUMBER  
L1 LINE NUMBER  
T TOWNSHIP  
R RANGE  
RR RAILROAD  
PAVEMENT



**CLIENT**  
Energy Power Management I, LLC  
Brevard Energy RING  
1620 Adamson Road  
Cocoa, FL 32926

The seal appearing on this document was authorized by  
Deborah L. Peavey, PSM No. 6345 on 8/22/2022

8/22/2022  
DEBORAH L. PEAHEY, P.S.M.  
FLORIDA REGISTRATION NO. 6345



**Peavey & Associates**  
SURVEYING & MAPPING PA  
9399 NORTH LAKE BUFFUM ROAD  
FORT MEADE, FL 32841  
PHONE: 863-738-4360  
FLORIDA BUSINESS NO. 7779

**Description Sketch**  
PARCELS 'A' AND 'B'  
Part of Section 16, Township 24 South,  
Range 35 East, Brevard County, Florida

2 SHEET  
2 OF 2

THIS IS NOT A SURVEY  
DESCRIPTION SKETCH

FOUND RR SPIKE  
AT SE CORNER  
SECTION 16-124S-R35E

EXHIBIT B

ACCESS and UTILITY

EASEMENT

THIS INDENTURE made and entered into this day 13 of November, 2007 by and between Brevard Energy, LLC, a Florida Limited Liability Company doing business at 29261 Wall Street, Wixom, Michigan 48393, hereinafter referred to as the "Grantee" and Brevard County a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida hereinafter referred to as "Grantor".

WITNESSETH

That the Grantor, for and in consideration of the sum of One Dollars (\$1.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, hereby grants unto the Grantee, its successors and assigns, the right of easement for the sole purpose of constructing, operating, and replacing utility lines, conduit, and appurtenances associated with the operation of the Landfill Gas to Energy Facility with full right of ingress and egress.

The land affected by the granting of this easement is within the Central Disposal Facility Property located in Section 16, Township 24S Range 35 E, and is more particularly described in the attached Exhibits "A" and "B" (Easement Area).

Grantor agrees not to build or construct any building or buildings upon the easement area. However, Grantor expressly reserves the right to build and construct sidewalks, streets and driveways, water mains, gas lines, electrical lines, drainage structure, and other public service facilities across said premises herein described.


Grantee shall be responsible for any damage to Grantor's property or that of third parties resulting from any exercise of the rights herein granted, including but not limited to soil erosion, subsidence or damage resulting therefrom. Grantee shall promptly repair and restore to its original condition any of Grantor's property, including, but not limited to, roads, utilities, buildings and fences that may be altered, damaged or destroyed in connection with the exercise of the Easement or use of the Easement Area.

The easement is granted for the duration of that certain Landfill Gas Purchase Agreement made and entered between the Brevard County Board of County Commissioners and Brevard Energy, LLC on December 19, 2006.

IN WITNESS WHEREOF, the Grantor has duly authorized and caused this Indenture to be executed in its name as of the day and year first herein written.

ATTEST:

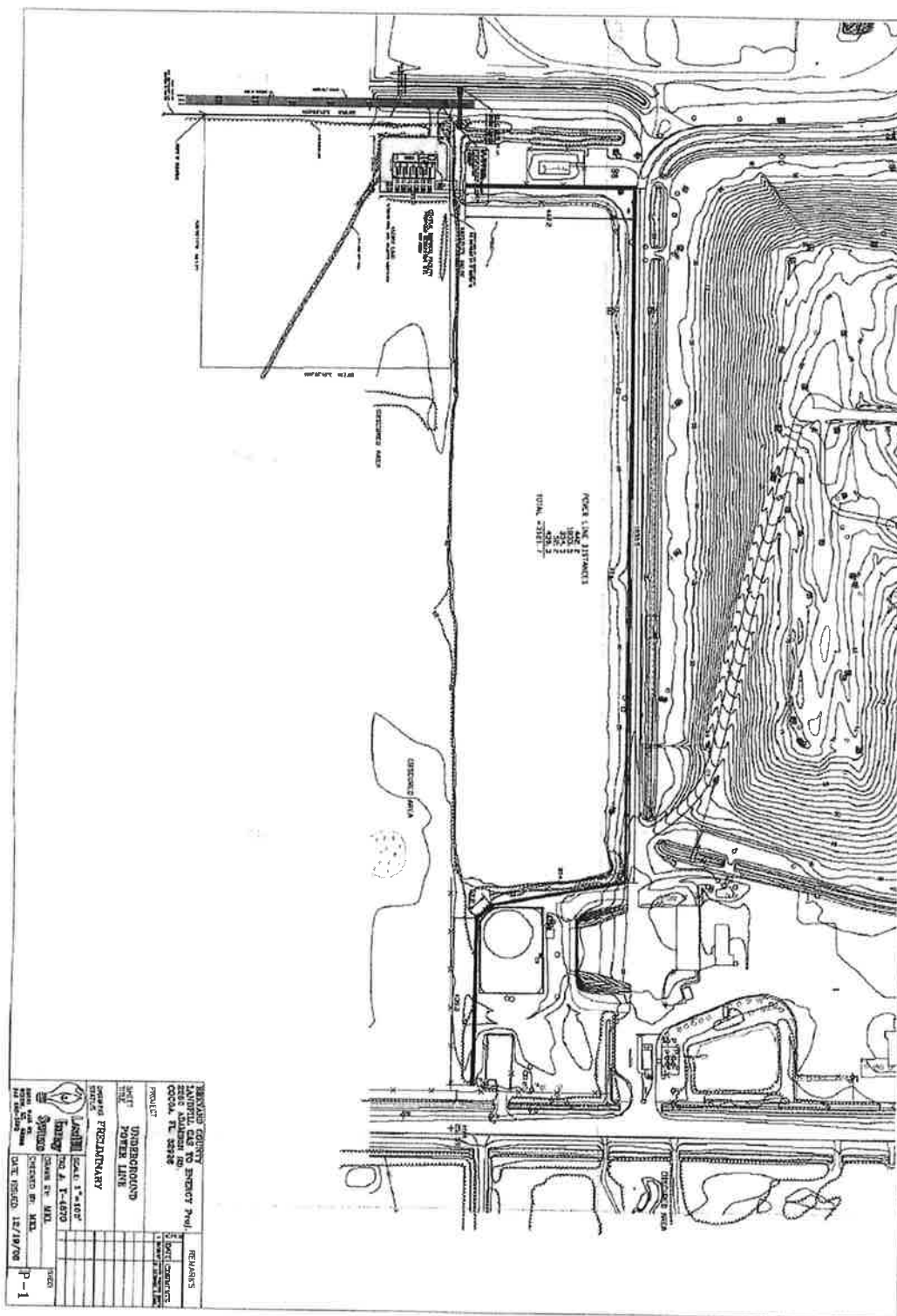
BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
Scott Ellis, Clerk

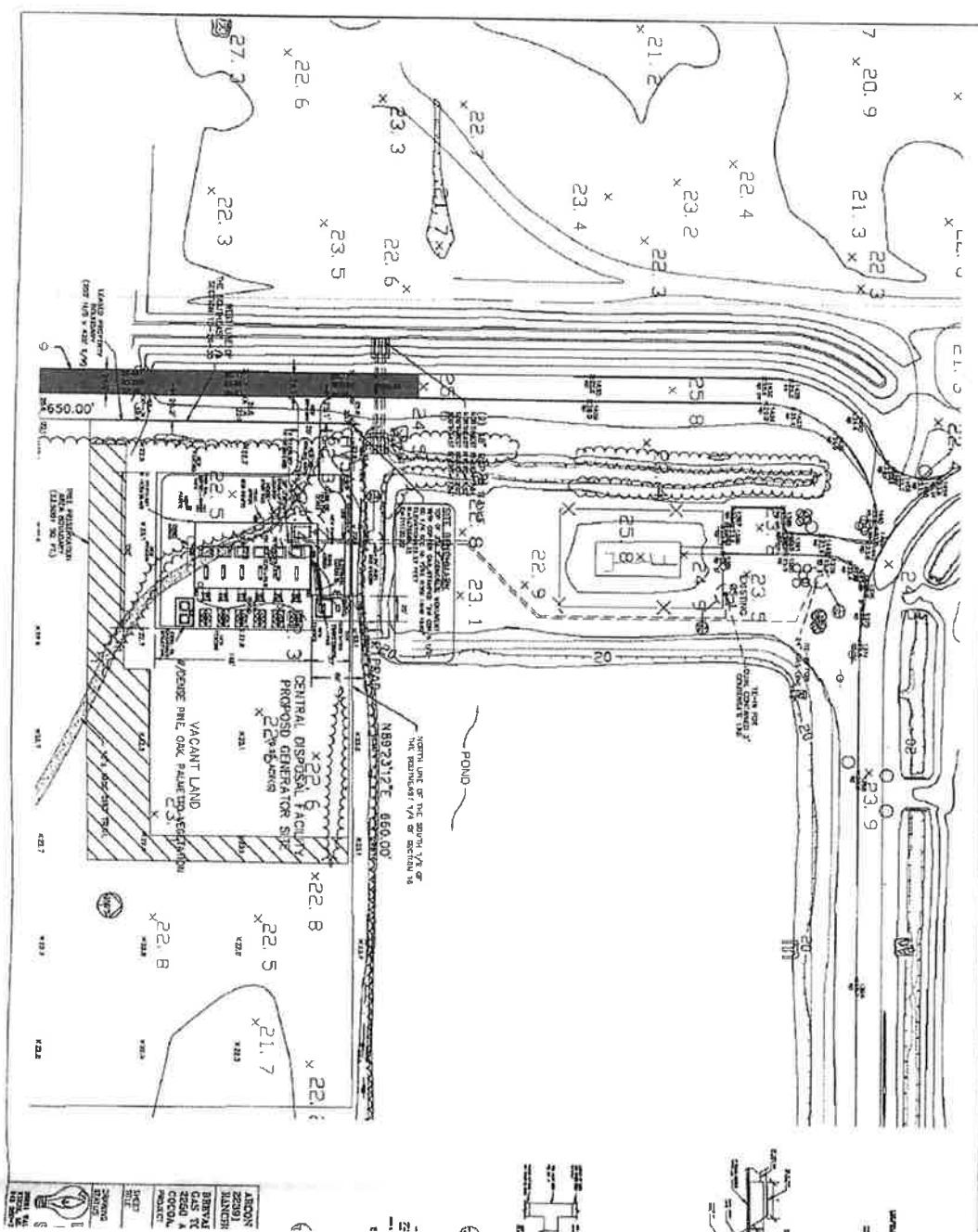
  
Jackie Colon, Chair

As approved by the Board on November 13, 2007

## EXHIBIT "A"



## EXHIBIT "B"



RESOLUTION NO. 2023-009

A RESOLUTION PURSUANT TO SECTION 125.35, FLORIDA STATUTES AND SECTION 2-247 OF THE BREVARD COUNTY CODE OF ORDINANCES, AUTHORIZING THE LEASE OF COUNTY PROPERTY; PROVIDING FOR LEASE TERMS, AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Brevard County, a political subdivision of the State of Florida, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, hereafter known as Brevard County, owns certain real property located at 2250 Adamson Road, Cocoa, 410 ft (north and south) by 660 ft (east and west) for 6.37 acres, plus 75 ft (north and south) by 1,643 ft (east and west) plus 75 ft (east and west) by 820 ft (north and south) for 4.75 acres. The Premises is part of the parcel of land identified on tax parcel map I.D. 24-35-16-00-00752.0-0000.00 lying in a portion of the south ½ of the southeast ¼ of section 16, township 24 south, range 35 east, Brevard County, Florida; and

**WHEREAS**, Brevard Energy LLC, a limited liability company incorporated under the laws of the State of Florida, hereinafter referred to as "Brevard Energy", desires to lease said Property for the purposes of selling landfill gas produced at the Central Disposal Facility for the production of electricity or pipeline quality natural gas, pursuant to the terms set forth in the lease attached in Exhibit "A"; and

**WHEREAS**, Brevard County wishes to lease the Property to Brevard Energy for the above-stated purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

1. Brevard County hereby agrees to lease the Property to Brevard Energy pursuant to the terms set forth in the lease attached as "Exhibit A".
2. Brevard County has determined that the Property is not needed for County purposes at this time and that it is in its best interest to enter into the lease for said purposes.
3. The County will enter into a lease with Brevard Energy beginning on the date of the Board approval of the Lease Contract for a term of 25 years.
4. The consideration for the Lease Contract will be \$59,100.00 per year, escalated at the national Consumer Price Index ("CPI") every 12 months.
5. This Lease Contract will supersede and replace the original Lease Agreement with Brevard Energy currently in place.
6. In the event that the property is not used for the intended purpose or ceases to be used for the intended purpose, the property shall immediately revert to the County which shall thereafter have the right to re-enter and repossess the property.

DONE, ORDERED and ADOPTED in Regular Session this 24th day of January, 2023.

ATTEST

  
Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
Rita Pritchett, Chair

As approved by the Board on January 24, 2023

**EXHIBIT A**  
**LEASE CONTRACT**

AN APPRAISAL OF A  
PARCEL OF LAND  
WITHIN THE BREVARD COUNTY  
LAND FILL LOCATED AT  
2250 ADAMSON ROAD  
COCOA, BREVARD COUNTY,  
FLORIDA

WHB FILE #15389

**w.h. benson & company**  
**real estate valuation & consulting**  
**licensed real estate broker**

4780 Dairy Road, Suite 103

Melbourne, FL 32904

Tel: (321) 984-0999

Fax: (321) 984-9796

August 23, 2022

WHB File #15389

Brevard Energy, LLC.  
Mr. Steven Gabrielle, COO  
1605 North Cedar Crest Boulevard, Suite 509  
Allentown, PA 18104

SUBJECT: AN APPRAISAL OF A PARCEL OF LAND LOCATED WITHIN THE BREVARD  
COUNTY LAND FILL LOCATED AT 2250 ADAMSON ROAD, COCOA, BREVARD  
COUNTY, FLORIDA

Dear Mr. Gabrielle,

In accordance with your request, the undersigned have made an appraisal of the above-referenced property for the purpose of estimating the annual fair market rent for the subject property. The appraisal addresses the fee simple interest in the real property, free and clear of encumbrances.

The undersigned have conducted a site investigation of the subject property on August 10, 2022 and all factors that influence its value. After thorough consideration, it is the opinion of the undersigned that the "As Is" Market Rent for the subject property is well represented as indicated on the Certificate of Appraisal, subject to conditions addressed in this report. Please note that we have not provided any prior real estate services on the subject property.

It should also be noted that this appraisal and report comply with the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal also conforms to the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute and the Requirements for State Certified Appraisers of the State of Florida.

This report details the process by which we reached that estimate and includes all supporting data, analyses and conclusions upon which this value estimate is based. If you have any questions regarding the appraisal, please contact us.

Sincerely,



Michael Morin  
Cert Gen #RZ 3281



William H. Benson, MAI, CCIM  
Cert Gen #RZ 1027



## **CERTIFICATION OF APPRAISAL**

This appraisal report contains 38 pages, plus attachments. The undersigned certify that to the best of the undersigned's knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are the personal, impartial, unbiased, professional analyses, opinions and conclusions of the undersigned.
3. The undersigned have no present or prospective interest in the property that is the subject of this report and no personal interest or bias in respect to the parties involved.
4. The undersigned have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
5. The engagement of the undersigned in this assignment was not contingent upon developing or reporting predetermined results.
6. The compensation of the undersigned is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
7. The analyses, opinions and conclusions of the undersigned were developed and this report has been prepared in conformity with the current edition of the Uniform Standards of Professional Appraisal Practice (USPAP) of the Appraisal Foundation, with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute, the Supplemental Appraisal Standards of the Board of Trustees Land, and with the Requirements for State Certified Appraisers of the State of Florida.
8. No one provided significant real property appraisal assistance to the undersigned.
9. This report and its use is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives, and to the requirements of the State of Florida relating to review by the Florida Real Estate Appraisal Board.
10. William H. Benson, MAI, CCIM, and Michael Morin have the knowledge and experience on the type of property appraised to meet the USPAP Competency Provision.

