

ESTADO LIBRE ASOCIADO DE PUERTO RICO
AUTORIDAD DE ENERGÍA ELÉCTRICA DE PUERTO RICO

SAN JUAN, PUERTO RICO



APARTADO 364267
CORREO GENERAL
SAN JUAN, PR 00936-4267

www.aeepr.com

1 de mayo de 2015

Sonia Miranda Vega
Directora de Planificación y
Protección Ambiental


Jorge A. Concepción Rivera
Director de Asuntos Jurídicos

Radicación de Enmienda de Contrato

Según las disposiciones de la Orden Ejecutiva Núm. 1991-24 del 18 de junio de 1991 sobre la radicación de contratos, le informamos que se otorgó la siguiente enmienda:

NÚMERO DE CONTRATO : 2013-P00044A
Landfill Gas Technologies of Fajardo, LLC

SEGURO SOCIAL : 352-42-9423

TÉRMINO : 14/abril/2015 hasta 17/octubre/2032

FECHA OTORGAMIENTO : 14 de abril de 2015

COSTO TOTAL : \$0.00

REGISTRO	TOMO	PÁGINA	TIPO	CÓDIGO
	10	19	19	19.0009

Se incluye copia de este contrato para referencia y acción pertinente.

Anejo

"Somos un patrono con igualdad de oportunidades en el empleo y no discriminamos por razón de raza, color, sexo, edad, origen social o nacional, condición social, afiliación política, ideas políticas o religiosas; por ser víctima o ser percibida(o) como víctima de violencia doméstica, agresión sexual o acoso, sin importar estado civil, orientación sexual, identidad de género o estatus migratorio; por impedimento físico, mental o ambos, por condición de veterano(a) o por información genética."



Estado Libre Asociado de Puerto Rico
 Commonwealth of Puerto Rico
OFICINA DEL CONTRALOR
 Office of the Comptroller
 San Juan, Puerto Rico

Número de envío: 436160

Código de entidad: 3075

**Registro de Envío de Contratos, Escrituras y Documentos
 Relacionados**

Envío generado por:
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Cantidad de Contratos Enviados: 1
 4/28/2015 4:53:34 PM

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Fecha de Impresión:

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Contrato	Enmienda	Fecha Otorgado	Cuantía	Vigencia desde	Vigencia hasta	Seguro Social	Nombre Contratista	Exento
2013-P00044	A	4/14/2015	\$0.00	4/14/2015	10/17/2032	352-42-9423	LANDFILL GAS TECHNOLOGIES OF FAJARDO, LLC	0


FIRST AMENDMENT CONTRACT 2013-P00044A
TO
POWER PURCHASE AND OPERATING AGREEMENT
BETWEEN
LANDFILL GAS TECHNOLOGIES OF FAJARDO, LLC
AND
THE PUERTO RICO ELECTRIC POWER AUTHORITY

APPEAR

AS FIRST PARTY: Puerto Rico Electric Power Authority, hereinafter referred to as PREPA, a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act 83 of May 2, 1941, as amended, represented in this act by its Executive Director, engineer Juan Francisco Alicea Flores, of legal age, married, and resident of Caguas, Puerto Rico.

AS SECOND PARTY: Landfill Gas Technologies of Fajardo, LLC, hereinafter referred to as SELLER, a corporation organized and existing under the laws of the State of Delaware and authorized to do business in Puerto Rico, represented in this act by its Vice-President, José Carlos Zayas Sepúlveda, of legal age, engineer, and resident of Trujillo Alto, Puerto Rico, by virtue of Corporate Resolution dated as of January 21, 2015.

WITNESSETH



In consideration of the mutual covenants hereinafter stated, the parties agree themselves, their personal representatives, and successors as follows:

STATE

WHEREAS: SELLER and PREPA executed on October 18, 2012 a Power Purchase and Operating Agreement (Agreement) for the development of a 4 MW Facility to generate electric energy using as its main fuel the landfill gas from the landfill located at the municipality of Fajardo, Puerto Rico and/or other fuel as set forth in 18 C.F.R. § 292.204(b); and



NOW THEREFORE, the Parties hereby agree to amend the following:

