

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2010 Legislative Session

Legislative Day No. 8

Bill No. 45-2010

Introduced by: The Chairperson at the request of the County Executive

AN ACT pursuant to Section 612 of the Howard County Charter, approving certain agreements for the design, permitting, construction, operation and maintenance of a certain solar photovoltaic system at the New Cut Road Landfill to provide energy to Worthington Elementary School, a management payment and possible reimbursement payment for energy from SunEdison Origination3, LLC.

Introduced and read first time _____, 2010. Ordered posted and hearing scheduled.

By order _____
Stephen LeGendre, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2010.

By order _____
Stephen LeGendre, Administrator

This Bill was read the third time on _____, 2010 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2010 at ___ a.m./p.m.

By order _____
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive _____, 2010

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, Howard County, Maryland (the “County”) is the owner of a parcel
2 of land located at 4361 New Cut Road, Ellicott City, Maryland 21043, commonly known
3 as the New Cut Road Landfill (the “Landfill”); and
4

5 **WHEREAS**, the County has determined that a certain opportunity exists to
6 construct, operate and maintain certain solar photovoltaic equipment (the “Solar
7 Facility”) at the Landfill; and
8

9 **WHEREAS**, on or about August 31, 2009, a “Request for Proposals for
10 Development of Solar Energy Project at a Publicly Owned Closed Landfill in Howard
11 County” was issued for the design, permitting, construction, operation and maintenance
12 of solar equipment to supply electricity to Worthington Elementary School located at
13 4570 Roundhill Road, Ellicott City, Maryland; and
14

15 **WHEREAS**, after an evaluation of proposals, the County, along with the Board
16 of Education (the “Board”) and the Northeast Maryland Waste Disposal Authority (the
17 “Authority”), selected SunEdison Origination³, LLC (“SunEdison”) to meet the needs
18 sought in the RFP (the “SunEdison Proposal”); and
19

20 **WHEREAS**, to effectuate the SunEdison Proposal, the County, the Board and the
21 Authority have negotiated a Memorandum of Understanding (“MOU”), the form of
22 which is attached hereto as Exhibit A, outlining each party’s obligations under the
23 agreements related to the construction, operation and maintenance of the Solar Facility
24 and the use and purchase of energy for Worthington Elementary School; and
25

26 **WHEREAS**, the County desires to enter into the MOU with the other parties and
27 to be bound by the terms and conditions of the MOU; and
28

29 **WHEREAS**, the MOU provides that the Authority and SunEdison will enter into
30 a Solar Power Services Agreement (the “SPSA”), the form of which is attached as
31 Exhibit B to the MOU, for an approximate term of 20 years, and that, pursuant to which

1 SPSA, SunEdison will construct, operate and maintain the Solar Facility and provide
2 energy to Worthington Elementary School; and

3
4 **WHEREAS**, the MOU provides that the County will grant a license to the
5 Authority to enter upon and use approximately 242,540 square feet (5.567 acres, plus or
6 minus) of the Landfill in order to construct, operate and maintain the Solar Facility; and

7
8 **WHEREAS**, the license granted to the Authority is to be made pursuant to the
9 terms and conditions of a License Agreement For a Term of Years (“License
10 Agreement”), the form of which is attached as Exhibit C to the MOU; and

11
12 **WHEREAS**, the Authority, with the consent of the County, will assign the
13 License Agreement to SunEdison, so that SunEdison can construct, operate and maintain
14 the Solar Facility in accordance with the terms and conditions of the License Agreement
15 and the SPSA, including general conditions and special conditions; and

16
17 **WHEREAS**, pursuant to the SPSA, the Authority is obligated to purchase the
18 energy that is generated from the output of the Solar Facility, up to an amount of the
19 Estimated Annual Production as set forth in the SPSA and the Special Conditions thereto,
20 at a monthly price of the production of energy from the solar system, times the kWh rate
21 as set forth in the SPSA; and

22
23 **WHEREAS**, the Authority, on behalf of the County, applied for and received a
24 grant award under the Project SunBurst Program from the Maryland Energy
25 Administration (the “MEA”), in the amount of \$1,000.00 per kilowatt direct current of
26 installed photovoltaic capacity and the maximum amount of the grant will be
27 \$462,000.00; and

28
29 **WHEREAS**, during the 20-year term of the SPSA, the kWh rate ranges from
30 \$0.0950 during the first year to \$0.1666 for the twentieth year, based on a monetary
31 award from the MEA’s Project SunBurst Grant for the reduction of the kWh rate, and the

1 production of energy may vary; and

2
3 **WHEREAS**, the SPSA also provides for certain early termination fees in the
4 event the Authority terminates the SPSA prior to the end of the 20-year term; and

5
6 **WHEREAS**, the MOU provides that the Board, in place of the Authority, will
7 pay for the energy used and produced at the rate provided in the SPSA; and

8
9 **WHEREAS**, the MOU provides that, in the event the energy produced by the
10 Solar Facility costs more than the Board's contract rate for regular electrical usage, the
11 County will reimburse or credit the Board for such cost differential paid by the Board;
12 and

13
14 **WHEREAS**, the MOU provides that if, pursuant to the SPSA, the Board is
15 required to pay for energy produced by the Solar Facility that it does not use but is
16 produced, then the County will reimburse or credit said amount of payment to the Board;
17 and

18
19 **WHEREAS**, the MOU provides that the early termination fee payable under the
20 SPSA will be paid by the County in the event of early termination of the SPSA; and

21
22 **WHEREAS**, the MOU provides that SunEdison is a third-party beneficiary of the
23 terms, covenants and conditions of the MOU that may reasonably be inferred as
24 necessary or appropriate in order for SunEdison to receive payment in accordance with
25 the terms and conditions of the SPSA and the MOU; and

26
27 **WHEREAS**, the MOU provides that the Authority will provide administrative
28 services to the County relating to the MOU and the SPSA and that the County will pay
29 certain fees for such services as provided in the MOU; and

1 **WHEREAS**, the County Council has received the Authority's Notice of Intent,
2 the form of which is attached hereto as Exhibit B, which notice is a statutory requirement
3 that must be delivered by the Authority and received by the County Council to provide
4 adequate public notice prior to the construction, leasing or installation of the Solar
5 Facility, pursuant to § 3-920 of the Natural Resources Article of the Annotated Code of
6 Maryland; and

7
8 **WHEREAS**, the County's contingent obligations of reimbursement payments to
9 pay differential energy costs for the Board for the energy produced by and used from the
10 Solar Facility and the obligation to pay administrative fees to the Authority, all as set
11 forth in the MOU, may require the payment by the County of funds from an appropriation
12 from a later fiscal year and therefore requires County Council approval as a multi-year
13 agreement pursuant to Section 612 of the Howard County Charter.