11. As of the date of this report, William H. Benson, MAI, CCIM, has completed the requirements of the Continuing Education Program of the Appraisal Institute.

12. The undersigned made personal inspection of the property that is the subject of this report.

13. The undersigned have not provided any valuation and/or other professional real estate services regarding the subject property.

The undersigned do hereby certify that, after request for valuation by:

Brevard Energy, LLC.  
Mr. Steven Gabrielle, COO  
1605 North Cedar Crest Boulevard, Suite 509  
Allentown, PA 18104

that the undersigned have completed an appraisal of the property described in this report, WHB File #15389 and our opinion of the annual market rent of the subject property on August 13, 2022 subject to attached subject to attached hypothetical conditions and limiting conditions, was:

MARKET RENT:

**THIRTY NINE THOUSAND & FOUR HUNDRED DOLLARS**

**\$39,400**

Sincerely,



Michael Morin  
Cert Gen #RZ 3281



William H. Benson, MAI, CCIM  
Cert Gen #RZ 1027

DATE PREPARED: August 23, 2022  
WHB FILE: #15389

## **EXECUTIVE SUMMARY**

### **PROJECT IDENTIFICATION**

Name: Land Lease Parcel As Part Of The Brevard County Landfill  
Location: 2250 Adamson Road, Cocoa, FL 32926  
WHB FILE NUMBER: 15389  
PARCEL IDENTIFICATION 24-35-16-00-2  
DATE OF VALUE: August 10, 2022  
DATE OF REPORT: August 23, 2022  
INTEREST APPRAISED: Fee Simple  
SUBJECT DESCRIPTION:

The subject of this appraisal is a portion of a larger 957.15 acre parcel that is a Brevard County land fill. The subject property is intended to be ground leased from the current ownership. The site sketch of the legal descriptions show a Parcel A and a Parcel B which are contiguous. Parcel A is 6.37 acres and is 410.00 feet by 659.43 feet. Parcel A has 605.00 and 335.00 feet of frontage on internal dump roads. Parcel B is 4.75 acres with 820 feet of Adamson Road frontage. Parcel B is 75 feet in width and 1,528 feet of depth off Adamson Road. Parcel B will be utilized for subsurface utility lines. The subject property, as a whole is 11.12 acres.

### **SIZE**

Parent Parcel	Parcel A	Parcel B	As A Whole
957.15 acres	6.37 acres	4.75 acres	11.12 acres
41,693,454 SF	277,477 SF	206,910 SF	484,387 SF

### **OWNERSHIP HISTORY:**

The subject larger parcel was acquired in July 1966 for an indicated consideration of \$79,600 as recorded in ORB 0886/Pg 0412 records of Brevard County.

### **ZONING**

Ind - Industrial (See Hypothetical Condition)

### **FUTURE LAND USE:**

Ind - Industrial (See Hypothetical Condition)

### **ASSESSED VALUE:**

The 2022 assessed value for the larger parcel is \$5,684,990 as improved.

### **UTILITIES:**

Water service is provided by the City of Cocoa. Electric service is provided by FPL.

### **IMPROVEMENTS**

Parcel A is improved with a building. The building description is being excluded from the appraisal and the improvements will not be valued, pursuant to the scope of work requested.

### **FEMA FLOOD ZONE(S):**

The subject Land Lease Parcel is within Flood Zone X . Zone X is outside an area of flood risk. Map Panel #12009C0325G dated 3/17/2014

### **EASEMENTS:**

No known easements exist which would impact utility of site.

### **HIGHEST AND BEST USE:**

The highest and best use of the subject parcel is development for industrial use.

### **OPINION(S) OF VALUE:**

Annual Market Rent \$39,400

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## **APPRAISAL REPORT**

This appraisal is intended to comply with the reporting requirements set forth by the Uniform Standards of Professional Appraisal Practice. As such, it presents substantially complete discussions of the data, reasoning, and analyses that were used in the appraisal process to develop our opinion of value. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated below. The appraiser is not responsible for unauthorized use of this report.

### **CLIENT**

Brevard Energy, LLC.  
Mr. Steven Gabrielle, COO  
1605 North Cedar Crest Boulevard, Suite 509  
Allentown, PA 18104

### **APPRAISER**

Michael Morin  
State-Certified General Appraiser #RZ 3281

William H. Benson, MAI, CCIM  
State-Certified General Appraiser #RZ 1027

W.H. Benson & Company  
4780 Dairy Road, Suite 103  
Melbourne, FL 32904

### **SUBJECT PROPERTY IDENTIFICATION**

The street address and the Brevard County Tax Appraiser data for the larger parcel are as follows:

2250 Adamson Road  
Cocoa, Brevard County  
Florida 32926

#24-35-16-00-2

## **SCOPE OF THE APPRAISAL**

USPAP defines the Scope of Work as, "the type and extent of research and analyses in an assignment". According to the Scope of Work Rule, in each appraisal, appraisal review, and appraisal reporting assignment, an appraiser must:

- Identify the problem to be solved;
- Determine and perform the scope of work necessary to develop credible assignment results; and
- Disclose the scope of work in the report.

The scope of work includes but is not limited to:

- The extent to which the property is identified;
- The extent to which the tangible property is inspected;
- The type and extent of the data researched; and
- The type and extent of analyses applied to arrive at opinions or conclusions.

The *Scope of Work* performed must be sufficient to develop credible assignment results. For this appraisal assignment, the appraisers performed the following tasks to complete this appraisal assignment in a competent manner and to be in compliance with the current edition of the Uniform Standards of Professional Practice (USPAP).

**Identification of Appraisal Problem:** The appraisal problem and purpose of this appraisal report was to estimate the annual market rent of the subject property.

**Property Identification:** The subject property was identified by the Brevard County Tax Appraiser, sketch of legal description, and mapping included in this appraisal report, along with other exhibits gathered during the appraisal assignment research.

**Property Inspection:** A physical inspection of the subject property and surrounding neighborhood was conducted on August 10, 2022.

**Data Research:** We gathered detailed information regarding the subject property from various sources including the client, property owner, and various government sources. The type of data gathered included zoning, taxes, flood, hazard areas, availability of utilities and all relevant subject property data available. Sources searched for market data included public records and other third party data service providers along with data from other real estate appraisers and market participants.

**Analyses Developed to Form the Opinions of Value:** These analyses resulted in forming an opinion of highest and best use based on all known facts including physically possible uses, legal uses, our observations of market behavior, and analysis of economically feasible uses. Economic demand is evident and measurable.

All three approaches have been considered in the context of highest and best use. Appraiser's estimate property value with specific appraisal procedures which reflect three distinct methods of data analysis – cost, sales comparison and income capitalization. One or more of these approaches are used in all appraisals. The approaches employed depend on the type of property, the highest and best use and the quality and quantity of data available for analysis. Further, the appraiser considers which analyses would be relied upon by market participants. For the purpose of this appraisal we have applied the applicable approaches to value that would provide reliable indications of value and which would be considered meaningful by market participants.

### **INTENDED USE AND USER OF THE APPRAISAL**

The intended use of this appraisal is to assist the client in internal decision making with respect to leasing the subject parcel. The client is Brevard Energy, LLC. c/o Mr. Steven Gabrielle. There are no other intended users entitled to rely on this report.

### **DEFINITION OF MARKET VALUE\***

The term "market value", as used in this context, is defined as follows:

MARKET VALUE -- The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in United States dollars or terms of financial arrangements comparable thereto; and

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\* Supplemental Appraisal Standards for the Board of Trustees, Division of State Lands, Bureau of Appraisal, Florida Department of Environmental Protection, December 2012.

5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

### **DEFINITION OF MARKET RENT**

The term "market rent", as used in this context, is defined as follows: The rental income that a property would most probably command in the open market<sup>1</sup>

The concept of market rent fundamentally implies similar conditions requisite to a fair rental rate negotiation as are recited in the definition of market value. For the purposes of this market research the definition of market rent relied on pursuant to the Uniform Appraisal Standards for Federal Land Acquisitions is paraphrased as follows:

Market *rent* is the amount in the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have *rented/leased* on the effective date of the market research, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable *lessor* to a willing and reasonably knowledgeable *lessee*, with neither acting under any compulsion to *lease*, giving due consideration to all available economic uses of the property at the time of the market research.

### **DATE OF VALUE**

The date of value of this appraisal is August 10, 2022. The property was inspected August 10, 2022. The report was completed on August 23, 2022.

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<sup>1</sup> Appraisal of Real Estate, Appraisal Institute



## **HYPOTHETICAL CONDITIONS**

1. The subject property is in government ownership and has a zoning of GML – Government Managed Land and a future land use of PUB - Public use. For the purpose of this report and pursuant to the scope of work we are assuming that the subject property has been rezoned for industrial use. The industrial designation would be appropriate if in private ownership given the location within the land fill. This hypothetical condition is necessary for a market value estimate based on an economic use. The Hypothetical Condition is contrary to what is known to exist. Subject to the current zoning and future land use, the subject has limited economic use in the private sector. The reader is cautioned that the valuation may be significantly different based on current zoning and future land use without this Hypothetical Condition.

## **EXTRAORDINARY ASSUMPTIONS**

1. We are relying on a sketch of the legal descriptions from Peavey & Associates dated August 22, 2022 which show the Parcel A and Parcel B. We are relying on that document for parcel size and dimensions of the subject parcel. The reader is cautioned that the value may be subject to revision if the subject parcel size, as indicated, is found to substantially different by survey.
2. We were provided a copy of the proposed ground lease. The intent of the lease is to convey to the grantee, Brevard Energy, LLC, the right and privilege to use Parcel A for 100% of the surface use for the existing improvements and Lessee's continued use of landfill gas. The lease would provide to the grantee, Brevard Energy, LLC, the right and privilege to use Parcel B to construct and maintain sub surface utility lines. The property owner would retain certain limited rights to the surface area of Parcel B for utility lines. The reader is cautioned that the value may be subject to revision if the lease terms vary substantially.

## **INTEREST VALUED**

This appraisal addresses the fee simple interest in the subject property "As Is".

## **LEGAL DESCRIPTION**

The legal description is part of the sketch of the legal description.

### **PARCEL A - DESCRIPTION**

That part of South Half of Section 16, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows: BEGIN at the Northwest corner of the South Half of the Southeast Quarter of Section 16, Township 24 South, Range 35 East, Brevard County, Florida; said point having a Northing of 1475584.32 and Easting of 711120.22; thence North 90°00'00" East a distance of 659.43 feet; thence South 00°00'00" East a distance of 410.00 feet; thence South 90°00'00" West a distance of 605.00 feet to the beginning of a curve concave to the northeast having a radius of 75.00 feet; thence northwesterly along said curve to the right through a central angle of 90°00'00"; an arc distance of 117.81 feet (chord=106.07 feet bearing=North 45°00'00" West); thence North 00°00'00" West a distance of 335.00 feet; thence North 90°00'00" East a distance of 20.57 feet to the Point of Beginning.

### **PARCEL B - DESCRIPTION**

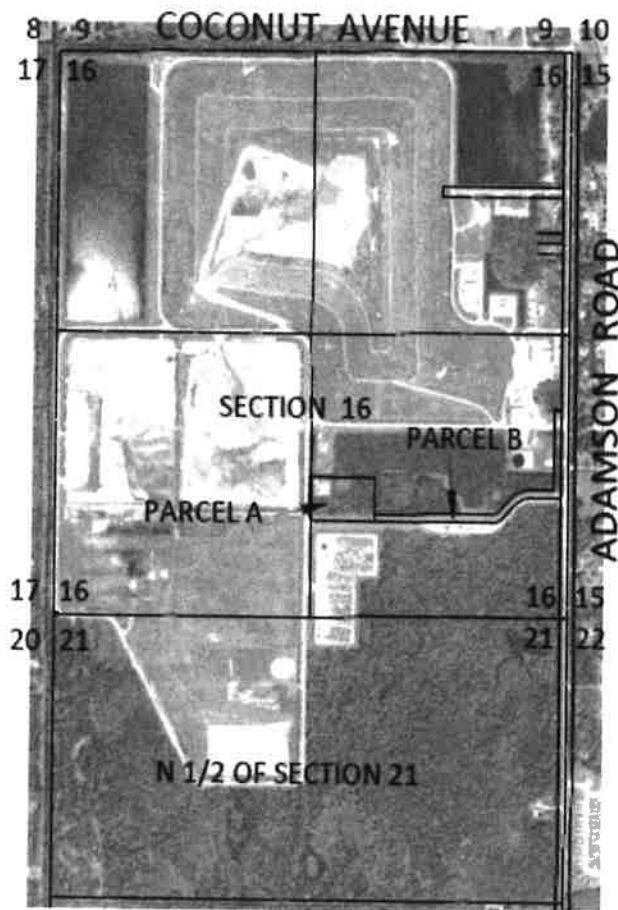
That part of South Half of Section 16, Township 24 South, Range 35 East, Brevard County, Florida, being more particularly described as follows: Commence at the Northwest corner of the South Half of the Southeast Quarter of Section 16, Township 24 South, Range 35 East, Brevard County, Florida; said point having a Northing of 1475584.32 and Easting of 711120.22; thence North 90°00'00" East a distance of 659.43 feet; thence South 00°00'00" East a distance of 410.00 feet to the POINT OF BEGINNING; thence North 90°00'00" East a distance of 425.00 feet; thence North 87°13'13" East a distance of 110.00 feet; thence North 90°00'00" East a distance of 674.57 feet to the beginning of a curve concave to the northwest having a radius of 185.00 feet; thence northeasterly along said curve concave to the left through a central angle of 44°48'02"; an arc distance of 144.65 feet; (chord=141.00 feet bearing=North 67°35'59" East); thence North 45°11'58" East a distance of 145.31 feet to the beginning of a curve concave to the southeast having a radius of 285.00 feet; thence northeasterly along said curve to the right through a central angle of 44°48'02"; an arc distance of 222.85 feet; (chord= 217.21 feet bearing=North 67°35'59" East); thence North 90°00'00" East a distance of 290.44 feet to the West right of way line of Adamson Road (150' right of way); thence North 00°01'22" West along said West right of way line a distance of 820.00 feet; thence South 90°00'00" West a distance of 75.00 feet; thence South 00°01'22" East a distance of 745.00 feet; thence South 90°00'00" West a distance of 215.41 feet to the beginning of a curve concave to the southwest having a radius of 360.00 feet; thence southwesterly along said curve to the left through a central angle of 44°48'02"; an arc distance of 281.49 feet; (chord=274.37 feet bearing=South 67°35'59" West); thence South 45°11'58" West a distance of 145.31 feet to the beginning of a curve concave to the northwest having a radius of 110.00 feet; thence southwesterly along said curve to the right through a central angle of 44°48'02"; an arc distance of 86.01 feet; (chord=83.84 feet bearing=South 67°35'59" West); thence South 90°00'00" West a distance of 676.39 feet; thence South 87°13'13" West a distance of 110.00 feet; thence South 90°00'00" West a distance of 423.18 feet; thence South 00°00'00" East a distance of 75.00 feet to the POINT OF BEGINNING.

## **GENERAL AREA DESCRIPTION**

The subject property is located in Brevard County, Florida. A copy of the General Area Description is included in the addenda section of the report.

## **NEIGHBORHOOD DESCRIPTION**

The subject neighborhood is defined as the area west of I-95, north of SR 524, east of Adamson Road, and south of SR 528. The location is within unincorporated Brevard County.



The land uses within the immediate area surrounding the subject property is primarily residential in nature and is a mix of residential subdivisions and rural residential uses. The neighborhood is influenced significantly by the 957.15 acre Brevard County land fill located on the west side of Adamson Road.

The primary transportation routes are SR 520 and SR 524 which connect Cocoa to Orlando and I-95 which connects the primary cities along the eastern seaboard. Adamson Road is a collector roadway servicing the residential uses north of SR 520 and the land fill. Adamson Road terminates in Canaveral Groves, which is an older established rural residential subdivision of primarily 1 acre home sites.