1. Section 7.4 is deleted in its entirety and replaced by:

PREPA shall have no liability to SELLER in connection with any disconnection or curtailment in the Facility's output required by PREPA under Section 7.1, Section 7.2 or Section 7.3 unless (a) the Facility is otherwise capable of generating and delivering electrical output, (b) SELLER has provided PREPA with written notice of such capability which may be made, among possible other ways, via an email, and (c) the duration of any such disconnection or curtailment (or combination thereof) has exceeded the applicable waiting periods set forth in the next sentences after delivery of SELLER's notice to PREPA. With respect to a disconnection or curtailment that is not attributable to severe weather conditions, the waiting period shall be the earliest to occur of (i) twenty-four (24) consecutive hours, (ii) twenty-four (24) hours in the aggregate during any thirty (30) Day period, and (iii) one hundred twenty (120) hours in the aggregate during any Year. With respect to a disconnection or curtailment that is attributable to severe weather conditions, including a hurricane or tropical storm, the waiting period shall be the earliest to occur of (i) five (5) consecutive Days, and (ii) three hundred forty (340) hours in the aggregate during any Year. To the extent a disconnection or curtailment (or combination thereof) exceeds any of the time periods described in the preceding sentences (as applicable) after SELLER has provided PREPA with written notice that the Facility is capable of generating and delivering electrical output to the Interconnection Point, then, notwithstanding anything in this Agreement to the contrary, PREPA shall pay SELLER the energy disconnected or curtailed after the waiting period. This energy shall be calculated as the average of hourly generation (in kWh) during the six hours previous to the hour when the disconnection or curtailment began, multiplied by the number of hours that exceeded the waiting period, minus the NEO actually delivered during this time by the Facility, and adjusted for any limitation in generation capacity multiplied by its duration that shall be notified in writing by SELLER. The resulting energy shall be multiplied by the applicable price per kilowatt hour determined in accordance with Section 11.1. PREPA's liability pursuant to this Section 7.4 for any single disconnection or curtailment shall be offset by any insurance proceeds actually received by SELLER from any business interruption insurance policy that SELLER may obtain.


2. Section 11.4 is deleted in its entirety and replaced by:

If for reasons other than a Force Majeure or an Emergency or the conditions established in Article 7, PREPA opts not to (or cannot) receive the Net Electrical


Output that would have been provided by the SELLER's Complex in accordance with this Agreement, PREPA shall pay SELLER as provided in this Section 11.4 for such Net Electrical Output that would have been delivered to the Interconnection Point but for the disconnection, or curtailment. The calculation of such Net Electrical Output that would have been delivered to the Interconnection Point but for the disconnection, or curtailment shall be calculated as the average of hourly generation (in kWh) during the six hours previous to the hour when the disconnection or curtailment began, multiplied by the number of hours that the Facility was under disconnection or curtailment, minus the NEO actually delivered during this time by the Facility and adjusted for any limitation in generation capacity multiplied by its duration that shall be notified in writing by SELLER. The resulting energy shall be multiplied by the applicable price per kilowatt hour determined in accordance with Section 11.1. For instances in which PREPA disconnects or curtails the Facility, PREPA shall send a report to SELLER explaining in detail the particulars that cause the disconnection or curtailment. If SELLER disputes the cause of the disconnection or curtailment included in the aforementioned report, such dispute shall be resolved in accordance with Section 22.27.

Appendix G Determination of Net Electrical Output Not Received, referred to in this Section, is eliminated in its entirety.

3. Section 12.2 is deleted in its entirety and replaced by:



SELLER shall also perform actual field tests to verify and confirm compliance with PREPA's Minimum Technical Requirements for Landfill Gas Generation Projects (MTRs). PREPA at its option may have technical eyewitnesses present or at remote monitoring locations during the performance of the field tests. All the DSM and SCADA required signals shall be completely wired and functional, and the SCADA, DSM and corresponding communication equipment fully commissioned before the MTRs field tests are started. Official technical reports documenting the field test results shall be submitted by the SELLER to PREPA as evidence of the Facility's compliance with the MTRs.




Appendix D Machine Parameters Measurements and Field Test, referred to in this Section, is eliminated and replaced by a new Appendix D with the language "Intentionally Omitted".


4. Section 16.1.5 is deleted in its entirety and replaced by:

Delay by SELLER in achieving the Commercial Operation Date of the Facility by thirty (30) Months after the Effective Date, unless the delay is due to one or more events of Force Majeure, Emergency or Legal Challenge, in which case, the thirty (30) Months period shall be extended for the duration of the Force Majeure, Emergency or Legal Challenge events up to six (6) months (up to a total of thirty six (36) months); or

5. Substitution of APPENDIX A - HOLIDAYS: Effective as of the date hereof, APPENDIX A is hereby substituted and replaced in its entirety by APPENDIX A attached hereto.
6. Substitution of Fajardo Landfill Tech Electrical Interconnection: Effective as of the date hereof, Fajardo Landfill Tech Electrical Interconnection Fajardo, P.R. of Appendix B is hereby substituted and replaced by Landfill Gas Technologies of Fajardo, LLC Electrical Interconnection Fajardo, P.R. attached hereto.
7. Representations and Warranties of each Party.