14
15 **NOW, THEREFORE,**

16
17 *Section 1. Be It Enacted by the County Council of Howard County, Maryland that in*
18 *accordance with Section 612 of the Howard County Charter, it approves:*

- 19 1. *The Memorandum of Understanding between Howard County, the Board*
20 *of Education and the Northeast Maryland Waste Disposal Authority, in*
21 *substantially the form attached hereto as Exhibit A.*
- 22 2. *The Solar Power & Services Agreement between SunEdison Origination3,*
23 *LLC and the Northeast Maryland Waste Disposal Authority, in*
24 *substantially the form attached as Exhibit B to said Memorandum of*
25 *Understanding, including the general conditions and the special*
26 *conditions; and*
- 27 3. *The License Agreement for Term of Years between Howard County and*
28 *the Northeast Maryland Waste Disposal Authority, in substantially the*
29 *form attached as Exhibit C to said Memorandum of Understanding;*
- 30 4. *The Notice of Intention of the Authority to the County Council of Howard*
31 *County, in substantially the form attached hereto as Exhibit B.*

1 **Section 2. And Be It Further Enacted** by the County Council of Howard County,
2 Maryland that the County Executive is hereby authorized to execute the Agreements
3 listed in Section 1 of this Act in the name of and on behalf of the County.

4

5 **Section 3. And Be It Further Enacted** by the County Council of Howard County,
6 Maryland that the County Executive, provided that such actions are within the bounds of
7 the County Executive's authority, is authorized and directed to make non-substantive
8 amendments to the agreements listed in Section 1 above and to take any and all actions
9 and to execute, to deliver, and to file any documents, instruments, certifications, forms
10 letters of instructions, written requests, agreements and other papers customarily
11 delivered and reasonably required in connection with the agreements being entered into,
12 whether or not herein mentioned and not otherwise provided for herein, provided, that
13 nothing herein shall authorize the County Executive to alter the material and substantive
14 terms of the agreements.

15

16 **Section 4. And Be It Further Enacted** by the County Council of Howard County,
17 Maryland that this Act shall become effective 61 days after its enactment.

EXHIBIT A

TO

County Council Of Howard County, Maryland

2010 Legislative Session

Legislative Day No.

Bill No. ___-2010

Introduced by: The Chairperson at the request of the County Executive

AN ACT pursuant to Section 612 of the Howard County Charter, approving certain agreements for the design, permitting, construction, operation and maintenance of a certain solar photovoltaic system at the New Cut Road Landfill to provide energy to Worthington Elementary School, a management payment and possible reimbursement payment for energy from SunEdison Origination3, LLC.

MEMORANDUM OF UNDERSTANDING

NEW CUT ROAD LANDFILL
SOLAR PROJECT

Among

HOWARD COUNTY, MARYLAND,

THE BOARD OF EDUCATION OF HOWARD COUNTY, MARYLAND

And

NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY

Dated

_____, 2010

MEMORANDUM OF UNDERSTANDING
for
NEW CUT ROAD LANDFILL
SOLAR PROJECT

THIS MEMORANDUM OF UNDERSTANDING FOR THE NEW CUT ROAD LANDFILL SOLAR PROJECT (the “MOU”) is entered into as of _____, 2010 (the “Effective Date”), between the **Board of Education of Howard County (the “Board”)**, a body corporate and politic acting on behalf of the Howard County Public School System, **Howard County, Maryland (the “County”)**, a body corporate and politic, and the **Northeast Maryland Waste Disposal Authority (the “Authority”)**, a body politic and corporate organized and existing under the laws of the State of Maryland.

RECITALS

WHEREAS, the County owns the Landfill (identified and defined below).

WHEREAS, the Authority, in coordination with the County, issued on August 31, 2009, a “Request for Proposals for Development of Solar Energy Project at a Publicly Owned Closed Landfill in Howard County” (the “RFP”), requesting bids and proposals for the design, permitting, construction, operation and maintenance of a solar energy generating project at the Landfill to supply electricity to the Worthington Elementary School located at 4570 Roundhill Road, Ellicott City, MD 21043 (the “Host Site”).

WHEREAS, the County desires for the Authority to cause a solar energy generating project at the Landfill to be designed, engineered, constructed, tested, placed into operation and continuously operated, maintained, and owned or controlled by the Provider (as defined below).

WHEREAS, after an evaluation of vendor proposals, the Authority, with the agreement of the County and the Board, selected SunEdison Origination3, LLC, or its permitted successor or assign as defined in the Solar Power and Services Agreement, (collectively the “Provider”) to cause a solar energy generating project at the Landfill to be designed, engineered, constructed, tested, placed into operation and continuously operated, maintained, and owned and controlled by the Provider (collectively the “Project”).

WHEREAS, the Authority and the Provider will enter into a Solar Power and Services Agreement (defined below and referenced herein as the “SPSA”), pursuant to which terms the County will grant a license to the Provider granting rights to access and use the Landfill in order for the Provider to complete and operate the Project.

WHEREAS, pursuant to this MOU and the SPSA, the Board will purchase the electricity generated by the Project.

WHEREAS, the Authority will administer the SPSA and all related agreements in accordance with this MOU (collectively the “Project Agreements”).