Commercial support/services are located along the primary commercial corridors. A new 500,000 SF Wal-Mart distribution center was developed at SR 524 & I-95, Sams Club is at SR 520 & I-95, and Wal-Mart is located at SR 524 and SR 528 interchange. In general, the neighborhood is centrally located.

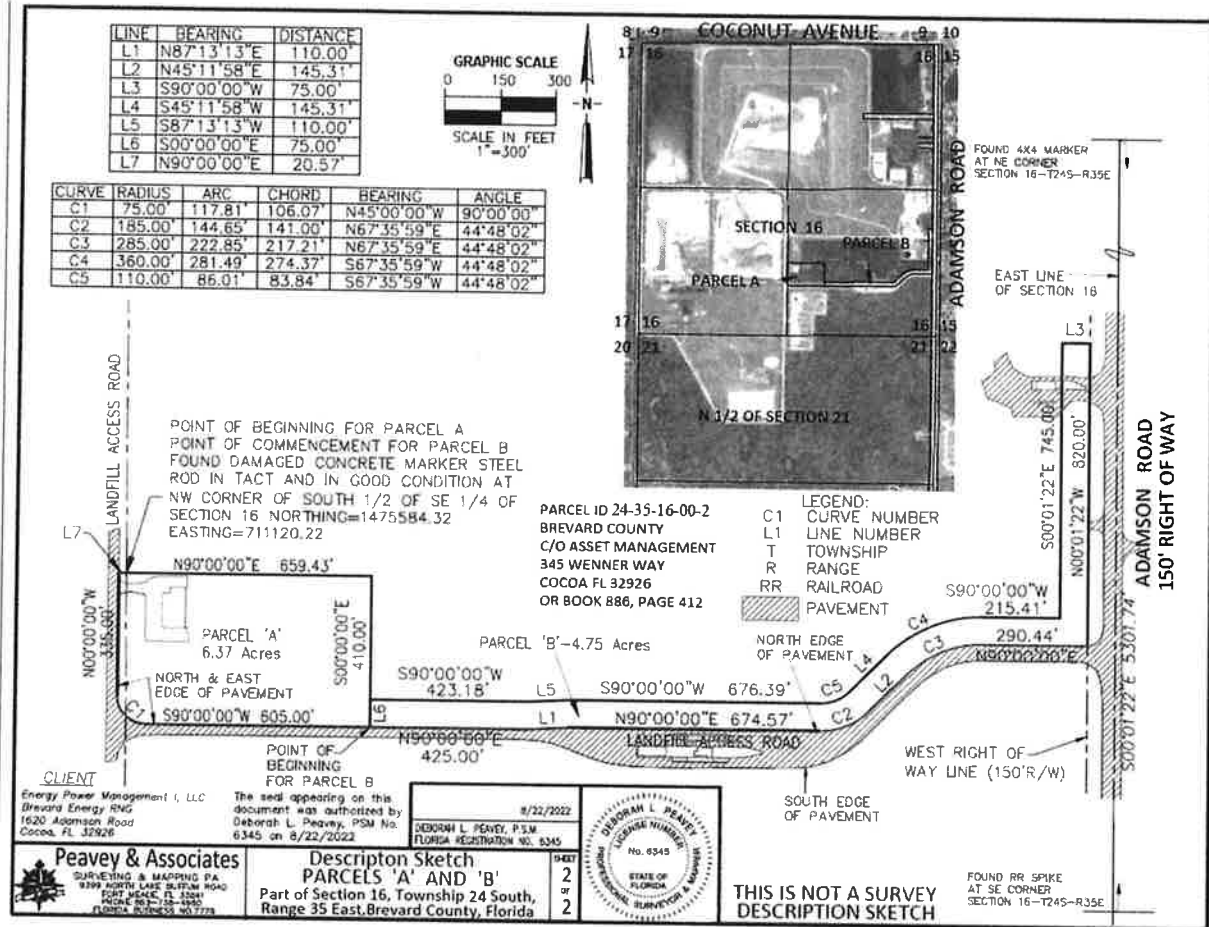
## **SUBJECT PROPERTY DESCRIPTION**

The subject of this appraisal is a portion of a larger 957.15 acre parcel that is a Brevard County land fill. The subject property is intended to be ground leased from the current ownership. The site sketch of the legal descriptions shows a Parcel A and a Parcel B which are contiguous. Parcel A is 6.37 acres and is 410 feet by 659.43 feet. Parcel A has 605 feet and 335 feet of frontage on internal dump roads. Parcel B is 4.75 acres with 820 feet of Adamson Road frontage. Parcel B is 75 feet in width with approximately 1,528 feet of depth off Adamson Road. Most of this corridor is cleared and filled north of the existing paved access road. No measurable area of wetlands are noted within Parcel B. Parcel B will be utilized for subsurface utility lines.

	Parcel A	Parcel B	As A Whole
Gross Acres	6.37 acres	4.75 acres	11.12 acres

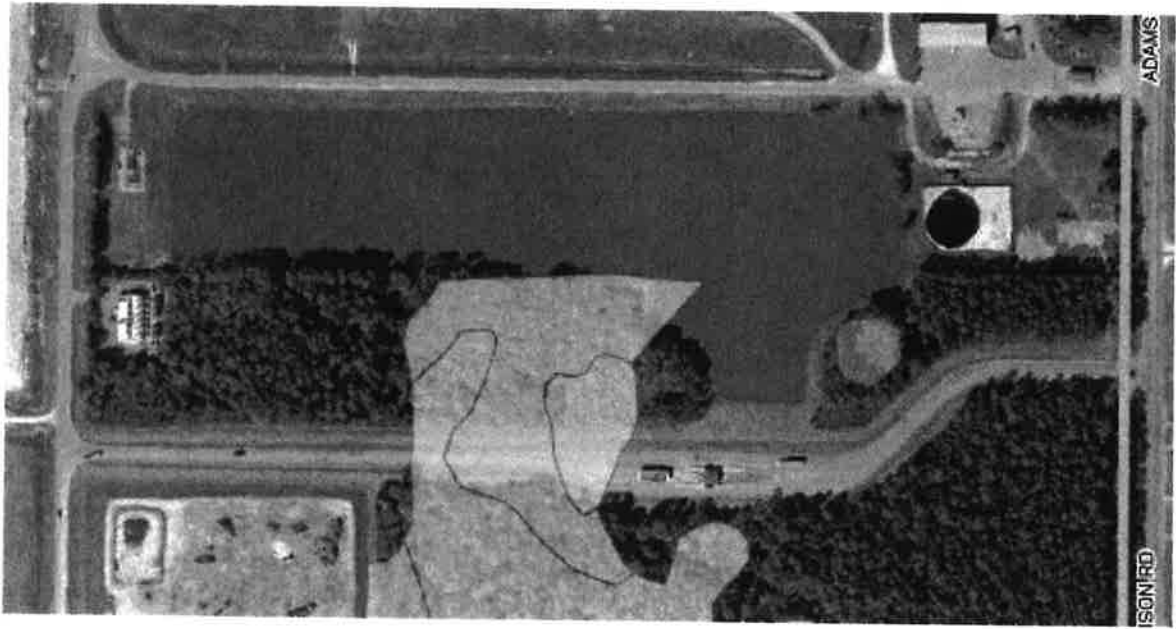
Parcel A is 6.37 acres and is heavily wooded with the exception of the developed area. Parcel A is 100% uplands. Parcel B is substantially cleared along the north side of the existing road.





### TOPOGRAPHY/SOILS COVER:

The subject is level and near road grade. Approximately 1.1 acres is wetlands with depressional Anclote Soils. The remainder of the subject property is uplands with sandy soils. The subject property is heavily wooded.



Wetland Map



Soil Map

### FLOOD ZONE

The Firm Panel12009C0325 G dated 3/17/2014 indicates the subject as being in Flood Zone "X" which is outside the flood plain.

Address (from parcels)	1620 ADAMSON RD
FEMA Data Source	DFIRM - Digital Flood Information Rate Map
Inside Special Flood Hazard Area?	INSIDE SPECIAL FLOOD HAZARD AREA OUTSIDE SPECIAL FLOOD HAZARD AREA OUTSIDE SPECIAL FLOOD HAZARD AREA
Risk Level	HIGH RISK AREAS MODERATE RISK AREAS MODERATE TO LOW RISK AREAS
Flood Zone(s)	A X500 X
Description(s)	A = 100-YEAR FLOODPLAIN X500 = 500-YEAR FLOODPLAIN X = OUTSIDE FLOODPLAIN
Base Flood Elevation	N/A N/A N/A
NFIP Community Name	Brevard County
County	BREVARD
State	Florida
NFIP Community Number	125092
NFIP Map Number or Community Panel Number	12009C0325G
Inside CBRA?	FALSE



## **SUBJECT PHOTOS**



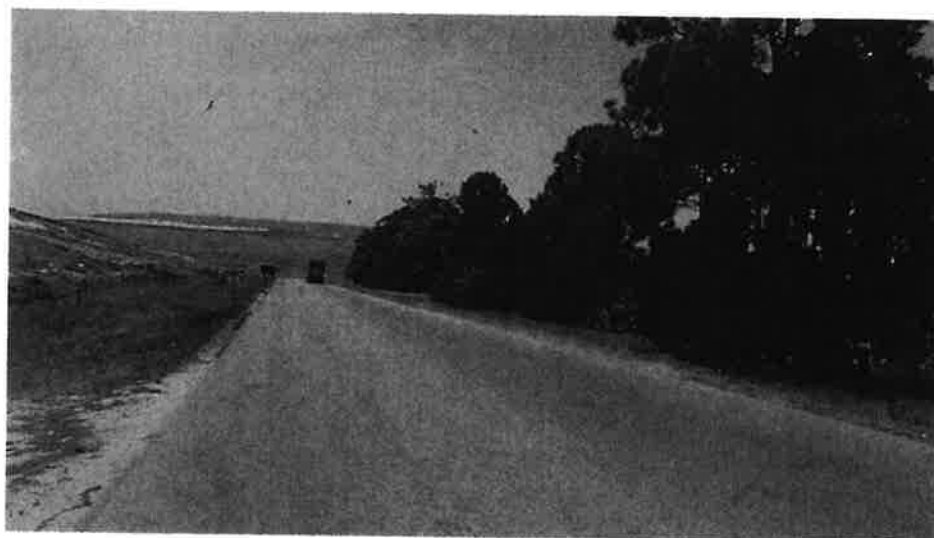
1. ADAMSON ROAD LOOKING SOUTH. SUBJECT FRONTAGE ON RIGHT



2. LOOKING WEST IN THE DIRECTION OF PARCEL B

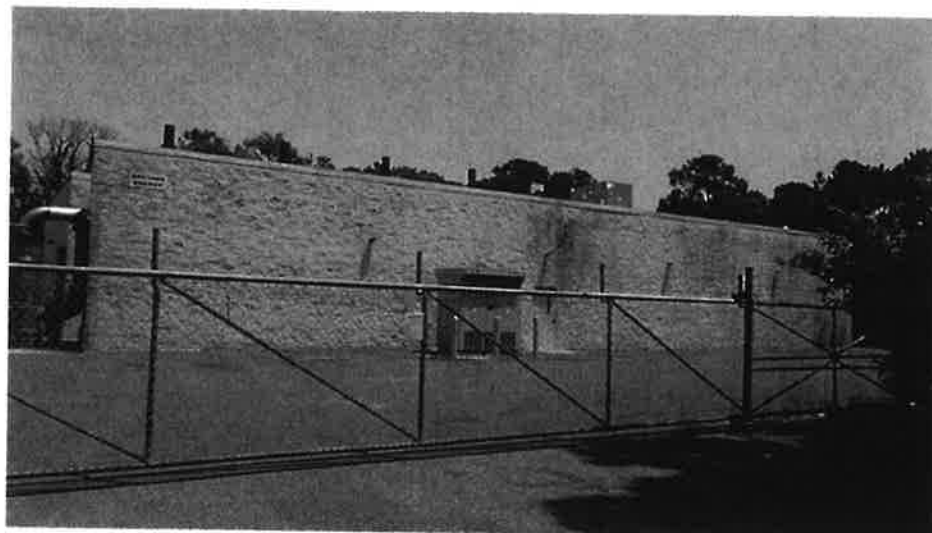


3 RETENTION LAKE THAT IS ADJACENT TO PARCEL B.



4. PARCEL A FRONTAGE ON DUMP ROAD.





5. BUILDING LOCATED ON PARCEL A.

### **IMPROVEMENTS:**

The subject property is improved with a building. Pursuant to the scope of work requested, we are not including the building improvements in the description of the property or as part of the valuation.

### **SITE SUMMARY**

The following table summarizes relevant information regarding the subject parcel. Please refer to the subject photographs, tax maps, and aerial photograph depicting the site included in the Exhibit Section of this report.

### **SUBJECT PARCEL SITE SUMMARY**

Location/Address:	2250 Adamson Road
City:	Cocoa
County:	Brevard County
State:	Florida 32926
<u>SIZE</u>	Parcel A                      Parcel B                      As A Whole
	6.37 Acres                      4.75 Acres                      11.12 Acres
	277,477 SF                      206,910 SF                      484,387 SF
Shape:	The Land Lease Parcel is rectangular in shape.
Topography:	Generally Level
FEMA Flood Zone:	X
FEMA Map Panel Number:	12509C0325G - Dated March 17, 2014
Street Frontage:	Adamson Road
Site Area & Dimensions Source:	Site Sketch and Tax Appraiser Mapping
Adjacent Property Uses	
North:	Land Fill
South:	Land Fill
East:	Residential Land
West:	Land Fill
Zoning:	Ind - Industrial (See Hypothetical Condition)

### **REAL ESTATE MARKET CONDITIONS**

Overall market conditions stabilized with some markets out performing others and continued improvement into 2022 is evident. Sale prices have shown signs of continued improvement since 2016 with shorter marketing times and less available inventory. Lease rates have also stabilized and have improved within some sub-markets. The supply of available improved properties at competitive prices has been substantially reduced and improving market conditions are evident.

The COVID-19 pandemic impacted the economy nationally from March 2020 to date. The local real estate market has been impacted negatively with most severe impacts to retail, restaurants, bars and motels. The tourist industry has also been impacted with signs of recovery evident as of the date of this appraisal. The general consensus of real estate market participants is that the impacts from the COVID-19 were short term and the economy has recovered as is reflected in the recent stock market recovery and real estate market recovery. As of the date of this appraisal, no measurable impact is evident in the industrial real estate market. Retail and

restaurants and tourism were most impacted due to travel restrictions and social distancing requirements but have also substantially recovered. There is no evidence of any negative impact to the subject submarket.

### **PROPOSED LEASE**

We were provided a copy of the proposed ground lease. The intent of the lease is to convey to the lessee, Brevard Energy, LLC., the right and privilege to use Parcel A for the existing improvements and Lessee's continued use of products generated using landfill gas. The lease would provide to the lessee, Brevard Energy, LLC., the right and privilege to use Parcel B to construct and maintain sub surface utility lines. The property owner (lessor) would retain certain limited rights to the surface area of Parcel B for future placement of utility lines when and if needed. The reader is cautioned that the value may be subject to revision if the lease terms vary substantially.

### **TAX ASSESSMENTS**

Based on the Brevard County Tax Collector records, the subject property is not assessed independently. The larger parcel tax info as developed is included as follows.

#### **Real Estate Taxes and Assessments**

Subject Tax Parcel	2022
Tax Acct #	24-35-16-00-2
Assessment	\$5,684,990
Millage Rate	14.1490
Taxes	\$80,437
Non Advalorem	\$9,375
Total	\$89,812
The subject larger parcel is in government ownership and is tax exempt.	

### **OWNER OF RECORD/SALES HISTORY**

The current owner of record for the subject site is as follows:

Brevard County  
345 Wenner Road  
Cocoa, FL 32926

The subject larger parcel was acquired in July 1966 for an indicated consideration of \$79,600 as recorded in ORB 0886/Pg 0412 records of Brevard County. The parent parcel is not listed for sale. No offers or contracts are pending.