(a) PREPA hereby represents and warrants to SELLER: (i) the execution and delivery by PREPA of this Amendment, and the Amendment itself, have been duly authorized by PREPA's Governing Board and any other applicable PREPA governing body in accordance with applicable law, and (A) do not and will not require any additional internal or external consent or approval, (B) do not and will not violate any provision of Act No. 83 of May 2, 1941, as amended, or its regulations, or any material indenture, contract or agreement to which it is a party or by which its properties may be bound; and (ii) this Amendment is a legal, valid, and binding obligation of PREPA, enforceable against PREPA in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally.



(b) SELLER hereby represents and warrants to PREPA: (i) the execution, delivery, and performance by SELLER of this Amendment have been duly authorized, and do not and will not (A) require any additional internal consent or approval of

SELLER, or (B) violate any provision of SELLER's certificate of formation or operating agreement, or any material indenture, contract or agreement to which it is a party or by which it or its properties may be bound, or any law, ordinance, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect; and (ii) this Amendment is a legal, valid and binding obligation of SELLER, enforceable against SELLER in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of rights generally.

8. Ratification. Except as expressly amended hereby, the Agreement and all documents, instruments and agreements related thereto are hereby ratified and confirmed in all respects.
9. No Implied Waiver. This Amendment shall be limited precisely as written and shall not be deemed to be a consent granted pursuant to, or a waiver or modification of, any other term or condition of the Agreement, whether or not known to the Parties, or to prejudice any other right or rights which the Agreement may now have or have in the future.
10. Counterparts. This Amendment may be executed in multiple original or facsimile counterparts, each of which shall be deemed an original and shall be binding upon the Party who executed the same, but all of such counterparts shall constitute the same Amendment.
11. Governing Law. This Amendment shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Puerto Rico and, to the extent applicable, the laws of the United States of America. The Parties herein agree that all Disputes arising hereunder shall be resolved pursuant to Section 22.27 of the Agreement.
12. Novation: SELLER and PREPA expressly agree that no amendment or change order which could be made to the Agreement and this First Amendment, during its term, shall be understood as a Contractual Novation, unless both parties agree to the contrary, specifically and in writing. The previous provision shall be equally applicable in such other cases where PREPA gives the SELLER a time extension for the compliance of any of its obligations under the Agreement as amended or where



PREPA dispenses the claim or demand of any of its credits or rights under the Agreement as amended.

13. Capitalized Terms. Unless otherwise stated, capitalized terms used in this Amendment which are not defined in this Amendment have the meaning given in the Agreement.

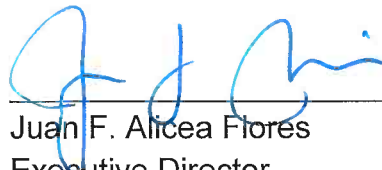
All other terms and conditions, specifications, stipulations, insurances, and requirements established in the Agreement remain unaltered and fully enforceable.

This is the Agreement between the appearing parties under this First Amendment and so is hereby ratified.

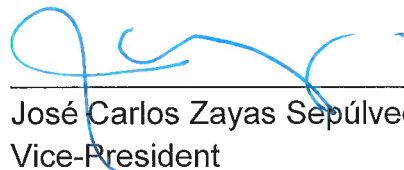
IN WITNESS WHEREOF, the Parties hereto have agreed to execute this First Amendment in San Juan, Puerto Rico, on this 14th day of April, 2015.

Puerto Rico Electric Power Authority

Landfill Gas Technologies of Fajardo, LLC



Juan F. Alicea Flores
Executive Director
660-43-3747



José Carlos Zayas Sepúlveda
Vice-President
35-2429423



Appendix A - HOLIDAYS

The following holidays are recognized by PREPA. All holidays which fall on a Sunday are observed the following day, Monday:

<u>DAY</u>	<u>CELEBRATION</u>
January 1	New Year's Day
January 6	Three Kings Day
3 rd Monday in January	Martin Luther King, Jr. Day
3 rd Monday in February	Presidents Day
March 22	Emancipation Day
Friday of Holy Week	Good Friday
Last Monday in May	Memorial Day
July 4	Independence Day
July 25	Commonwealth Constitution
1 st Monday in September	Labor Day
2 nd Monday in October	Columbus Day
November 11	Veterans Day
November 19	Discovery of Puerto Rico Day
4 th Thursday in November	Thanksgiving Day
December 24 afternoon	Christmas Eve
December 25	Christmas Day