WHEREAS, the County will pay the Authority for the costs associated with (a) the preparation, negotiation, execution, and administration of the SPSA, and (b) and the amounts that become due and payable under the SPSA, with the exception of the amounts to be paid by the Board for the “Solar Services” (defined in the SPSA) provided to and used by the Board at the Host Site.

WHEREAS the Board will grant the Authority and the Provider the privilege, license and right (“Host License”) to: (1) access and use a right of way (the “Host Premises”) in accordance with the terms of this MOU, including rights of ingress and egress, in any way necessary to complete, operate and, if applicable, remove the Project.

WHEREAS, the Board will receive the electricity at the Host Site mechanical control center and will pay for the electricity delivered up to 100% of the Host Site’s electricity needs at a rate, for the Host Site, that is the lesser of either the electricity fee charged by the Provider under the SPSA or the contract rate charged to the Board by “BRCPC” (the Baltimore Regional Cooperative Purchasing Committee) or the Board’s electrical provider on a monthly basis. The Board will supply, or cause to be supplied, a monthly summary of the applicable BRCPC monthly rate to the Authority for payment calculations.

WHEREAS the Project will connect to the Host Site in a manner as to be Net Metered (as defined in the Public Utility Companies Article, §7-306, of the Annotated Code of Maryland (2008), as amended).

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

SECTION 1.1 DEFINITIONS.

(A) Capitalized terms used in this MOU have the meanings set forth in this Article I, unless a different meaning clearly appears from the context.

(B) As used in this MOU, the following terms will have the meanings set forth below:

“Administrative Costs” has the meaning given in Section 4.1(D).

“Applicable Laws” means all federal, state and local constitutions, charters, acts, statutes, laws, ordinances, codes, rules, regulations, orders and Governmental Approvals, or other legislative or administrative action of any agency, department, authority, political subdivision or other instrumentality, or final decrees, judgments or orders of a court, in each case applicable to the Project, the Authority, the County, the Board, the Provider, the Landfill or the performance of any obligations under any Project Agreement.

“Authorized Party Officials” are the signatories to this document or the Project Agreements. Only authorized officials or their designated official can approve amendments or addendums to this MOU.

“Authority Representative” means the Executive Director of the Authority, or any other person designated by the Executive Director as the Authority Representative hereunder.

“Billing Period” means each calendar month during the Term of this MOU and the SPSA.

“Billing Statement” has the meaning given in Section 4.2(A).

“Board Representative” means the Superintendent of the Schools, or any other person designated by the Superintendent as the Board Representative hereunder.

“Business Day” means a calendar day excluding Saturdays, Sundays and any other day that national banks located in the State of Maryland or the County offices are not open for business.

“Construction Quality Assurance Agreement” means any agreement between the Authority and a contractor pursuant to which such contractor agrees to perform certain construction oversight or management services with respect to the Project.

“County License” has the meaning given in Section 2.1.

“County Premises” has the meaning given in Section 2.1.

“County Representative” means the County’s Director of the Department of Public Works, or any other person designated by the County’s Director of Department of Public Works as the County Representative hereunder.

“Effective Date” has the meaning given in the first paragraph of this MOU.

“Force Majeure Event” means any act or event that prevents the affected Party from performing its obligations in accordance with a Project Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, “Force Majeure Event” shall include without limitation the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) a deleterious environmental condition that precludes the safe occupation of the County Premises, (iii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iv) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (v) strikes or labor disputes (except strikes or labor disputes caused solely by employees of the Provider or as a result of such party’s failure to comply with a collective bargaining agreement);

(vi) action by a Governmental Authority, including a moratorium on any activities related to a Project Agreement; and (vii) the inability for one of the Parties, despite its reasonable efforts, to obtain, in a timely manner, any Governmental Approval necessary to enable the affected Party to fulfill its obligations in accordance with a Project Agreement, provided that the delay or non-obtaining of such Governmental Approval is not attributable to the Party in question and that such Party has exercised its reasonable efforts to obtain such Permit. A Force Majeure Event shall not be based on the economic hardship of either Party.

“Governmental Approvals” means all permits, clearances, licenses, authorizations, consents, filings, exemptions or approvals from or required by any Government Authority that are necessary for the performance of this MOU and any other Project Agreement, and the construction and operation of the Project.

“Governmental Authority” means all national, federal, state, county, city, municipal, local or regional authorities, departments, bodies, commissions, corporations, branches, directories, agencies, ministries, courts, tribunals, judicial authorities, legislative bodies, administrative bodies, regulatory bodies, autonomous or quasi-autonomous entities or taxing authorities or any department, municipality or other political subdivision thereof.

“Host Premises” means the right of way between the Landfill and the Host Site, and the area of the Host Site providing reasonable access to the electricity tie-in point and space in the mechanical control center at the Host Site for the placement of appropriate equipment for the Project and supplying electricity to the Host Site.

“Landfill” means the real property owned by the County and located at 4361 New Cut Road, Ellicott City, MD 21043, along with the buildings and improvements located thereon.

“MOU” means this Memorandum of Understanding for the New Cut Road Landfill Solar Project, as may be amended, modified or supplemented from time to time.

“MOU Service Fee” has the meaning given in Section 4.1(B).

“Party” means any person or entity entering into a Project Agreement, sometimes collectively referred to as the Parties.

“Project Agreements” means the SPSA and all related agreements including this MOU, and all other agreements that the Authority, the Provider, the County and/or the Board enters into that is related to the Project, and all amendments, modifications or supplements to such agreements. On the date of signing this MOU the Project Agreements are those agreements listed on Exhibit A.

“Project Fee” has the meaning given in Section 4.1(C).

“Solar Power and Services Agreement” (the “SPSA”) means that agreement to be entered into by the Authority and the Provider, including general conditions, special conditions and schedules, pursuant to which the Provider will sell, and the Authority will purchase, electricity

generated by the Project, as such agreement may be amended, modified or supplemented from time to time. The SPSA is attached hereto as Exhibit B.

“Term” means for this MOU the period of time commencing on the Effective Date of the MOU and continuing through the date of the termination of the MOU as provided for in Article VII of this MOU.

SECTION 1.2 RULES OF INTERPRETATION.