## **ZONING AND FUTURE LAND USE**

The subject parent parcel is currently zoned Government Managed Land - High-Intensity (GML-H) by Brevard County. The current future land use designation is public (PUB). Based on the hypothetical condition upon which this appraisal is based, we are assuming an industrial zoning and future land use. This would be the most appropriate private sector use. See hypothetical condition.

The provisions of the industrial district are intended to preserve the function of various industrial activities, warehousing and distribution without creating hazards or negatively influencing surrounding land uses. This district shall be located in areas accessible to collector or higher classification roadways and be served by public services and facilities. These districts shall be discouraged from locating next to areas designated for residential or low-intensity commercial uses.

### **Zoning Summary \***

Zoning District	Ind - Industrial
Overlay District	None
Zoning Jurisdiction	Cocoa
Future Land Use	Ind - Industrial
Development Requirements	
Minimum Lot Size	20,000 SF
Minimum Lot Width	100 feet
Maximum Building Height	60 feet
Minimum Building Setbacks	
Front	25 feet
Rear	15 feet
Side	0 feet
Side (corner)	15 feet
* See Hypothetical Condition	

## **UTILITIES**

Municipal water is provided by the City of Cocoa. Sewer service is provided by septic systems. Police and fire protection are provided by Brevard County. Electric service is provided by Florida Power and light.

## **HIGHEST AND BEST USE**

The estimate of highest and best use is concerned with an analysis of alternative uses which are legal, possible, financially feasible, consistent with neighborhood development and land use and which result in an optimum, hopefully highest, financial return to the owner. The analysis focuses upon four general criteria; physically possible, legally permissible, financially feasible, and maximally productive. The discussions to this point are germane to the highest and best use conclusions.

### **AS VACANT**

Legally Permissible – The subject Land Lease Parcel (hypothetical condition) is assumed to have zoning and future land use which permits industrial uses.

Physically Possible – The subject parcel has access from Adamson Road. The subject Parcel A is 6.37 acres with good configuration and Parcel B is 4.75 acres and is 75 feet wide by approximately 1,528 feet deep. The property is physically capable of supporting a mid sized industrial project.

Financially Feasible - Maximally Productive – The property is located within the Brevard County Land Fill and is in an area that could support an industrial use compatible with the land fill use. The financially and maximally productive use of the site, given all known market data, is deemed to be future industrial development.

### **Highest and Best Use Conclusion**

Based on the physical characteristics, regulatory considerations, and all other factors which influence the conclusion of highest and best use, it is our opinion that the highest and best use of the subject is considered to be future industrial development. Determining the optimum use and timing for development is beyond the scope of this appraisal.

## **SUMMARY OF ANALYSIS AND VALUATION**

The sales comparison (market) approach has been developed to estimate the value of the subject parcel. The income capitalization approach and the cost approach were considered but are not considered relevant because the subject property is vacant land and these approaches are not applicable.

In the course of this analysis we will evaluate the property based on a price per upland acre of land area as the unit of comparison.

## **THE SALES COMPARISON APPROACH**

The estimate of the land value for the subject parcel will be developed from analysis of land sales in the competitive area which possess similar potential utility. We reviewed a number of sales and listings of parcels similar to the subject and have selected the following sales which were considered the most applicable to this analysis.

## **DISCUSSION OF ADJUSTMENTS**

All of these data are understood to be representative of "arms length" sales to end users unless discussed otherwise. The sales were compared to the subject property and adjusted for differences where necessary.

Terms - All of the comparable sales were purchased for cash or with market-oriented financing terms which are felt to be comparable to competitive market rates. The sales (prices) are not influenced by terms of sale.

Conditions of Sale – All of the sales are believed to be representative of "Arm's Length" transactions and no adjustments for conditions of sale are applicable.

Market Conditions (Time) –All sales are representative of current market conditions. Given upward trends, emphasis will be placed on the most recent sales.

Location – Differences in location are considered for each sale relative to the subject. This factor relates to general location characteristics, as opposed to site specific factors, such as frontage or access. The subject is located within the boundaries of the Brevard County Land Fill. This would be a negative influence for residential uses and/or other commercial uses. However, for industrial uses, it is not considered a measurably negative influence and may in fact be a positive influence in terms of permitting heavy industrial uses. The sales will be evaluated accordingly.



Access/Exposure – Potential development sites benefit from adequate road frontage and/or corner locations which provides access to the property, as well as a “marketing window” which provides exposure to the site. The sales will be adjusted accordingly.

Size - An analysis of many sales that are reasonably similar in location and other characteristics indicate that as size increases, the unit price tends to decrease. This is comparable to the retail versus the wholesale prices of other commodities. Size will be a consideration in the discussions to follow.

Topography - An analysis of many sales that are reasonably similar in location and other characteristics indicate that topography and or presence of wetlands have an impact on the development potential of a site. Topography will be a consideration in the discussions to follow.

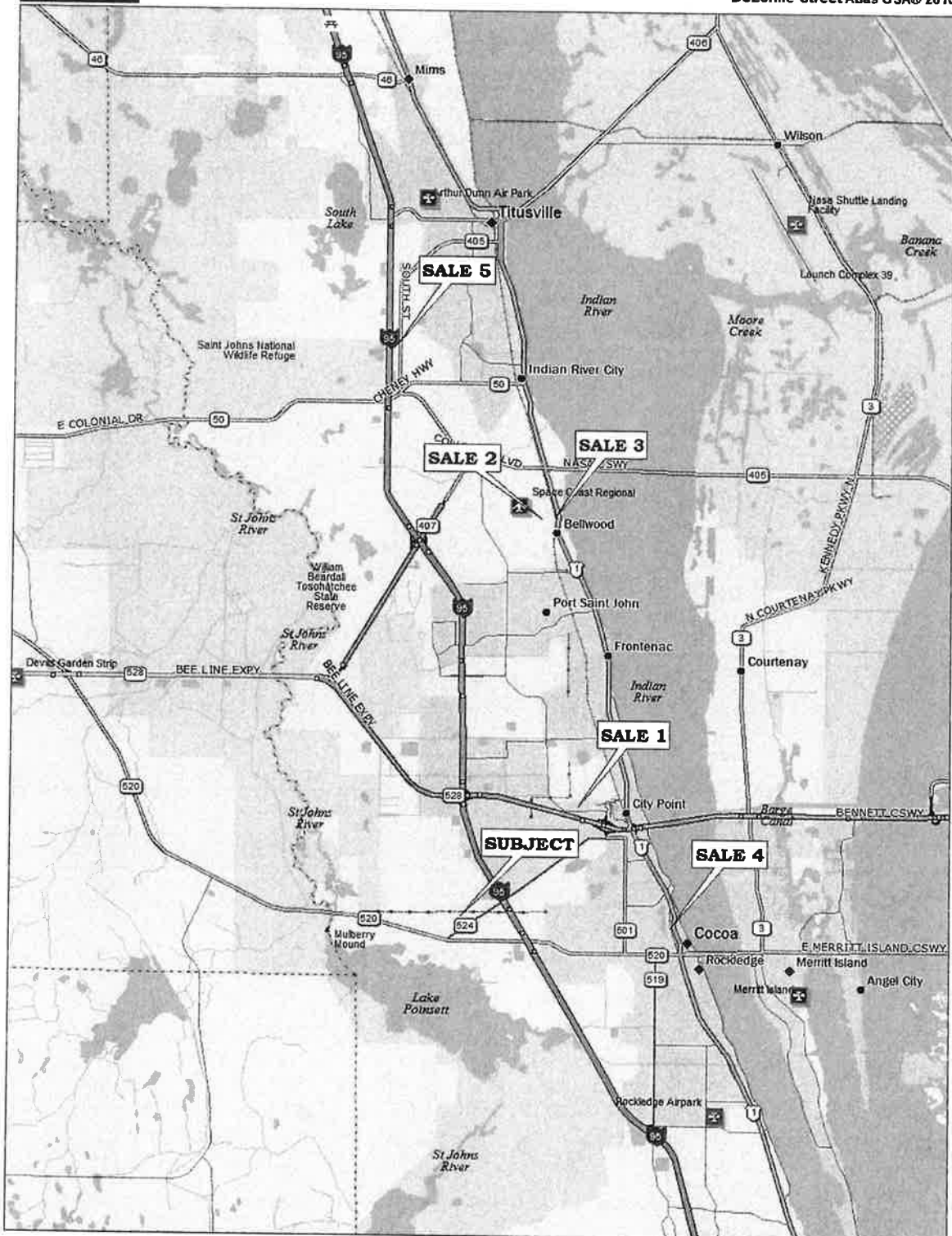
Configuration - An analysis of many sales that are reasonably similar in location and other characteristics indicate that configuration has an impact on the development potential of a site. Configuration will be a consideration in the discussions to follow..

The following sales have been selected as being most representative of the subject property.

**COMPARABLE LAND SALES SUMMARY TABLE**

No.	Location	Sale Date	Price	Size in Acres	Price/ Acre	Price/ Upland Acre
1.	Grissom Prkwy (Off Of), Cocoa	06/02/2022	\$260,000	7.420	\$35,040	\$49,904
2.	Golden Knights Blvd, Titusville	08/07/2022	\$465,000	5.650	\$82,301	\$82,301
3.	Golden Knights Blvd, Titusville	05/06/2021	\$725,000	10.000	\$72,500	\$72,500
4.	Plaza Parkway, Rockledge	03/18/2021	\$160,000	3.200	\$50,000	\$50,000
5.	South Street, Titusville	05/16/2022	\$497,000	8.930	\$55,655	\$76,344

A general sales map identifying the sales is as follows:



Data use subject to license.

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www.delorme.com



Data Zoom 10-0

## Land Sale No. 1



### Property Identification

<b>Record ID</b>	851
<b>Property Name</b>	Industrial Acreage
<b>Address</b>	Grissom Parkway (Off Of), Cocoa, Brevard County, Florida
<b>Tax ID</b>	2404116

### Sale Data

<b>Grantor</b>	Diversified Holdings of Canaveral Inc
<b>Grantee</b>	Kabboord Gen 3 LLC
<b>Sale Date</b>	June 02, 2022
<b>Deed Book/Page</b>	9534/840
<b>Property Rights</b>	Fee Simple
<b>Conditions of Sale</b>	Arms Length
<b>Verification</b>	Remax - Paul Hayhurst; 321-423-5018, MLS #920264

<b>Sale Price</b>	\$260,000
<b>Cash Equivalent</b>	\$260,000

### Land Data

<b>Zoning</b>	Industrial
<b>Topography</b>	Level
<b>Utilities</b>	Water, Sewer, Electric in R.O.W.

## Land Sale No. 1 (Cont.)

### Land Size Information

<b>Gross Land Size</b>	7.420 Acres or 323,215 SF
<b>Useable Land Size</b>	5.210 Acres or 226,948 SF , 70.22%
<b>Wetlands Land Size</b>	2.210 Acres or 96,268 SF , 29.78%
<b>Front Footage</b>	60 ft Grissom Parkway

### Indicators

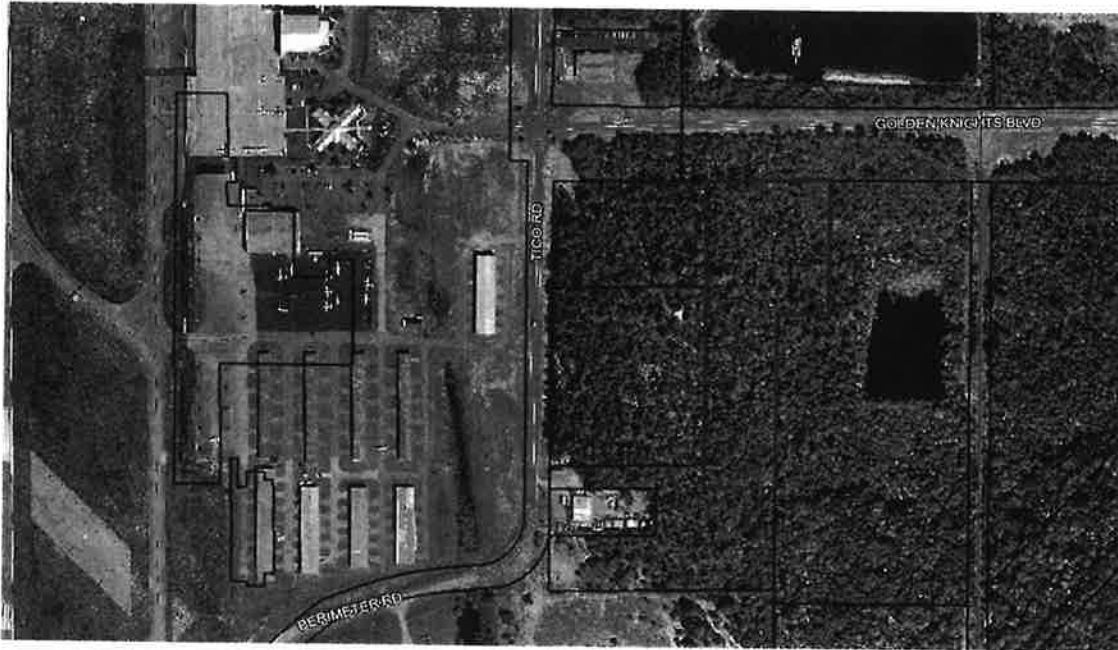
<b>Sale Price/Gross Acre</b>	\$35,040
<b>Sale Price/Gross SF</b>	\$0.80
<b>Sale Price/Useable Acre</b>	\$49,904
<b>Sale Price/Useable SF</b>	\$1.15

### Remarks

Located in an emerging industrial area west of Cidco Industrial Park north of the Beachline and south of the new Amazon Distribution Center. Property is a flag lot with a 60 foot wide access easement to Grissom Parkway containing approximately 0.50 acres. Access is not improved. Located 358 feet north of Grissom. The 2.21 acres of wetlands located in northwest corner. Property was listed for \$295,000 and was marketed for 1,226 days.

Analysis of Sale 1: This sale location is in an area of similar development pressure as compared to the subject and no location adjustment is required. Size is smaller than the subject and the sale is considered superior with negative adjustment given. The sale is a flag lot with the bulk of the acreage being off Grissom Parkway resulting in poor exposure to the roadway. Access is currently not constructed and would require time and expense to construct. Significant positive adjustment is applied given the inferior influence. The sale has a 70% upland ratio and is in a similar range as the subject and the price/upland area is a good indication of value. The shape of subject is inferior and positive adjustment is applicable. Overall, no net positive adjustment is given.

## Land Sale No. 2



### Property Identification

<b>Record ID</b>	852
<b>Property Name</b>	Industrial Acreage
<b>Address</b>	Golden Knights Boulevard, Titusville, Brevard County, Florida
<b>Tax ID</b>	2300402

### Sale Data

<b>Grantor</b>	Gass Family Trust
<b>Grantee</b>	Confidential
<b>Sale Date</b>	August 07, 2022
<b>Deed Book/Page</b>	Not Yet Recorded
<b>Property Rights</b>	Fee Simple
<b>Verification</b>	Geneva Land - Rocky Metcalf; 407-832-5466, MLS #937229

<b>Sale Price</b>	\$465,000
<b>Cash Equivalent</b>	\$465,000

### Land Data

<b>Zoning</b>	Industrial
<b>Topography</b>	Level & Wooded
<b>Utilities</b>	Water, Sewer, Electric

## Land Sale No. 2 (Cont.)

### Land Size Information

<b>Gross Land Size</b>	5.650 Acres or 246,114 SF
<b>Useable Land Size</b>	5.650 Acres or 246,114 SF , 100.00%
<b>Front Footage</b>	355 ft Golden Knights Blvd

### Indicators

<b>Sale Price/Gross Acre</b>	\$82,301
<b>Sale Price/Gross SF</b>	\$1.89
<b>Sale Price/Useable Acre</b>	\$82,301
<b>Sale Price/Useable SF</b>	\$1.89

### Remarks

Located in an industrial area in proximity to Tico Airport just west of US Highway 1. Property is an interior lot with 355 feet of paved road frontage. Property was listed for \$565,000 and was marketed for 5 days. Located on the south side of Titusville.