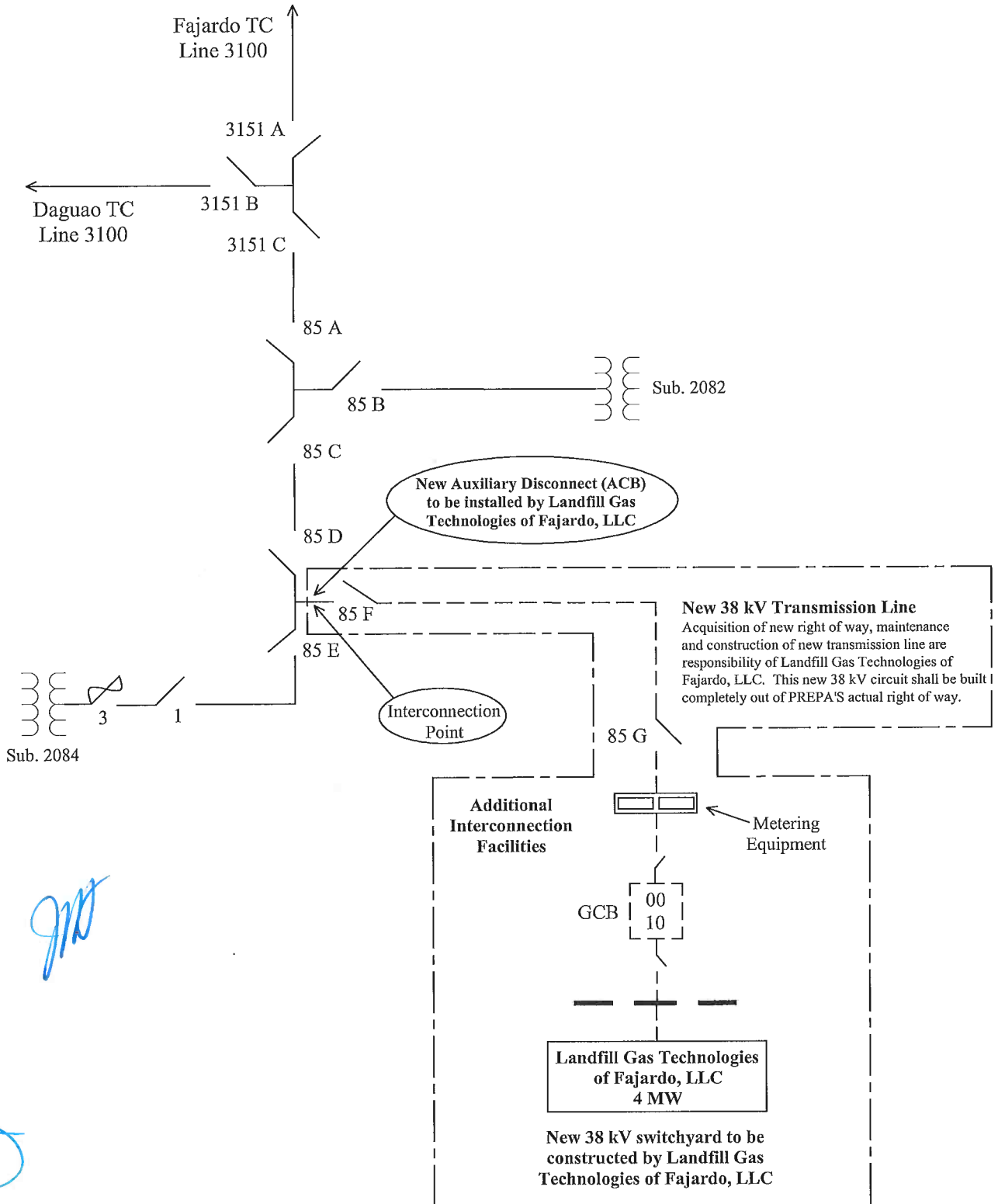


Appendix B - INTERCONNECTION

g/m

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LANDFILL GAS TECHNOLOGIES OF FAJARDO, LLC ELECTRICAL INTERCONNECTION FAJARDO, P.R.



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Handwritten signature in blue ink.

TITLE:

Landfill Gas Technologies of Fajardo, LLC
Electrical Interconnection Line 3100

COMPANY:

AEE
(Puerto Rico Electric Power Authority)



APPENDIX D

Intentionally Omitted

A handwritten signature in blue ink, appearing to be 'J.M.' or similar, located in the lower-left quadrant of the page.A handwritten signature in blue ink, appearing to be 'J.B.' or similar, located in the bottom-left corner of the page.