(A) Entire Agreement. This MOU contains the entire agreement between the parties hereto with respect to the transactions contemplated by this MOU and, except as expressly provided otherwise herein, nothing in this MOU is intended to confer on any person other than the parties hereto and their respective permitted successors and assigns hereunder any rights or remedies under or by reason of this MOU.

(B) Severability. If any clause, provision, subsection, Section or Article of this MOU is ruled invalid by any court having jurisdiction over the Parties or the Project, then the parties will, in good faith, promptly meet and negotiate a mutually acceptable substitute clause, provision, subsection, Section or Article which must, to the greatest extent legally permissible, effect the original intent of the parties herein. The invalidity of such clause, provision, subsection, Section or Article shall not affect any of the remaining provisions hereof, and this MOU will be construed and enforced as if such invalid portion did not exist.

(C) References. All references to designated “Articles,” “Sections,” and other subsections are to the designated Articles, Sections, and other subsections of this MOU.

(D) Captions. The table of contents and the headings or captions used in this MOU are for convenience of reference only and do not define, limit or describe any of the provisions of this MOU or the scope or intent hereof.

ARTICLE II
PROJECT and SOLAR SERVICES PAYMENT OBLIGATIONS and AUTHORITY
DUTIES

SECTION 2.1 SPSA and County License. The Parties acknowledge and agree that:

(A) The County owns the Landfill, the Board owns the Host Site, and the Provider or its financing parties will own the Project and all “Environmental Attributes” and “Solar Incentives” as defined in the SPSA. The County and the Board disclaim any right to Solar Incentives or Environmental Attributes, as such terms are defined in the SPSA, based upon the installation of the Project at the Landfill, and will execute any document or agreement reasonably necessary to affirm such disclaimer.

(B) The County will grant a license to the Authority for a portion of the Landfill (the “County Premises”) to be used for the development and operation of the Project pursuant to the

terms, covenants and conditions set forth in detail in the “License Agreement for a Term of Years” (the “County License”), of even date herewith. The County License may be assignable to the Provider pursuant to the terms and conditions thereof. The County License is attached hereto as Exhibit C.

(C) The Authority and Provider will enter into (i) the SPSA pursuant to which the Provider will complete, operate, and maintain and own and control the Project, and (ii) an assignment of the County License pursuant to which the Provider assumes all obligations and liabilities of the Authority under the License. The Parties have reviewed the SPSA and the License and approved the terms therein.

(D) The County will perform any act or meet any requirement imposed on the Authority pursuant to the SPSA which the Authority cannot reasonably perform without the reasonable assistance or action of the County, or which must be performed by the County as the owner of the Landfill or for any other reason.

(E) The Authority will administer the SPSA and manage the Project for the County for the term of the SPSA. The Authority’s obligations as project manager hereunder will include overall Project coordination and oversight pursuant to this MOU and the SPSA.

SECTION 2.2 Electricity Production and Payment Obligations.

(A) Pursuant to the terms of the SPSA, the Host Site will receive “Solar Services” (defined in the SPSA) from the Project and the Board will pay, on a monthly basis, for the Solar Services delivered monthly, up to the amount of 100% of the Host Site’s electricity needs for the Fiscal Year (July 1 – June 30). For a Fiscal Year, the Board’s obligation under this MOU for the total aggregate annual amount (the “Total Annual Amount”) to have been paid for electricity for the Host Site shall equal the lesser amount of either (i) the monthly “Solar Services Payments” charged by the Provider under the SPSA for the Fiscal Year multiplied by twelve (12) (the “Aggregate Solar Services Payment”, or (ii) the contract rate charged, or that would be charged, to the Board by “BRCPC” (the Baltimore Regional Cooperative Purchasing Committee) or the Board’s electrical provider on a monthly basis (“Board Rate”) multiplied by 12 (the “Aggregate Board Rate”). To verify the Board Rate, the Board will supply, or cause to be supplied, a monthly summary of the applicable monthly rate to the Authority. The Board Rate will be tracked and used in the year-end accounting of payments or reimbursements due and owing for the Solar Services Payment, if any.

(B) The Authority shall cause the Provider to issue a monthly invoice to the Board, the County and the Authority, in accordance with Section 6.2 of the SPSA. The Board shall review the invoice and pay the Solar Services Payment within thirty (30) days from the date of receipt.

(C) From the date of the first Solar Services Payment, the Authority will provide quarterly reports to the Board and the County providing a comparison of the amount of the Aggregate Solar Services Payment incurred and paid to date to the amount of the Aggregate Board Rate that would have been paid to date. The last quarterly report will be sent to the Board

and the County within sixty (60) days following the end of each Fiscal Year, including Fiscal Year 2011. For the last quarterly statement, the Authority shall provide to the Board and the County an "Annual Accounting Statement" compiling all quarterly reports and itemizing the Total Annual Amount to have been paid by the Board under this MOU and a reconciliation of such amount with the Aggregate Solar Services Payment paid by the Board pursuant to the Billing Statements (defined below). The Board and County will review the Annual Accounting Statement and provide approval thereof or comments and/or questions pertaining to the information therein. In the event that the Aggregate Solar Services Payment paid by the Board was greater than the Aggregate Board Rate, then the County will reimburse said difference to the Board within thirty (30) days of receipt of the Annual Accounting Statement, unless the County promptly disputes the purported difference owed. If there is a dispute, then the County, Board and Authority will follow the dispute resolution set forth in Article IX herein.

In the Event that the Aggregate Solar Services Payment paid was less than the Aggregate Board Rate, then the County shall have no obligation under this Section 2.2 (C).

(D) Notwithstanding anything to the contrary contained herein, if the Board's energy needs in its Fiscal Year are less than the "Estimated Annual Production" of the Solar Power Services (as defined in the SPSA), then the Board nonetheless will pay for all Solar Power Services delivered to the Host Site up to the amount of Solar Services Payment that would be due for the consumption of the Estimated Annual Production. If the Board's Aggregate Solar Services Payment is greater due to the Board's obligation under this Section 2.(D), the differential shall be shown in the Annual Accounting Statement and the County will reimburse said difference to the Board within thirty (30) days of receipt of the Annual Accounting Statement, unless the County promptly disputes the purported difference owed. If there is a dispute, then the County, Board and Authority will follow the dispute resolution set forth in Article IX herein.