Analysis of Sale 2: This sale location is in an area of similar development pressure as compared to the subject and no location adjustment is required. Size is smaller than the subject and the sale is considered superior with negative adjustment given. The sale has good frontage on an arterial roadway and is superior in this regard. Further negative adjustment is applied. The sale is 100% uplands. The sale property has a slightly irregular configuration but the sale is considered superior to the subject in this regard. Overall, significant net negative adjustment is given.

### Land Sale No. 3



#### Property Identification

<b>Record ID</b>	853
<b>Property Name</b>	Industrial Acreage
<b>Address</b>	Golden Knights Boulevard, Titusville, Brevard County, Florida
<b>Tax ID</b>	2300368

#### Sale Data

<b>Grantor</b>	Pierce Hardy Partnership
<b>Grantee</b>	Independence Recycling of Florida
<b>Sale Date</b>	May 06, 2021
<b>Deed Book/Page</b>	9119/1168
<b>Property Rights</b>	Fee Simple
<b>Conditions of Sale</b>	Arms Length
<b>Verification</b>	Loopnet; Deed
<b>Sale Price</b>	\$725,000
<b>Cash Equivalent</b>	\$725,000

### Land Sale No. 3 (Cont.)

#### Land Data

<b>Zoning</b>	Industrial
<b>Topography</b>	Level, Partially Cleared
<b>Utilities</b>	Water, sewer, electric

#### Land Size Information

<b>Gross Land Size</b>	10.000 Acres or 435,600 SF
<b>Useable Land Size</b>	10.000 Acres or 435,600 SF , 100.00%
<b>Front Footage</b>	642 ft Golden Knights Blvd; 828 ft FEC Railway

#### Indicators

<b>Sale Price/Gross Acre</b>	\$72,500
<b>Sale Price/Gross SF</b>	\$1.66
<b>Sale Price/Useable Acre</b>	\$72,500
<b>Sale Price/Useable SF</b>	\$1.66

#### Remarks

Located in an industrial area in proximity to Tico Airport just west of US Highway 1. Location is on the south side of Titusville. Property is an interior lot with 612 feet of paved road frontage and 828 feet of frontage on the FEC Railway main line. Reportedly the property has been approved for a railroad spur.

Analysis of Sale 3: This sale location is in an area of similar development pressure as compared to the subject and no location adjustment is required. Size is within a similar size range as the subject with no adjustment given. The sale has good frontage on an arterial roadway and is superior in this regard. Negative adjustment is applied. The sale is 100% uplands. The sale property has a good configuration and the sale is considered superior to the subject in this regard. Overall, net negative adjustment is given.



## Land Sale No. 4



### Property Identification

<b>Record ID</b>	854
<b>Property Name</b>	Industrial Acreage
<b>Address</b>	Plaza Parkway, Rockledge, Brevard County, Florida
<b>Tax ID</b>	2421043

### Sale Data

<b>Grantor</b>	Siri Sai Estates LLC
<b>Grantee</b>	Baldwin Enterprises
<b>Sale Date</b>	March 18, 2021
<b>Deed Book/Page</b>	9057/2749
<b>Property Rights</b>	Fee Simple
<b>Conditions of Sale</b>	Arms Length
<b>Verification</b>	Brevard County Records; Deed

<b>Sale Price</b>	\$160,000
<b>Cash Equivalent</b>	\$160,000

#### **Land Sale No. 4 (Cont.)**

##### **Land Data**

<b>Zoning</b>	Industrial
<b>Topography</b>	Level
<b>Utilities</b>	Water, Sewer Electric

##### **Land Size Information**

<b>Gross Land Size</b>	3.200 Acres or 139,392 SF
<b>Useable Land Size</b>	3.200 Acres or 139,392 SF , 100.00%
<b>Front Footage</b>	1020 ft Plaza Parkway;131 ft Highland Dr

##### **Indicators**

<b>Sale Price/Gross Acre</b>	\$50,000
<b>Sale Price/Gross SF</b>	\$1.15
<b>Sale Price/Useable Acre</b>	\$50,000
<b>Sale Price/Useable SF</b>	\$1.15

##### **Remarks**

General property located in an intensely developed area of Rockledge. The specific location is off US Highway 1 on a secondary roadway. Surrounding development is industrial. Property has frontage on the FEC Railway main line. Property has a very irregular configuration. It has 1,020 feet of road frontage and depth that varies from 20 feet to 337 feet.

Analysis of Sale 4: This sale location is in an area of similar development pressure as compared to the subject and no location adjustment is required. Size is significantly smaller than the subject with significant negative adjustment given. The sale has frontage on a secondary roadway and is similar in this regard. No adjustment is applied. The sale is 100% uplands. The sale property has a very irregular configuration and the sale is considered similar to the subject in this regard. Overall, net negative adjustment is given.

## Land Sale No. 5



### Property Identification

<b>Record ID</b>	855
<b>Property Name</b>	Industrial Acreage
<b>Address</b>	South Street, Titusville, Brevard County, Florida
<b>Tax ID</b>	2224893

### Sale Data

<b>Grantor</b>	Steven Anderson, Trustee
<b>Grantee</b>	Binz Self Storage Jax LLC
<b>Sale Date</b>	May 16, 2022
<b>Deed Book/Page</b>	9515/2527
<b>Property Rights</b>	Fee Simple
<b>Conditions of Sale</b>	Arms Length
<b>Verification</b>	Dreyer RE - Michael Dreyer; 321-773-1480, MLS #782940

<b>Sale Price</b>	\$497,000
<b>Cash Equivalent</b>	\$497,000

### Land Data

<b>Zoning</b>	Industrial
<b>Topography</b>	Level - Partially Cleared
<b>Utilities</b>	Water, Sewer, Electric

### Land Sale No. 5 (Cont.)

#### Land Size Information

<b>Gross Land Size</b>	8.930 Acres or 388,991 SF
<b>Uplands Land Size</b>	6.510 Acres or 283,576 SF , 72.90%
<b>Wetlands Land Size</b>	2.420 Acres or 105,415 SF , 27.10%
<b>Front Footage</b>	324 ft South Street

#### Indicators

<b>Sale Price/Gross Acre</b>	\$55,655
<b>Sale Price/Gross SF</b>	\$1.28
<b>Sale Price/Uplands Acre</b>	\$76,344
<b>Sale Price/Uplands SF</b>	\$1.75

#### Remarks

Located on the south side of Titusville in an industrial area. Property is in proximity to I-95. Property is an interior lot with 324 feet of paved road frontage. Property has wetlands (2.42 acres) including an open water pond. Property was originally listed for \$600,000 and after price reductions to \$497,000 after marketing period of 1,550 days.

Analysis of Sale 5: This sale location is in an area of similar development pressure as compared to the subject and no location adjustment is required. Size is smaller with negative adjustment given. The sale has good frontage on an arterial roadway and is superior in this regard. Negative adjustment is applied. The sale has a 73% upland ratio which is in the range of the subject. The sale property has a slightly irregular configuration and the sale is considered superior to the subject in this regard. Overall, net negative adjustment is given.

## RECONCILIATION OF LAND SALES

The prior discussions on value influences considered in the analyses are summarized in the following grid.

<b>Land Sales Summary and Adjustment Grid</b>					
	<b>Comparable 1</b>	<b>Comparable 2</b>	<b>Comparable 3</b>	<b>Comparable 4</b>	<b>Comparable 5</b>
Location:	Grissom Parkway (Off Of)	Golden Knights Boulevard	Golden Knights Boulevard	Plaza Parkway	South Street
Submarket:	Cocoa	Titusville	Titusville	Rockledge	Titusville
O.R. Book/Page:	9534/840	Not Yet Recorded	9119/1168	9057/2749	9515/2527
Seller:	Diversified Holdings of	Gass Family Trust	Pierce Hardy Partnership	Siri Sai Estates LLC	Steven Anderson,
Buyer:	Kabboord Gen 3 LLC	Confidential	Independance Recycling	Baldwin Enterprises	Binz Self Storage LLC
Date of Sale:	Jun-22	Aug-22	May-21	Mar-21	May-22
Sale Price:	\$260,000	\$465,000	\$725,000	\$160,000	\$497,000
Site Size (Net Acres):	5.21	5.65	10.00	3.20	6.51
Unadjusted \$/Net Acre:	\$49,904	\$82,301	\$72,500	\$50,000	\$76,344
<b>Adjustments</b>					
Rights Transferred :	Fee Simple	Fee Simple	Fee Simple	Fee Simple	Fee Simple
Financial Considerations:	Market	Market	Market	Market	Market
Conditions of Sale:	Arm's Length	Arm's Length	Arm's Length	Arm's Length	Arm's Length
Market Conditions:	Stable	Stable	Stable	Stable	Stable
Time Adj. Cash Equiv.	\$49,904	\$82,301	\$72,500	\$50,000	\$76,344
Location:	Similar 0%	Similar 0%	Similar 0%	Similar 0%	Similar 0%
Site Size (Net Acres):	Superior -15%	Superior -15%	Similar 0%	Superior -20%	Superior -10%
Access/Exposure:	Inferior 25%	Superior -10%	Superior -10%	Similar 0%	Superior -10%
Configuration:	Suoerior -10%	Superior -10%	Superior -10%	Similar 0%	Superior -10%
Net Adjustments:	0%	-35%	-20%	-20%	-30%
Adjusted Price/Net Acre:	\$49,904	\$53,496	\$58,000	\$40,000	\$53,441

The sales data, as adjusted, is summarized in the following table.

<b>Analysis - \$/Unit</b>	<b>Sales 1 - 5</b>
Maximum Adj. \$/Unit	\$58,000
Minimum Adj. \$/Unit	\$40,000
Average Adj. \$/Unit	\$50,968
Midpoint Adj. \$/Unit	\$49,000

All the sales were variously inferior or superior to the subject property and required adjustment and establish the upper and lower limits of value as adjusted. Therefore, after giving careful consideration to all known facts affecting value all the sales are weighted equally and it is our judgment the market value should fall at the mean and midpoint of value or \$50,000 per upland acre of land area.

In estimating the value of the subject property it is important to note that pursuant to the terms of the proposed lease the Lessee; Brevard Energy, LLC, has exclusive use of both the surface and sub surface of the Parcel A land area (6.37 gross acres). In regards to Parcel B (4.75 gross acres) the Lessee has the rights to subsurface use with the lessor; Brevard County, retaining rights of use to the surface. It is clear in regards to Parcel B that the rights of use are shared.

In regards to Parcel B, it is difficult to extract direct market support for a specific ratio, but it is our opinion that the lease is for less than 100% of the fee simple interest, for the term of the lease, in terms of rights of use. The land value per acre, therefore, requires discounting in the case of Parcel B. It is our opinion that an appropriate ratio would be 50% of the rights would be retained by each party. This results in a land value per acre for the subject Parcel A of \$50,000 and \$25,000 for parcel B, for the purposes of calculating land rent.

Therefore, the market value of the subject Parcel A and Parcel B is indicated as follows:

PARCEL	SIZE-NET ACRES	X	\$/NET ACRE	=	ESTIMATED VALUE
Parcel A	6.37	X	\$50,000	=	\$318,500
Parcel B	4.75	X	\$25,000	=	\$118,750
As Combined				=	\$437,250
As Rounded				=	\$437,250

### **ESTIMATE OF MARKET RENT**

In order to estimate the net annual market rent for the subject property, we will apply an appropriate rate of return to the previously estimated land value as

combined. In this analysis, the land value of a property is multiplied by an appropriate rate of return. The rate of return is the annual return, which is required to attract capital to the investment. The selection of an appropriate rate of return is influenced by risks relative to the stability of the investment and income stream, the market's perception of inflation, tax shelter considerations, and the supply and demand for mortgage funds and other competitive investments.

In concluding to an appropriate rate of return, we have considered the subject's location in the Brevard County land fill and the rates of return indicated by government leases. Investor surveys were also considered.

#### RATE OF RETURN

To follow is a summary of rates of return for airports and seaports.

#	Facility	Rate of Return
1	Orlando - Melbourne International	10-12%
2	Jacksonville Port Authority	10%
3	Southwest Florida International	10%
4	Canaveral Port Authority	10%
4	Sarasota - Bradenton International	8% - 10%
L 5	St. Pete - Clearwater International	8% - 10%
L 6	Orlando Sanford	10%
L 8	Orlando International Airport	10%

In addition, we have given consideration to a 1st Quarter 2022 Realty Rates survey which indicated the following:

BeattyRates.com INVESTOR SURVEY - 2nd Quarter 2022*																														
CURRENT & HISTORICAL CAP RATE INDICES																														
Method-Weighted* Property Category Indices																														
Year	Apts		Golf		Healthcare		Senior		Housing		Industrial		Lodging		MHRV		Park		Office		Retail		Restaurant		Self Storage		Special Purpose		Weighted* Composite Indices	
	BP		BP		BP		BP		BP		BP		BP		BP		BP		BP		BP		BP		BP		BP		BP	
	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg	Rate	Chg
2022	7.55	-27	11.14	-25	8.13	-25	8.46	-14	9.38	-30	8.74	-17	8.37	-12	8.54	-32	10.98	-13	9.05	-19	11.09	-11	8.83	-21	8.83	-21	8.83	-21	8.83	-21
1st Qtr	7.55	8	11.14	14	8.13	13	8.46	15	9.38	7	8.74	16	8.37	10	8.54	-8	10.98	15	9.05	16	11.09	7	8.83	8	8.83	8	8.83	8	8.83	8
2021	7.83	-59	11.39	-64	8.38	-64	8.60	-59	9.68	-84	8.92	-65	8.49	-55	8.85	-53	11.11	-46	9.24	-62	11.21	-44	9.04	-60	9.04	-60	9.04	-60	9.04	-60
4th Qtr	7.47	-8	11.00	-8	8.00	-1	8.31	-1	9.31	-1	8.58	-1	8.28	-1	8.61	-1	10.94	-2	8.90	-1	11.02	-2	8.75	-2	8.75	-2	8.75	-2	8.75	-2

The preceding survey reflects overall capitalization rates for investment grade real estate on a regional basis. The survey indicates that capitalization rates in general for all property types have fluctuated upward and downward from the previous quarters. The indications had an overall range of 8.83% in the 1<sup>st</sup> quarter of 2022 and averaged 9.04% in 2021. Industrial properties are at 8.46% in the 1<sup>st</sup> quarter of 2022 and had an average of 8.60% in 2021. This average is below the overall average indication for all property types.

Financial considerations including credit worthiness of the tenant, availability of financing and land lease terms are also a consideration in the selection of a rate of return on land value. The range of government land leases was 8% to 10% for the most recently negotiated leases and the 2022 1<sup>st</sup> quarter 2022 realty rate for industrial uses was 8.46%. The range of 8% to 10% is well established. Therefore, an annual rate of return of 9% is utilized.

In order to estimate the annual market rent for the subject land, we will apply the previously estimated 9% rate of return to the previously estimated land value. This results in the following calculation.

ESTIMATE OF ANNUAL MARKET RENT				
RATE		LAND VALUE		MARKET RENT
9.00%	X	\$437,250	=	\$39,353
Rounded			=	\$39,400



## **FINAL RECONCILIATION**

Therefore, after giving thorough consideration to the subject property and all known market conditions, it is our opinion that the market value and market rental rate for the subject property are well represented as follows:

### **FINAL ESTIMATE OF LAND VALUE**

**\$437,250\***

### **FINAL ESTIMATE OF MARKET RENT**

**\$39,400\***

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\* Please Refer to Extraordinary Assumptions & Hypothetical Conditions.