If the Board's energy needs exceed the Estimated Annual Production, the Board may either purchase Solar Power Services produced above the Estimated Annual Production or purchase its additional electricity through a separate contract. The Provider will not be responsible for any electricity requirement of the Host Site that exceeds the actual Solar Power Services produced.

If the Board's energy needs in the Fiscal Year equal or exceed the Estimated Annual Production, then the County shall not be liable for any Solar Services Payment, other than what might be provided for in Section 2.(C) above.

SECTION 2.3 Limitation of Authority Payment Obligations. The liability of the Authority for any monetary payments with respect to the Solar Services provided to the Host Site is limited to the amount of payment that the Authority receives from the Board and the County, if applicable. Any amount not received by the Authority is not payable from the general funds of the Authority and the incurrence or nonperformance of such obligations or payments will not constitute or create a legal or equitable pledge of, or lien or encumbrance upon or claim against, any of the assets or property of the Authority or of its income, receipts or revenues.

SECTION 2.4 Authority Contract Administration Duties. In addition to the duties and obligations of the Authority set forth in other Sections of this Article II and other Articles of this MOU, the Authority shall administer the Project Agreements and the SunBurst Grant for the County, including without limitation providing timely notices and performing related tasks under the Project Agreements and the SunBurst Grant as may be reasonably requested by the County (collectively the “Contract Administration”). The Contract Administration shall be billed at the flat fees set forth in Schedule II attached hereto and made a part hereof.

The Authority shall coordinate with the County in the event that the County elects to retain the services of a third party consultant to perform work related to the Project. The Authority shall prepare, or cause to be prepared, and the County will provide timely response thereto, proposals for work, summary reports and invoices for said work. At no time shall the Authority enter into a contract with a third party consultant, or issue payment to said third party consultant, without the (i) written approval of the County, and (ii) written direction of the County as to payment of costs (for example, a County Purchase Order), with the exception of the Administrative Costs outlined in Schedule II herein.

ARTICLE III USE OF BOARD PROPERTY

SECTION 3.1 GRANT OF HOST LICENSE

(A) The Board hereby grants the Authority and the Provider the privilege, license and right (the “Host License”) to access and use the Host Premises in accordance with the terms of this MOU, including rights of ingress and egress, in any way necessary to carry out the Authority and Provider’s purposes under the applicable Project Agreement. The Host Premises include the buildings, structures and other improvements located at the Host Site and the real property at the Host Site. The Host License is part of the Grant of Electrical Line Easement and attached to this MOU as Exhibit D.

(B) The Authority covenants and agrees that it will cause the Provider to (1) use the Host Premises only for the purposes described in this MOU and the SPSA, (2) perform its obligations with respect to the Project, in accordance with Applicable Laws, and (3) not undertake any alteration, change or improvement to the Host Premises not set forth in this MOU and the SPSA, without the prior approval of the Board Representative.

(C) Upon the termination or expiration of all Project Agreements, the Host License will terminate, except to the extent that the Host License is necessary pursuant to the terms of such termination, e.g., if the County purchases the Project with the intent to continue supplying electricity to the Host Site.

SECTION 3.2 BOARD COVENANT FOR BENEFIT OF AUTHORITY. The Board agrees and covenants that so long as this MOU is in effect:

(A) Any use, alteration or modification of the Host Premises will be coordinated with the Authority and, unless otherwise mutually agreed by the Authority and the Board, must not materially and adversely affect (1) the Authority's ability to perform its obligations under this MOU or the Project Agreements, or (2) any Party's ability to perform its obligations under the Project Agreements.

(B) The Authority and the Provider are entitled to exercise its rights with respect to the Host License and the Host Premises, without undue interference or interruption and the Board accordingly agrees (1) not to take any action (or fail to take any action) which would adversely affect the Authority's or the Provider's ability to enjoy the rights and benefits conferred upon the Authority or the Provider, or to undertake its obligations in connection with the Project and the Host Premises, and (2) to cooperate with the Authority and the Provider with respect to all matters affecting such enjoyment; provided, however, that this Section 3.2 will not be construed to exempt the Authority or the Provider from compliance with Applicable Laws or to preclude the Board from enforcing Applicable Laws.

(C) The Board will provide the Parties with information regarding the Project or the Host License, review and comment on documents or other materials and provide other reasonable assistance to the Parties, in each case, as required under the Project Agreements or as may be reasonably requested by the Authority from time-to-time, including, without limitation, providing information regarding electricity costs for the Project.

(D) The Board disclaims any right to Solar Incentives or Environmental Attributes, as such terms are defined in the SPSA, based upon the receipt of electricity from the Project, and will execute any document or agreement reasonably necessary to affirm such disclaimer. To this end, the Board, as Host, specifically and irrevocably, for the life of this MOU, assigns all rights to any Solar Incentives or Environmental Attributes, as such terms are defined in the SPSA, to the Authority.

(E) The Board will perform any act or meet any requirement imposed on the Authority pursuant to the SPSA which the Authority cannot reasonably perform without the assistance or action of the Board or which must be performed by the Board as the owner of the Host Site and Host Premises. Examples of such acts include, without limitation, (i) the Board providing reasonable access to the Host Premises for inspections, planning and work related to the Project, or (2) the Board meeting with the Authority and its contractor(s) to address data needs related to the Project.

ARTICLE IV
MOU SERVICE FEE AND PAYMENTS

SECTION 4.1 MOU SERVICE FEE.

(A) Payment of MOU Service Fee. In consideration for the Authority’s obligations hereunder and under the SPSA and any other Project Agreements, the County will pay the Authority the MOU Service Fee in accordance with the terms of this Section 4.1.