## **ESTIMATED EXPOSURE TIME**

Exposure time is defined as:

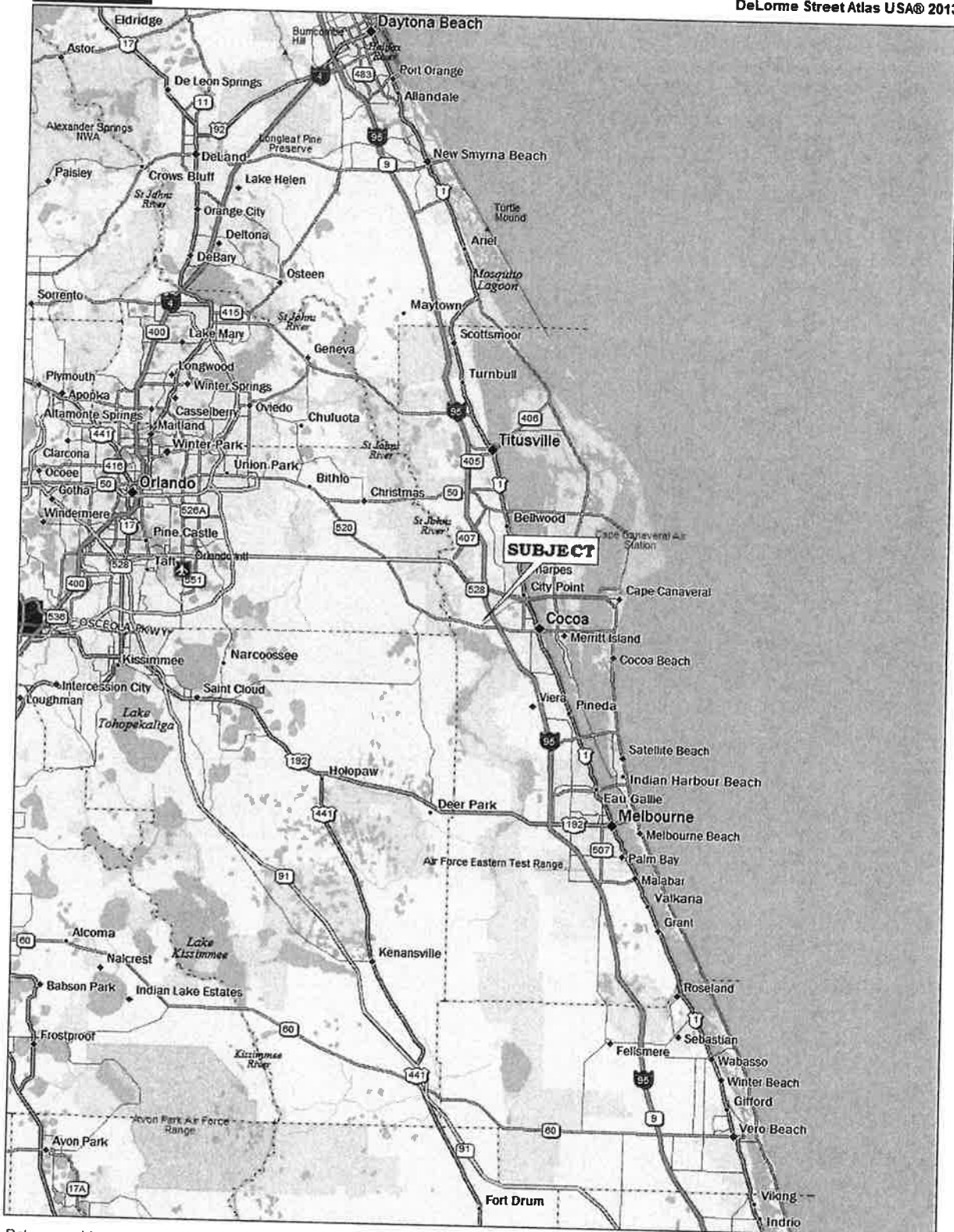
"The estimated length of time the property being appraised would have been offered on the open market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; an estimate based upon analysis of past events assuming a competitive and open market." \*

Based on market data considered in this appraisal, as well as conversations with brokers active in this property type, the estimated exposure time is represented as one year or less, assuming competitive pricing and aggressive marketing. This estimate is supported by recent transactions in the local market, as well as investor survey data.

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\* USPAP Current Edition, The Appraisal Foundation.





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# COUNTY MAP

## **GENERAL AREA DESCRIPTION**

Brevard County is centrally located on the east coast of the state of Florida. A discussion of physical, social, governmental and economic characteristics which influence the subject follows.

### **OVERVIEW/HISTORY**

Brevard County, with some 72 miles of coastline, has more ocean frontage than any other county in Florida. The extensive coastline and barrier island provide a wealth of recreational opportunities to the area, supported by the region's favorable climate. Due to this extensive length from north to south, the county is commonly divided into three distinct geographical areas which are referred to as North, Central, and South Brevard.

North Brevard County includes the cities of Titusville and Cape Canaveral, as well as extensive unincorporated areas and government owned land. The north area of the county has historically been closely tied to the space program and Kennedy Space Center, as well as related aerospace industries. Also, the county seat and some of the county offices are in Titusville.

Central Brevard County includes the cities of Cocoa and Rockledge on the mainland, and Cocoa Beach on the barrier island. Merritt Island is a large unincorporated community situated on the island between the Indian and Banana Rivers. Cocoa Beach has historically been dependent on the tourism industry. Patrick Air Force Base is located on the barrier island to the south of Cocoa Beach.

South Brevard County includes the Cities of Palm Bay, Melbourne and West Melbourne, as well as the Viera and Suntree planned developments. This has been the fastest growing area of the county, due to the extensive development occurring in Palm Bay and Viera in particular. Many of the county offices are located in the Viera Government Center. Major industries in South Brevard include a number of large aerospace and technology related companies. The Melbourne Airport is also located in this area.

Perhaps the most significant segment of the local economy is the aviation/electronics-related industries that have located here. Partially as a "spin-off" of the space program, many Fortune 500 companies have located in Brevard County. As a result, it has been said that Brevard County has become a major technology center in the county.

### **JOB GROWTH:**

Brevard County has been one of the nation's biggest job growth success stories over the past three years. Annual employment gains have exceeded the national average for 21 consecutive months and 41 months out of the past 42. During this stretch, Brevard County has averaged an annual growth rate of 3.5%, more than twice the nation's average of 1.7%.

Led by a resurgent privatized space sector, headlined by SpaceX and Blue Origin, and increased defensive contract work such as Lockheed Martin and Northrup Grumman, Brevard County has added 26,400 jobs since the start of 2016. The prospects for continued future growth appear bright, with employers such as OneWeb Satellites investing heavily in the market.

#### NORTH BREVARD COUNTY:

Commercial rocket companies SpaceX and Blue Origin have arrived as the state and Space Florida invested in launch and manufacturing facilities. Boeing came to build its Starliner space capsule. Lockheed came to build its Orion deep-space crew transport, Blue Origin arrived to build a rocket factory for its New Glenn rocket and OneWeb came to build satellites. Florida, which for the most part was the place that launched spaceships; but didn't build them; suddenly did both. Some of the largest aerospace and defense contractors in the country are now focused on KSC.

The Boeing Co. and the privately held SpaceX received contracts as part of the Commercial Crew Program. In addition, Sierra Nevada Corporation (SNC) and XCOR are pursuing contracts with NASA. Blue Origin plans to develop 90 acres south of their 475,000 square foot manufacturing center at Space Center's Exploration Park.

The economic impact of Port Canaveral operations based on the results of the most current economic impact study released at the Canaveral Port Authority's Board of Commissioners meeting indicated the Port's total economic contribution resulted in \$1.94 billion in direct impact in the Central Florida economy, which contributed to the direct employment of more than 17,200 workers who received \$729.4 million in wages.

Port Canaveral is the home port of several cruise ships operated by Carnival, Disney, Royal Caribbean and Norwegian Cruise Lines with 6 cruise existing terminals numbered 1, 2, 5, 6, 8 and 10. Port Canaveral hosts nearly 5 million cruise passengers through its state-of-the-art terminals. Revenues from cruise operations totaled \$81.9 million. **Multi-day passenger movements at Port Canaveral, the world's second busiest cruise port were 4,634,154 in 2019, compared to 4,568,431 in 2018.**

The Canaveral Port Authority and Carnival Cruise Line will invest in building and equipping a new two-story 185,000-sq. ft. terminal (Terminal 3) to accommodate the Mardie Gras, which will have a maximum capacity of approximately 6,500 guests. Constructing the new CT-3 terminal, plus an adjacent elevated parking facility to accommodate nearly 1,800 vehicles, and related wharf, road and access improvements will total \$150 million.

The port generates the moving of more than 6 million of tons of cargo annually, including bulk, break-bulk, project, and containerized. Cargo tonnage rose to 6,487,769 tons.

Jetty Park is also one of the most sought-after recreation points of interest in Brevard County.

#### SOUTH BREVARD COUNTY:

The Orlando-Melbourne International Airport has regularly scheduled flight service with the largest being Delta Airlines. The airport currently serves approximately 400,000 passengers annually, but has the capacity to serve roughly 2 million passengers. Orlando Melbourne Airport is currently serviced by American, Delta, Elite and Porter Airlines with non stop flights to various destinations and connecting hubs. The airport is less than a half hour from Port Canaveral; less than an hour from Orlando's world-famous theme parks; and 30 minutes from Kennedy Space Center. The airport serves as the southern hub for Foreign Trade Zone

136, headquartered at the port. MLB generates more than \$1.1 billion annually in economic activity. With more than 6,000 people currently working daily at the airport, MLB ranks as one of Brevard County's top employment centers. Fortune 500 giants including General Electric, Harris Corp. and Northrop Grumman recognize the benefits of increasing synergies with a broad pool of skilled employees in this area. Recent additions to the tenant family will add nearly 2,000 new, high-paying jobs at the airport.

Surrounding the airport are a number of significant employers including Northrup-Grumman, Embraer, Rockwell Collins, General Electric, Thales, Medical Data Systems, Alston Signaling, DRS Optronics, Health First and Holmes Regional Medical Center and Kindred Hospital. In addition L-3 Communications and Harris Corporation have merged to form one of the top ten defense contractors with a stock deal valued at \$33.5 billion and headquarters is based in Melbourne. Most of these major employers are located on leased land owned by the airport authority. The Orlando Melbourne Airport industrial campus comprises a significant portion of the economic base in Brevard County.

The Embraer 236,000 square-foot facility features four buildings including an assembly hangar, a paint facility, a completion center, a flight preparation facility, and a new delivery center. Embraer will add 600 new jobs to its almost 600 employees in the area, ramping up hiring through 2020. Northrop Grumman has continued to expand the project, known as Project Magellan. Northrop Grumman reportedly invested approximately \$500 million in new capital investments at the Melbourne International Airport. The expansion brings up to 1,800 new jobs to Brevard County with nearly one million square feet of office/engineering space. The project was broken down into two phases. Phase One consisted of the construction of approximately 220,000 square foot building and the addition of 300 jobs. Phase Two was the construction of an additional approximately 500,000 square foot facility and 1,500 more jobs.

L-3 Harris Corporation and Intersil have substantial facilities on the north and south sides of Palm Bay Road. L-3 Harris is the largest private sector employer in Brevard County employing about 6,000 people. Their substantial presence in the immediate neighborhood is a significant economic benefit. Harris recently completed a 450,000 SF high tech engineering/office building south of Palm Bay Road. The cost of this facility is reportedly \$150 million and this investment confirms Harris' commitment to Palm Bay.

The following summary is the most recent data provided by the Economic Development Commission of Florida's Space Coast.





## Civilian Labor Force Profile

Brevard County, FL  
Brevard County, FL (12009)  
Geography: County

Prepared by Esri

2020 Labor Force						
Age Group	Population	Employed	Unemployed	Unemployment Rate	Labor Force Participation Rate	Employment-Population Ratio
16+	521,303	259,417	23,606	8.3%	54.3%	49.8%
16-24	56,130	27,975	3,965	12.4%	56.9%	49.8%
25-54	213,552	155,702	13,911	8.2%	79.4%	72.9%
55-64	99,536	54,614	4,298	7.3%	59.2%	54.9%
65+	152,085	21,126	1,432	6.3%	14.8%	13.9%

Industry	Employed	Percent	US Percent	Location Quotient
Total	259,417	100.0%	100.0%	-
Agriculture/Forestry/Fishing	1,038	0.4%	1.3%	0.31
Mining/Quarrying/Oil & Gas	78	0.0%	0.5%	0.00
Construction	18,863	7.3%	7.4%	0.99
Manufacturing	27,401	10.6%	10.6%	1.00
Wholesale Trade	4,560	1.8%	2.5%	0.72
Retail Trade	28,579	11.0%	9.7%	1.13
Transportation/Warehousing	11,739	4.5%	4.7%	0.96
Utilities	1,735	0.7%	0.9%	0.78
Information	3,689	1.4%	1.8%	0.78
Finance/Insurance	7,982	3.1%	4.9%	0.63
Real Estate/Rental/Leasing	5,979	2.3%	2.1%	1.10
Professional/Scientific/Tech	23,554	9.1%	8.2%	1.11
Management of Companies	267	0.1%	0.1%	1.00
Admin/Support/Waste Management	12,977	5.0%	3.9%	1.28
Educational Services	19,808	7.6%	9.7%	0.78
Health Care/Social Assistance	38,375	14.8%	15.1%	0.98
Arts/Entertainment/Recreation	5,417	2.1%	1.6%	1.31
Accommodation/Food Services	20,137	7.8%	5.6%	1.39
Other Services (Excluding Public)	12,687	4.9%	4.6%	1.07
Public Administration	14,552	5.6%	4.8%	1.17

Occupation	Employed	Percent	US Percent	Location Quotient
Total	259,417	100.0%	100.0%	-
White Collar	163,058	62.9%	61.8%	1.02
Management	24,484	9.4%	10.2%	0.92
Business/Financial	11,561	4.5%	5.1%	0.88
Computer/Mathematical	8,204	3.2%	3.0%	1.07
Architecture/Engineering	11,942	4.6%	2.0%	2.30
Life/Physical/Social Sciences	1,510	0.6%	0.9%	0.67
Community/Social Service	3,863	1.5%	1.8%	0.83
Legal	2,245	0.9%	1.2%	0.75
Education/Training/Library	13,206	5.1%	6.4%	0.80
Arts/Design/Entertainment	4,726	1.8%	1.8%	1.00
Healthcare Practitioner	18,832	7.3%	6.3%	1.16
Sales and Sales Related	28,251	10.9%	9.7%	1.12
Office/Administrative Support	34,234	13.2%	13.3%	0.99
Blue Collar	48,227	18.6%	21.4%	0.87
Farming/Fishing/Forestry	944	0.4%	0.8%	0.50
Construction/Extraction	13,385	5.2%	5.4%	0.96
Installation/Maintenance/Repair	9,060	3.5%	3.1%	1.13
Production	11,196	4.3%	5.9%	0.73
Transportation/Material Moving	13,642	5.3%	6.1%	0.87
Services	48,132	18.6%	16.8%	1.10
Healthcare Support	8,456	3.3%	2.7%	1.22
Protective Service	5,569	2.1%	2.2%	0.95
Food Preparation/Serving	16,438	6.3%	4.4%	1.43
Building Maintenance	9,977	3.8%	3.9%	0.97
Personal Care/Service	7,692	3.0%	3.6%	0.83

**Data Note:** Location Quotients compare the industry/occupation share of a local area's employment relative to that same share nationally. A value lower/greater than 1 indicates that the local area is less/more specialized in that industry or occupation category than the US as a whole.

**Explore the Esri Labor Force Learn Lesson for more information on how to use and interpret the estimates in this report.**

**Source:** Esri forecasts for 2020 and 2025.

July 29, 2020





## Executive Summary

Brevard County, FL  
Brevard County, FL (12009)  
Geography: County

Prepared by Esri

Population	Brevard Count...
2000 Population	476,230
2010 Population	543,376
2020 Population	616,481
2025 Population	654,534
2000-2010 Annual Rate	1.33%
2010-2020 Annual Rate	1.24%
2020-2025 Annual Rate	1.21%
2020 Male Population	49.0%
2020 Female Population	51.0%
2020 Median Age	47.9

In the identified area, the current year population is 616,481. In 2010, the Census count in the area was 543,376. The rate of change since 2010 was 1.24% annually. The five-year projection for the population in the area is 654,534 representing a change of 1.21% annually from 2020 to 2025. Currently, the population is 49.0% male and 51.0% female.

### Median Age

The median age in this area is 47.9, compared to U.S. median age of 38.5.

### Race and Ethnicity

2020 White Alone	80.6%
2020 Black Alone	10.5%
2020 American Indian/Alaska Native Alone	0.4%
2020 Asian Alone	2.6%
2020 Pacific Islander Alone	0.1%
2020 Other Race	2.4%
2020 Two or More Races	3.4%
2020 Hispanic Origin (Any Race)	11.6%

Persons of Hispanic origin represent 11.6% of the population in the identified area compared to 18.8% of the U.S. population. Persons of Hispanic Origin may be of any race. The Diversity Index, which measures the probability that two people from the same area will be from different race/ethnic groups, is 47.4 in the identified area, compared to 65.1 for the U.S. as a whole.

### Households

2020 Wealth Index	95
2000 Households	198,195
2010 Households	229,692
2020 Total Households	258,112
2025 Total Households	273,592
2000-2010 Annual Rate	1.49%
2010-2020 Annual Rate	1.14%
2020-2025 Annual Rate	1.17%
2020 Average Household Size	2.36

The household count in this area has changed from 229,692 in 2010 to 258,112 in the current year, a change of 1.14% annually. The five-year projection of households is 273,592, a change of 1.17% annually from the current year total. Average household size is currently 2.36, compared to 2.33 in the year 2010. The number of families in the current year is 165,149 in the specified area.

**Data Note:** Income is expressed in current dollars. Housing Affordability Index and Percent of Income for Mortgage calculations are only available for areas with 50 or more owner-occupied housing units.

**Source:** U.S. Census Bureau, Census 2010 Summary File 1; Esri forecasts for 2020 and 2025; Esri converted Census 2000 data into 2010 geography.

July 29, 2020



## Executive Summary

Brevard County, FL  
Brevard County, FL (12009)  
Geography: County

Prepared by Esri

	Brevard Count...
<b>Mortgage Income</b>	
2020 Percent of Income for Mortgage	15.5%
<b>Median Household Income</b>	
2020 Median Household Income	\$59,108
2025 Median Household Income	\$63,887
2020-2025 Annual Rate	1.57%
<b>Average Household Income</b>	
2020 Average Household Income	\$79,335
2025 Average Household Income	\$87,729
2020-2025 Annual Rate	2.03%
<b>Per Capita Income</b>	
2020 Per Capita Income	\$33,256
2025 Per Capita Income	\$36,707
2020-2025 Annual Rate	1.99%

### Households by Income

Current median household income is \$59,108 in the area, compared to \$62,203 for all U.S. households. Median household income is projected to be \$63,887 in five years, compared to \$67,325 for all U.S. households

Current average household income is \$79,335 in this area, compared to \$90,054 for all U.S. households. Average household income is projected to be \$87,729 in five years, compared to \$99,510 for all U.S. households

Current per capita income is \$33,256 in the area, compared to the U.S. per capita income of \$34,136. The per capita income is projected to be \$36,707 in five years, compared to \$37,691 for all U.S. households

### Housing

2020 Housing Affordability Index	150
2000 Total Housing Units	222,072
2000 Owner Occupied Housing Units	147,885
2000 Renter Occupied Housing Units	50,310
2000 Vacant Housing Units	23,877
2010 Total Housing Units	269,864
2010 Owner Occupied Housing Units	168,841
2010 Renter Occupied Housing Units	60,851
2010 Vacant Housing Units	40,172
2020 Total Housing Units	296,873
2020 Owner Occupied Housing Units	190,192
2020 Renter Occupied Housing Units	67,920
2020 Vacant Housing Units	38,761
2025 Total Housing Units	312,946
2025 Owner Occupied Housing Units	200,450
2025 Renter Occupied Housing Units	73,142
2025 Vacant Housing Units	39,354

Currently, 64.1% of the 296,873 housing units in the area are owner occupied; 22.9% renter occupied; and 13.1% are vacant. Currently, in the U.S., 56.4% of the housing units in the area are owner occupied; 32.3% are renter occupied; and 11.3% are vacant. In 2010, there were 269,864 housing units in the area - 62.6% owner occupied, 22.5% renter occupied, and 14.9% vacant. The annual rate of change in housing units since 2010 is 4.33%. Median home value in the area is \$219,125, compared to a median home value of \$235,127 for the U.S. In five years, median value is projected to change by 3.03% annually to \$254,419.

**Data Note:** Income is expressed in current dollars. Housing Affordability Index and Percent of Income for Mortgage calculations are only available for areas with 50 or more owner-occupied housing units.

**Source:** U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2020 and 2025. Esri converted Census 2000 data into 2010 geography.

July 29, 2020

## UNDERLYING ASSUMPTIONS AND CONTINGENT CONDITIONS

This appraisal is subject to the following limiting conditions:

No responsibility is assumed by the appraiser for changes or influences to the real estate market resulting from changing macro or micro economics, locally and/or nationally, subsequent to the effective valuation date. The value opinions are applicable only to the fixed point in time associated with the effective valuation date herein and are not applicable to any other point in time, specific or general, prior or subsequent to said date. Value estimates expressed herein are opinions. There is no guarantee, written or implied, that the subject property will sell for this value opinion. With respect to income-producing properties, value opinions are contingent on competency of ownership and management as the operational success of leasing real estate is inevitably linked with economic achievement of business. When values include prospective opinions, the appraiser is not responsible for unforeseen events that may alter interim market conditions.

That the legal description furnished us is assumed to be correct but has not been confirmed by survey and this appraiser assumes no responsibility for such a survey or any encroachments or other discrepancies that might be revealed thereby.

That no responsibility is assumed for matters legal in character, nor is any opinion rendered as to title which is assumed to be marketable. Unless otherwise stated to the contrary, the property is appraised as though in fee simple, under responsible ownership and competent management.

That if improvements are proposed or alterations are assumed in arriving at the market value, these will be completed in a reasonable period of time in accordance with plans and/or sketches provided to the appraiser.

That there are no hidden or unapparent conditions of the property, subsoil or structures which would render it more or less valuable than otherwise comparable property. The Appraiser assumes no responsibility for such conditions or for engineering which might be required to discover such conditions.

That unless otherwise noted, it is assumed there are no encroachments, zoning violations or restrictions existing on the subject property.

That the appraiser is not required to give testimony or attendance in court by reason of this appraisal, unless previous arrangements have been made therefore.

That an appraisal related to an estate in land which is less than the whole fee simple estate applies only to the fractional interest involved. The value of this fractional interest plus the value of all other fractional interest may or may not equal the value of the entire fee simple estate considered as a whole.

That the distribution of the total valuation in this report between land and improvements is applicable only as a part of the whole property. The land value, or the separate value of improvements, must not be used in conjunction with any other appraisal or estimate and is invalid if so used.

That the plans and sketches in this report are included to assist the reader in visualizing the property. The appraiser has made no survey of the property and assumes no responsibility in connection with such matters.

That information, estimates, and opinions contained in this report, obtained from sources outside of this office, are considered reliable, however, no liability for them can be assumed by the appraiser.

That disclosure of the contents of this report is governed by the By-Laws and Regulations of the Appraisal Institute.

Neither all, nor any part of the contents of this report, (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected, or any reference to the Appraisal Institute or to the MAI, SRPA or SRA designations), shall be disseminated to the public through advertising media, public relations media, news media, sales media, or any other public means of communications without prior written consent and approval of the author.

That this appraisal shall be considered in its entirety. No part thereof shall be utilized separately, or out of context.

That the employment of the appraiser to complete this report for the purpose stated herein shall be terminated upon the delivery of the report to the employer or his designated representative unless the employer and the appraiser have agreed in writing that the appraiser's services as a consultant or expert witness have been retained beyond the time of completion of the report.

That the Appraiser's duties, pursuant to this employment to make the appraisal, are complete upon delivery and acceptance of the appraisal report and the validity of the appraiser's certificate in the report is conditioned upon full payment of the fee for services.

With the exception of issues and conditions specifically addressed in this report, the value estimated is based on the assumption that the property is not negatively affected by the existence of hazardous substances or other environmental conditions that would affect the use of the property. We are not experts in the identification of such conditions; however, our routine inspection of and inquiries about the subject property did not develop any further information beyond that otherwise acknowledged in this text that indicated any apparent significant conditions that would affect the property negatively. It is possible that tests and inspections made by a qualified hazardous substance and environmental expert would reveal the existence of hazardous materials, endangered species or other environmental conditions on or around the property that would negatively affect its value.

**w.h. benson & company**  
real estate valuation & consulting  
licensed real estate broker

4780 Diary Road, Unit #103  
Melbourne, Florida 32904  
Tel: (321) 984-0999  
Fax: (321) 984-9796

## **QUALIFICATIONS OF MICHAEL MORIN**

### **LICENSES AND MEMBERSHIPS**

State Certified General Real Estate Appraiser #RZ3281  
Licensed Florida Real Estate Salesperson

### **RELATED EDUCATION**

<u>COURSES PASSED</u>	<u>ORGANIZATION</u>	<u>YEAR</u>
AB-1 (75)	F R E A B	1999
Graduate Real Estate Institute (GRI)	Florida Association Realtors	1992
AB-II	F R E A B	2004
AB-III	F R E A B	2006

### **APPRAISAL EXPERIENCE**

Have assisted in the research and preparation required for development of appraisal reports on various types of real estate, including but not limited to, apartment buildings, offices, retail centers, office buildings, vacant land of various potential uses, large acreage tracts, environmentally sensitive lands, islands, and special purpose properties. Experience also includes submerged land easements, conservation easements, remainder interests, and partial interest analysis. Appraisals prepared for commercial banks, savings and loans, brokers, attorneys, government agencies, developers and other real estate market participants, etc.

### **RELATED EXPERIENCE**

Commercial Real Estate Sales and Property Management (1982 to 1998)  
Licensed as a Realtor Associate since 1986.  
President Commercial Investment Division- Melbourne Area Board of Realtors

Commercial Real Estate Sales since 1986:

Since licensing in 1986; listed and sold primarily commercial real estate; including vacant commercial sites, retail and professional buildings and industrial buildings. Involved in the selection of locations and lease negotiations for numerous tenants; including national tenants, and landlords; including owners of regional shopping centers and malls.

Residential and Commercial Development:

Developed both commercial buildings and residential subdivisions. Those developments involved site selection, site acquisition, negotiations, site plan design, financing, contractor selection, construction, leasing and management of the completed projects, zoning and comprehensive plan changes, environmental issues, permitting, and various governmental approvals.

Real Estate Consulting:

Consulted on valuation, site selection, zoning, comprehensive plan amendments, and demographics for numerous clients. Condemnation proceedings, and negotiations involving numerous properties. Tax appeal negotiations with property appraiser's office.

Property Management:

Managed a 200+ Unit Apartment Complex / Atlanta Georgia (1982 - 1984)  
Managed commercial retail properties (1995-1998).

### **PRESENT AFFILIATION**

State Certified General Real Estate Appraiser  
W.H. Benson & Company

**William H. Benson, MAI, CCIM, President**

**w.h. benson & company**

real estate valuation &amp; consulting

licensed real estate broker

4780 Dairy Road, Unit #103

Melbourne, Florida 32904

Tel: (321) 984-0999

Fax: (321) 984-9796

**QUALIFICATIONS OF WILLIAM H. BENSON, MAI, CCIM, SRA****LICENSES AND MEMBERSHIPS**

Member of the Appraisal Institute, MAI, Certificate #7071  
Certified Commercial Investment Member (CCIM) of the Commercial Investment  
Real Estate Institute of the National Association of Realtors  
Senior Residential Appraiser (SRA), Appraisal Institute  
State Certified General Real Estate Appraiser #RZ0001027  
REALTOR, Space Coast Association of Realtors  
Licensed Florida Real Estate Broker

**RELATED EDUCATION****COURSES PASSED**

Introduction to App. R.E. (101)  
Principles of Income Property Evaluation (201)  
Case Study Residential (R-2)  
Standards-Prof. Practice  
Industrial Valuation  
Applied Income Property Valuation (202)  
Case Studies-Urban Valuation  
Valuation Analyses-Report Writing  
MAI, Comprehensive Exam  
Litigation Valuation  
Standard Professional Practice Part A & B  
Understanding Limited Appraisals SPPP Part C  
Standards of Professional Practice (Part A)  
Uniform Standards for Federal Land Acquisitions  
Examining Property Rights & Implications in Value  
Insurance Appraisals – Report Contents and Valuation  
Florida Appraisal Law 2018  
2018 Central Florida Real Estate Forum  
Online Cool Tools: New Technology for Real Estate Appraisers  
CCIM Comprehensive Exam & Prep Course  
CI 101 Financial Analysis for Commercial R.E.  
CI 405 & 406 Marketing Analysis and Presentations  
CI 408 Comprehensive Concepts Review

**SPONSORING ORGANIZATION**

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**REPRESENTATIVE SEMINARS ATTENDED/CONTINUING EDUCATION**

Completed approximately 600 hours of continuing education/seminars since 1985 for the Appraisal Institute and/or State of Florida continuing education certification requirements. Representative courses include real estate law, USPAP, Risk Analyses, Selectivity/Cap Rate Analyses, Business Valuation, Appraisal Curriculum Overview, Valuation for Financial Reporting, Developing a Supportable Work File, Advanced Spreadsheet Modeling for Valuation Applications, Business Practices and Ethics, Analyzing Tenant Credit Risk and Commercial Lease Analysis, Critical Thinking in Appraisals, Federal Agencies and Appraisal, etc.

**APPRAISAL EXPERIENCE**

Have prepared appraisal reports on various types of real estate, including but not limited to, single and multi-family residences, condominiums, townhouses, apartment buildings, offices, restaurants, golf courses, service stations, convenience stores, motels, assisted living facilities, mini warehouse projects, heavy and light industrial properties, retail centers, office and residential condominium projects, subdivisions, vacant land of various potential uses, large acreage tracts, citrus groves, ranch land, environmentally sensitive lands, islands, special purpose properties and partial interests including leasehold/leased fee valuation. Appraisals prepared for commercial banks, credit unions, brokers, attorneys, government agencies, developers and other real estate market participants.

**RELATED EXPERIENCE**

Disposition consulting services involving approximately \$90,000,000 in investment grade transactions; real estate development includes development and sellout of an 80 lot residential subdivision, development of a 36,000 sq. ft. office park, build to suit office buildings, renovation and repositioning of residential rental apartment projects.

**William H. Benson, MAI, CCIM, President**

MEMO

Date: January 4, 2023

From: Brevard Energy, LLC

To: Brevard County

**RE: Land Lease and Increased Beneficial Use at Brevard County Central Disposal Facility**

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## **I. Background**

On November 13, 2007, Brevard County (Lessor) entered into a Lease of land with Brevard Energy, LLC (Lessee). This followed the Landfill Gas (LFG) Purchase Agreement entered into between Brevard County (County) and Brevard Energy, LLC (Developer) on December 19, 2006. Both agreements were structured for the beneficial use of landfill gas and the provision of economic benefits to the County. The agreements currently expire in April 2028. The Agreements allow for an extension of the term when the County adds additional LFG extraction wells in the landfill and the Developer agrees to expend additional capital funds to increase the capacity of its LFG utilization facility.

## **II. Proposed Land Lease and Market Value Assessment**

Brevard Energy has proposed to amend and increase the size of the Lease by one acre to approximately 11 acres at the Brevard County Central Disposal Facility in Cocoa to increase the capacity of the existing LFG utilization facility. The County has already added additional LFG extraction wells and Brevard Energy has agreed to expend funds in support of future additional County LFG extraction wells.