(B) Calculation of MOU Service Fee. The “MOU Service Fee” (sometimes referred to herein as the “MSF”) will be an amount equal to the Authority’s net costs arising from the Project, determined in accordance with the following formula:

$$MSF = PF + AC$$

Where:

MSF= MOU Service Fee

PF = Project Fee (defined below)

AC = Administrative Costs (defined below)

Each component of the MOU Service Fee must be computed in accordance with this Section 4.1 and may be adjusted from time to time as provided in this MOU.

(C) Project Fee. The “Project Fee” is an amount equal to any amounts required to be paid by the Authority to the Provider under the Project Agreements, including, but not limited to, any fees, any termination damages, and other amounts payable thereunder. The County shall pay the Project Fee (on behalf of the Authority) directly to the Provider under the applicable Project Agreement.

(D) Administrative Costs. “Administrative Costs” is an amount equal to all reasonable administrative costs of the Authority attributable to the administration and enforcement by the Authority of its or the County’s obligations under this MOU. The Administrative Costs include, but are not limited to, the following: reasonable accounting, legal, engineering and other professional fees. The engineering fees include the fees of any engineer required to be retained by the Authority pursuant to the SPSA or this MOU. With the exception of contractors and consultants that the Authority retains and pays to perform services under this MOU or any Project Agreement, the Administrative Costs shall not include: (i) the salary or fringe benefits or other compensation paid to the Authority’s employees or personnel, (ii) the Authority’s out of pocket costs for the travel of Authority staff to the County’s facilities, or (iii) the costs of operating the Authority’s office, such as rent, phones, internet, photocopying and other general office and overhead costs in accordance with the terms and provisions of Schedule II attached hereto and made a part hereof. Grant funding received by the Authority on behalf of this Project, except for the Project SunBurst Grant administered by the Maryland Energy

Administration, will be applied to the MOU Service Fee, unless restricted by the terms of the grant. The SunBurst Grant, if and when received, will be factored into the Solar Services Payment for a reduction of said payments for the benefit of the County and the Board, in accordance with the terms and provisions of Schedule III attached hereto and made a part hereof.

SECTION 4.2 BILLING OF THE MOU SERVICE FEE.

(A) Billing Statements. The Authority will render an invoice statement (a “Billing Statement”) to the County within twenty-one (21) days after receipt of invoices for services related to the Project. The Billing Statement must set forth the MOU Service Fee and any other amounts due under this MOU. The County must pay the MOU Service Fee and any other amounts due to the Authority within twenty (20) days of the date that the County receives the Billing Statement, provided that if the last day of such 20-day period is not a Business Day, payment must be made on the next succeeding Business Day.

(B) Estimates and Adjustments. If an item in the Billing Statement is mutually agreed by the County Representative and the Authority Representative to be in error, the Billing Statement may be corrected prior to the payment due date for such Billing Statement. If an item is mutually agreed by the County Representative and the Authority Representative to be in error after such time, an adjustment will be made on the Billing Statement for the Billing Period immediately after the item is accurately determined.

SECTION 4.3 COUNTY’S PAYMENT OBLIGATIONS.

(A) County’s Obligation to Pay the MOU Service Fee. The County, in good faith, will take all such action as may be necessary to provide for the timely payment of the MOU Service Fee and all other amounts due hereunder. Notwithstanding anything to the contrary contained herein, all obligations of the County pursuant to this MOU shall not constitute a general obligation of the County and that County funds are subject to appropriation, provided, however, that the County shall act in good faith to secure appropriations sufficient to meet its obligations hereunder for the term of the SPSA. Further, the incurrence or nonperformance of such obligations or non-payments shall not constitute or create a legal or equitable pledge of, or lien or encumbrance upon or claim against, any of the assets or property of the County or of its income, receipts or revenues.

(B) Disputes. If the County disputes any amount billed by or on behalf of the Authority in any Billing Statement and such disputed amount is owed by the Authority under a Project Agreement, the County will provide the Authority with written objection indicating the amount that is being disputed and providing all reasons then known to the County for its objection to or disagreement with such amount. Either party may pursue resolution of the dispute pursuant to Article IX.

**ARTICLE V
FORCE MAJEURE EVENT**

SECTION 5.1 FORCE MAJEURE EVENT.

(A) General. Each party hereto will be excused for its failure to perform in accordance with this MOU when there is a Force Majeure Event. Any date by which an obligation under this MOU must be performed will be extended to a date reasonably necessary (as determined by the mutual agreement of the Parties) to allow for the delay in performance caused by the Force Majeure Event. Each Party must seek diligently and in good faith to overcome or terminate, if possible, the Force Majeure Event.

(B) Notice. Promptly after becoming aware of the Force Majeure Event, the Authority, the County, or the Board, as the case may be, must give the Parties' respective representatives, identified in this MOU, notice of the Force Majeure Event, its cause (to the extent known) and expected duration.

**ARTICLE VI
PROJECT AGREEMENTS; INSPECTIONS**

SECTION 6.1 PROJECT AGREEMENTS.

(A) Approval of County Representative Required Prior to Amendment of SPSA. The Authority must not execute an amendment to the SPSA or any other Project Agreements without the prior approval of the County Representative, which approval must not be unreasonably withheld, delayed or conditioned.

(B) Performance by Authority. The Authority covenants to diligently and in a timely manner perform all of its obligations under the Project Agreements.

(C) Enforcement by Authority. The Authority covenants to diligently enforce and administer all Project Agreements.

(D) Dispute Resolution Notices. In the event that any Party asserts any dispute pursuant to a Project Agreement, the Party must notify all Parties and the Authority must promptly confirm that the County has received notice thereof.

(E) Termination or Amendment to MOU. The Authority, the County, or the Board, shall not (except as contemplated by Section 7.4) terminate, amend, or waive any rights under the MOU in any manner that that could reasonably be expected to have a material adverse effect on any of the Parties, including the Provider, without the prior written consent of the all Parties. Any termination, amendment or rights to this MOU can only be approved by the authorized representatives.

SECTION 6.2 TERMINATION OF SPSA; PURCHASE RIGHT.

(A) County Right to Require Authority to Terminate SPSA for Convenience. The County may direct the Authority to exercise its rights under the SPSA to terminate such SPSA for convenience pursuant to the applicable provisions thereof by providing the Authority with adequate notice and providing payment of amounts payable in connection with such termination pursuant to such SPSA.

(B) Abandonment of Project. In the event the County requires the Authority to terminate the SPSA for convenience pursuant to the applicable provisions thereof, unless the County and the Authority mutually agree otherwise, the County must exercise its rights to terminate this MOU for convenience pursuant to Section 7.4.

(C) Purchase Option. The County may direct the Authority to exercise its rights under the SPSA to purchase the Project pursuant to the applicable provisions thereof by providing the Authority with adequate notice and evidence that the County has the approval and appropriation for the Option Price as set forth in the SPSA.

SECTION 6.3 COUNTY RIGHTS OF INSPECTION.

(A) The County and its agents have the right to enter and inspect the Project at any time; provided, however, that such entry and inspection must be consistent with the provisions of the SPSA, the County License and any other Project Agreements.

(B) The County and its agents may inspect the books and records of the Authority relating to this MOU or any Project Agreement during normal business hours and upon reasonable prior notice.

ARTICLE VII
BREACH, ENFORCEMENT AND TERMINATION

SECTION 7.1 BREACH.

(A) The Parties agree that in the event a Party breaches any obligation under this MOU or any representation made by a Party hereunder is untrue in any material respect, the non-breaching Parties will have the right to take any action at law or in equity (including actions for injunctive relief, mandamus and specific performance) it may have to enforce the payment of any amounts due or the performance of any obligations to be performed hereunder or under the Project Agreements. No Party will have the right to terminate this MOU except as provided in this Article VII.

(B) No Special, Consequential or Indirect Damages. In no event, whether based upon contract, tort or otherwise, arising out of the performance or non-performance by a Party or any of their respective obligations under this MOU, will the Party be liable or obligated in any

manner to pay special, consequential or indirect damages, or any other amount, except as specifically provided in this MOU or another Project Agreement.

SECTION 7.2 TERMINATION FOR DEFAULT.

(A) By Authority. The Authority will have no right to terminate this MOU for any reason whatsoever, unless one or more of the following default events has occurred and the Authority has complied with Section 6.1(E):

1. If a default by the County is made in the payment of all or any portion of the MOU Service Fee or any other amount due hereunder and such default continues for a period of twenty (20) Business Days after receipt of written notice thereof.

2. If a default is made by a Party in the performance or observance of any covenant, agreement or condition on its part provided in this MOU (other than a default described in clause (1) above), and such default continues for a period of thirty (30) days after written notice thereof is given to the defaulting Party, with simultaneous notice given to all non-defaulting Parties, provided that if such default is capable of being remedied but cannot be remedied within such thirty (30) day period it will not constitute a basis for termination hereunder if corrective action is instituted by the defaulting Party within such period and diligently pursued until the default is remedied.

3. If the County files a petition or otherwise seeks relief under any federal or state bankruptcy or similar law.

(B) By County. The County will have no right to terminate this MOU for any reason whatsoever except as otherwise provided in Section 7.4, or unless one or more of the following events has occurred:

1. If a default is made by a Party in the performance or observance of any covenant, agreement or condition on its part provided in this MOU, and such default continues for a period of thirty (30) days after written notice is given to the defaulting Party, with simultaneous notice given to all non-defaulting Parties, provided that if such default is capable of being remedied but cannot be remedied within such thirty (30) day period it will not constitute a basis for termination hereunder if corrective action is instituted by the defaulting Party within such period and diligently pursued until the default is remedied.

2. If a Party files a petition or otherwise seeks relief under any federal or state bankruptcy or other similar law.

(C) Accounting and Examination of Records After Default. The Parties covenant that if a default has occurred under this MOU and related Project Agreements and is not remedied, the books of records and accounts of the defaulting Party related to this MOU and the Project Agreements will at all times, subject to the Maryland Public Information Act if applicable, be made available for the inspection of the non-defaulting Parties and their respective agents and attorneys during normal business hours and upon reasonable prior notice.

(D) Proceedings Upon a Default. If a default occurs under this MOU or the Project Agreements and has not been remedied, then and in every such case, the non-defaulting Parties may proceed to protect and enforce their rights under this MOU by pursuing all available remedies at law or in equity, whether for the specific performance or in aid of the execution of any power, or for an accounting against the defaulting Party.

(E) Remedies Not Exclusive. No remedy by the terms of this MOU conferred upon or reserved to the non-defaulting Parties is intended to be exclusive of any other remedy, but each and every such remedy will be cumulative and will be in addition to every other remedy given under this MOU or provided at law or in equity or by statute.

SECTION 7.3 WAIVER. Unless otherwise specifically provided by the terms of this MOU, no delay or failure to exercise a right resulting from any breach of this MOU will impair such right or will be construed to be a waiver thereof, but such right may be exercised from time to time and as often as may be deemed expedient. Any waiver must be in writing and signed by the party granting such waiver. If any covenant or agreement contained in this MOU is breached by any party and thereafter waived by any other party, such waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach under this MOU.

SECTION 7.4 TERMINATION FOR CONVENIENCE OR AT END OF TERM.

(A) County Termination for Convenience. Notwithstanding any other provision of this MOU to the contrary, the County may terminate its obligations under this MOU for convenience at any time by (1) giving the Parties at least sixty (60) days written notice of such termination or within the timeframe, if any, which corresponds to such a notice period under the SPSA, and (2) paying the termination costs described in Section 7.4(C).

(B) Board Termination for Convenience. Notwithstanding any other provision of this MOU to the contrary, if the County has terminated this MOU, the Board also shall terminate its obligations under this MOU for convenience and upon termination pay all costs incurred up to the date of termination, including without limitation the Solar Services Payment.