Local real estate valuation and consulting firm, W.H. Benson & Company located in Melbourne, Florida, performed an independent assessment of the proposed leased area. W.H. Benson & Company primarily performs valuations in Brevard County and has also performed work on behalf of the County.

**Market Value Assessment for the lease area: \$39,400 per year based on highest and best use of land**

See Exhibit A for the W.H. Benson & Company land assessment and Exhibit B for a W.H. Benson & Company profile and references.

## **III. Above Market Land Lease**

Brevard Energy has proposed to lease the property at a 50% premium over the market value assessment.

**Proposed Lease Fee: \$59,100 per year, escalating at CPI**

The Developer's proposed land lease payment will provide an additional \$1.9 million in value to the County over the term compared to the existing \$1 lease. The Developer is adding only one acre of additional leased land for this increased value to the County. This payment includes \$630,000 in additional value due to the 50% premium offered over the market value assessment.



#### IV. Additional Benefits

In addition to the increased land lease payment, the proposed project to convert the landfill gas to pipeline quality gas, a qualified beneficial use under the existing LFG Purchase Agreement, will provide the following benefits to the County:

<b>Project Reliability</b>	The LFG utilization facility will use modern, leading-edge technology that will increase the reliability and performance of the system already located at the landfill
<b>Environmental</b>	Site emissions will be reduced as additional focus is placed on landfill gas collection and the landfill gas is converted to renewable natural gas and placed into the utility gas pipeline
<b>Increased Landfill Gas &amp; Lease Payments</b>	\$200,000 per year starting in 2023, increasing to an estimated \$1,000,000 per year in 2028 (depending on landfill gas flows and market prices)
<b>Flare Operations &amp; Maintenance Services Savings</b>	\$50,000 per year estimated County savings with Brevard Energy taking over operations and maintenance of county flares
<b>Gas Wellfield Support</b>	Cooperation with increased wellfield attention - monitoring and potential automated wellfield control – to increase landfill gas extraction and reduce site emissions
<b>Gas Wellfield Support Payments</b>	\$5,000,000 over term compared to \$0 support payments currently

#### V. Summary of Benefits

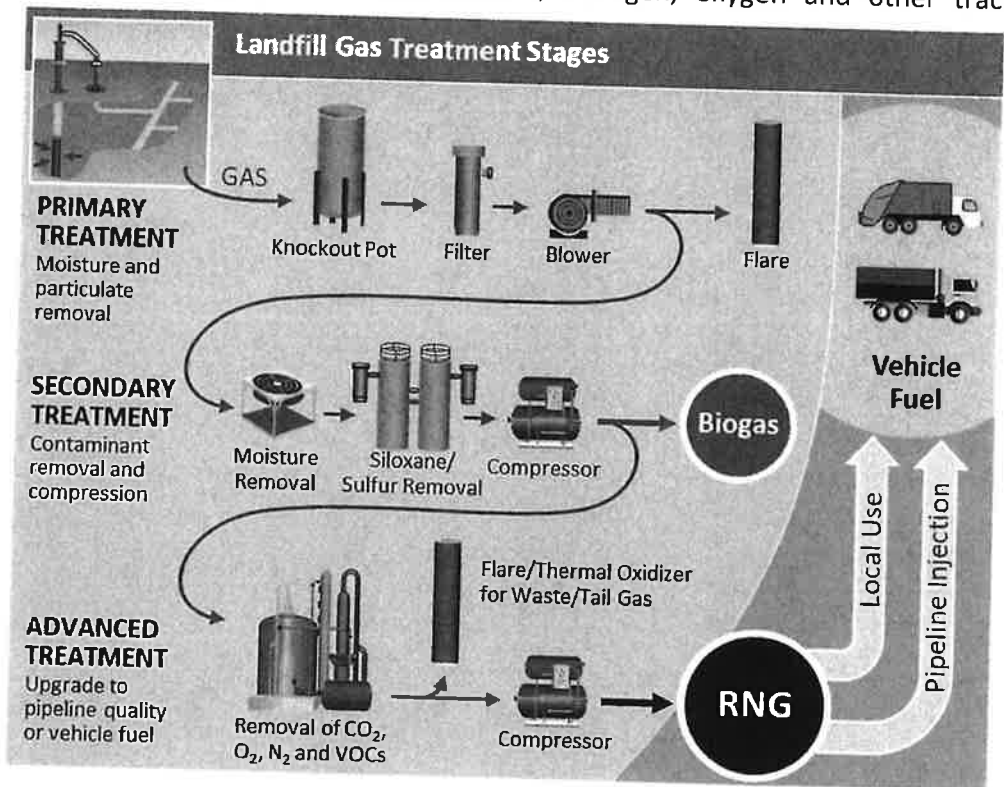
In summary, benefits to the County from granting this land lease include

- **Overall increase in benefits to County estimated at \$29.2 million over term**
  - Total lease payments of \$1.9 million over term, inclusive of \$630,000 premium (50% land lease premium over market value assessment) for the addition of one acre of leased area
  - Double landfill gas and lease payments from \$100,000 to \$200,000 through 2028
  - Estimated \$50,000 per year in flare operations and maintenance savings
  - \$5 million in gas wellfield support payments to improve gas flows and decrease capital costs to the County
  - About ten times increase in total benefits by 2028 and thereafter
- **Numerous improvements in efficiency and sustainability of the landfill operations**
  - Improved wellfield construction and operations
  - Improved efficiency and reliability of landfill gas utilization equipment
  - Operations and maintenance of County flares now under Brevard Energy
  - Reduced landfill gas emissions
  - Leading edge renewable energy project with community and regional benefits



# Overview | Renewable Natural Gas

Landfill gas (LFG) is produced naturally when organic material decomposes in landfills. LFG consists of 45 to 55 percent methane, with the balance being primarily carbon dioxide, nitrogen, oxygen and other trace constituents. Methane, a potent greenhouse gas (GHG) that traps heat in the atmosphere, is also the primary component of fossil derived natural gas. Through treatment, LFG can be upgraded into a fuel substitute for fossil derived natural gas — called renewable natural gas (RNG) — with a methane content greater than 95 percent. Unlike fossil derived natural gas, **RNG comes from renewable sources** (e.g., waste in landfills, livestock manure, and organic waste) and does not contain heavy hydrocarbons. RNG has many end uses, including as vehicle fuel, for heating or to generate electricity.



Renewable natural gas is an ultra-low carbon transportation fuel and renewable energy resource that is changing our nation's energy landscape.

## RNG provides many local and environmental benefits:

**Waste Transformed.**  
**Domestic. Abundant.**  
**Versatile. Affordable.**  
**Renewable. Clean.**  
**Ultra Low Carbon.**  
**Fuel. Heat. Power.**

- **Waste Transformed.** Recycling what was once wasted for beneficial use.
- **Domestic. Abundant.** Local resource from landfills, farms, and wastewater treatment plants.
- **Versatile. Affordable.** RNG can replace natural gas for use in homes, businesses, and vehicles.
- **Renewable. Clean. Jobs.** Leading edge technology adding local construction and operations jobs
- **Ultra Low Carbon.** As an alternative vehicle fuel, RNG can reduce gasoline and diesel greenhouse gas emissions by 90%
- **Fuel. Heat. Power.** RNG can fuel cars, busses and trucks or heat homes or supply power plants.

# Brevard County Landfill | Renewable Natural Gas

Energy Power Partners and Brevard County are partnering to construct up to a 4,000 cubic feet per minute landfill gas-to-energy system at the Brevard County Landfill, located in Cocoa, FL. The landfill will provide up to 2.9 million cubic feet of methane gas daily from the facility as renewable natural gas or RNG. RNG is a low carbon, alternative fuel that can be used in vehicles, homes, businesses, or power plants.

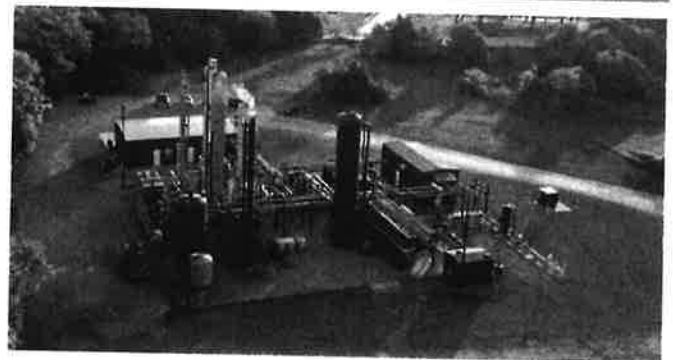
RNG will be sent to the gas utility by a short pipeline to a connection point near Route 95, for transportation to the ultimate users of the RNG. Brevard County operates the landfill and the gas collection system while EPP will operate the RNG processing facility.

If used as a substitute for truck diesel fuel, this RNG facility prevents the equivalent of 49,500 tons of carbon dioxide emissions each year. According to the EPA, the reduction of emissions is equivalent to any one of these annual environmental benefits:

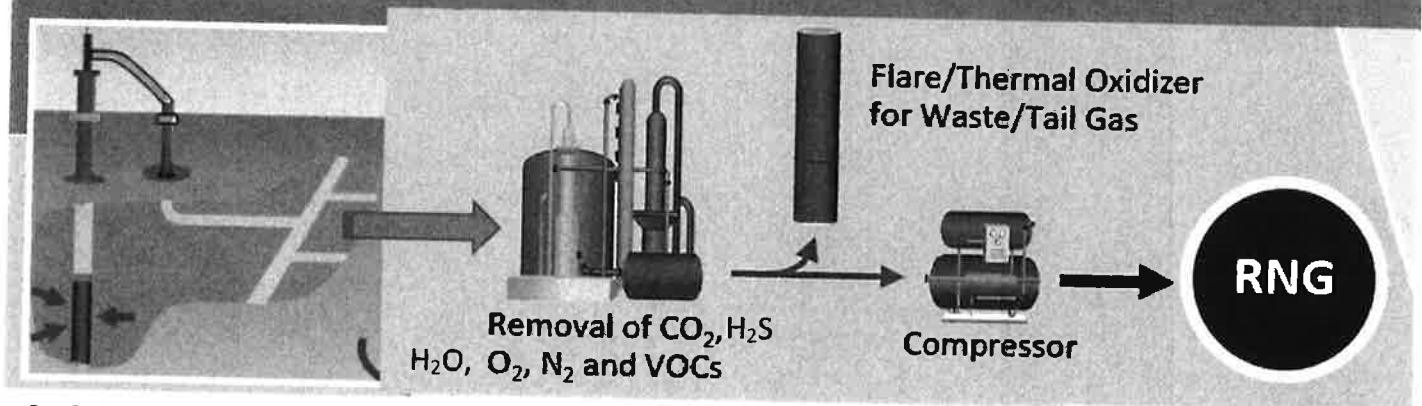
- Removing 9,700 gasoline cars from the road.
- Planting 53,100 acres of forest.
- 90% reduction in NOx emissions
- Not consuming 4.4 million gallons of diesel fuel
- Charging 5.4 billion cell phones



Location	Cocoa, FL
Operational	2023
Equipment	Selexol and Cryogenic
Capacity	Up to 4000 cfm or 2600 mmbtu/day
Input	Landfill gas
Output	Renewable Natural Gas



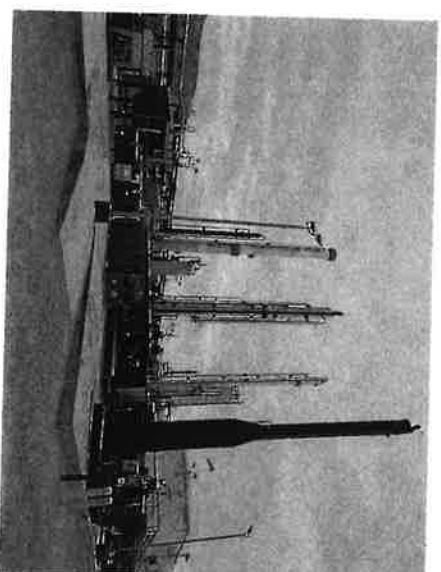
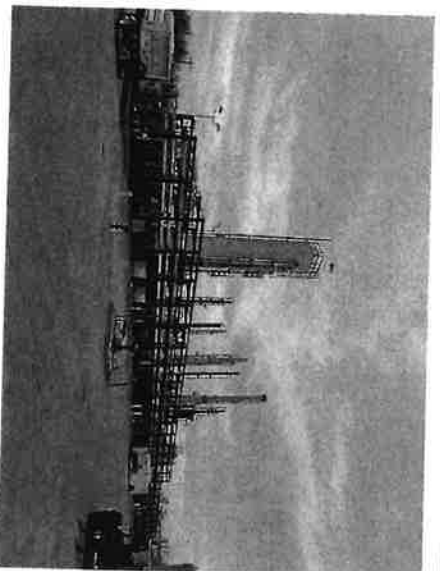
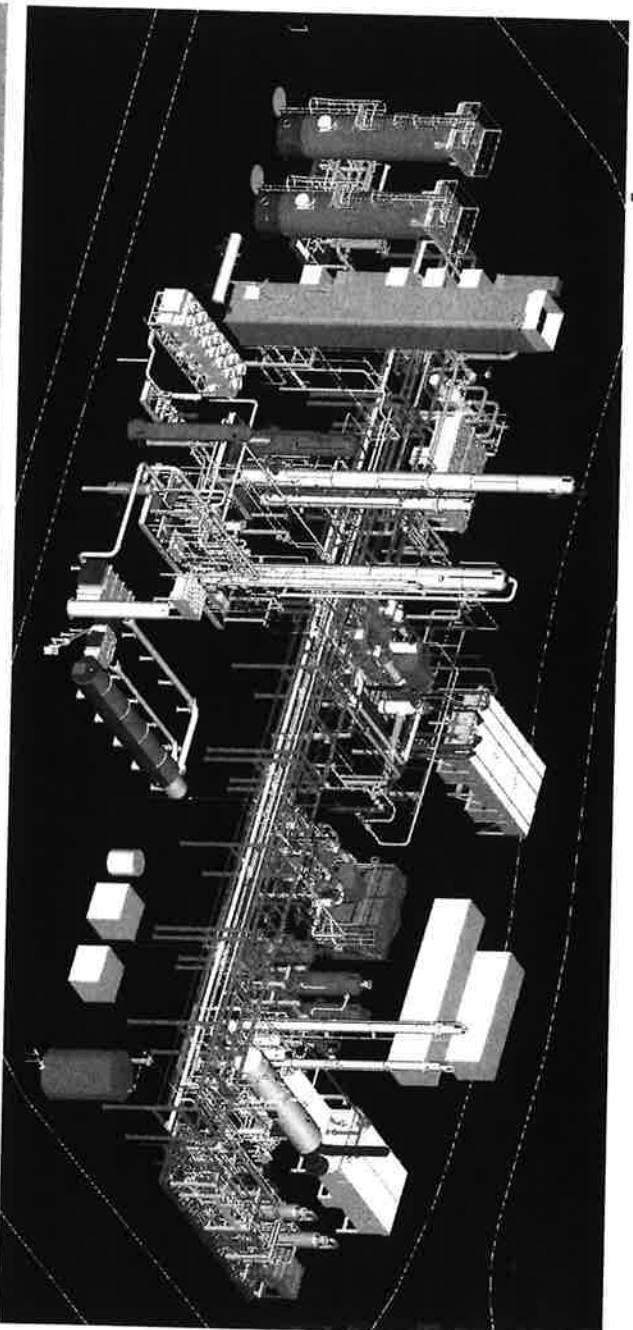
## Landfill Gas-to-Energy Process



Data Sources: EPA, EDL, Clean Energy

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# RNG Facility



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## EXISTING LANDFILL AND LFG CONTROL SYSTEM

ENERGY POWER PARTNERS  
BREVARD ENERGY LLC - BREVARD COUNTY FL  
PROPOSED RING PLANT PROCESS FLOW DIAGRAM (PRELIMINARY)



## Renewable Investments With Sustainable Results



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