(C) Termination Costs. Upon the expiration or termination of this MOU for convenience (1) the County will either (a) enter into valid and binding agreements whereby the County irrevocably assumes all of the rights, duties, liabilities and obligations of the Authority under the Project Agreements, or (b) assist the Authority in terminating the Project Agreements, at the County's expense, and without any cost, liability or expense to the Authority, unless the Authority is in default under this MOU or any of the Project Agreements; and (2) the County must pay to the Authority an amount equal to the sum of the following costs, provided the County has not previously paid, or made arrangements satisfactory to the Authority for the payment of such costs:

- (a) All costs and liabilities incurred by the Authority and associated with settling and paying the Early Termination Fee or the Option Price under the SPSA.

- (b) All reasonable and necessary costs incurred by the Authority for any accounting, clerical or other expenses reasonably necessary for the preparation of termination or settlement documents and supporting data.
- (c) Any payments or other charges due and payable by the Authority under the SPSA and any other Project Agreements that are incurred or payable as a result of the termination of this MOU.

SECTION 7.5 **SURVIVAL OF CERTAIN RIGHTS AND OBLIGATIONS.** In order that the Parties may fully exercise their rights and perform their obligations under this MOU, any provisions of this MOU that are required to ensure such exercise or performance will survive the termination or expiration of this MOU. No termination of this MOU limits or otherwise affects the rights and obligations of any Party that have accrued before the date of such termination.

ARTICLE VIII
REPRESENTATIONS AND WARRANTIES

SECTION 8.1 **REPRESENTATIONS AND WARRANTIES OF THE AUTHORITY.** The Authority hereby makes the following respective representations and warranties, as of the date of execution and delivery of this MOU, to and for the benefit of the Parties:

(A) The Authority is a body politic and corporate validly existing under the Constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this MOU.

(B) The Authority has duly authorized the execution and delivery of this MOU and this MOU has been duly executed and delivered by the Authority and constitutes a legal, valid and binding obligation of the Authority, enforceable against the Authority in accordance with its terms.

(C) Neither the execution or delivery by the Authority of this MOU, nor the performance of the Authority's obligations in connection with the transactions contemplated hereby nor the Authority's fulfillment of the terms or conditions of this MOU conflicts with, violates, or results in a breach of any Applicable Laws or any term or condition of any judgment or decree, or any agreement or instrument, to which the Authority is a party or by which the Authority or any of its properties or assets are bound, or constitutes a default thereunder.

(D) No approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Authority is required for the valid execution and delivery by the Authority of this MOU except those that have been duly obtained or made.

(E) There is no action, suit or proceeding, at law or in equity, before or by any Governmental Authority, pending or, to the best of the Authority's knowledge, threatened, against the Authority, wherein an unfavorable decision, ruling or finding would materially

adversely affect the performance of its obligations hereunder or in connection with the other transactions contemplated hereby or which, in any way, would adversely affect the validity or enforceability of this MOU or any agreement or instrument entered into by the Authority in connection with the transactions contemplated hereby.

SECTION 8.2 REPRESENTATIONS AND WARRANTIES OF THE COUNTY.

The County hereby makes the following representations and warranties to and for the benefit of the Parties:

(A) The County is a political subdivision of the State of Maryland duly organized and validly existing under the Constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this MOU.

(B) The County has duly authorized the execution of this MOU and this MOU has been duly and validly executed and delivered by the County and constitutes a legal, valid and binding obligation of the County, enforceable against the County in accordance with its terms.

(C) Neither the execution or delivery by the County of this MOU, nor the performance by the County of its obligations in connection with the transactions contemplated hereby, or the fulfillment by the County of the terms or conditions of this MOU conflicts with, violates or results in a breach of any Applicable Laws or any term or condition of any judgment or decree, or any agreement or instrument, to which the County is a party or by which the County or any of its properties or assets are bound, or constitutes a default thereunder.

(D) No approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Authority is required for the valid execution and delivery of this MOU by the County, except such as have been duly obtained or made.

(E) There is no action, suit or proceeding, at law or in equity, before or by any Governmental Authority, pending or, to the best of the County's knowledge, threatened, against the County, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the County of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this MOU, or any other agreement or instrument entered into by the County in connection with the transactions contemplated hereby.

(F) The County's Director of the Department of Public Works will issue a notice to proceed to the Authority upon the full execution of this MOU and the Project Agreements.

SECTION 8.3 REPRESENTATIONS AND WARRANTIES OF THE BOARD.

The Board hereby makes the following representations and warranties to and for the benefit of the Authority:

(A) The Board is a body corporate and politic of the State of Maryland duly organized and validly existing under the Constitution and laws of the State of Maryland, with full legal right, power and authority to enter into and perform its obligations under this MOU.

(B) The Board has duly authorized the execution of this MOU and this MOU has been duly and validly executed and delivered by the Board and constitutes a legal, valid and binding special obligation of the Board, enforceable against the Board in accordance with its terms.

(C) Neither the execution or delivery by the Board of this MOU, nor the performance by the Board of its obligations in connection with the transactions contemplated hereby, or the fulfillment by the Board of the terms or conditions of this MOU conflicts with, violates or results in a breach of any Applicable Laws or any term or condition of any judgment or decree, or any agreement or instrument, to which the Board is a party or by which the Board or any of its properties or assets are bound, or constitutes a default thereunder.

(D) No approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Authority is required for the valid execution and delivery of this MOU by the Board, except such as have been duly obtained or made.

(E) There is no action, suit or proceeding, at law or in equity, before or by any Governmental Authority, pending or, to the best of the Board's knowledge, threatened, against the Board, wherein an unfavorable decision, ruling or finding would materially adversely affect the performance by the Board of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this MOU, or any other agreement or instrument entered into by the Board in connection with the transactions contemplated hereby.

(F) The Board's Superintendent, acting on the approval of the Board, will issue a notice to proceed to the Authority upon the full execution of this MOU and the Project Agreements.

SECTION 8.4 NO FULL FAITH AND CREDIT. All parties acknowledge and confirm that all obligations of the County pursuant to this MOU shall not constitute a general obligation of the County and that County funds are subject to appropriation. Further, the incurrence or nonperformance of such obligations or non-payment shall not constitute or create a legal or equitable pledge of, or lien or encumbrance upon or claim against, any of the assets or property of the County or of its income, receipts or revenues. Notwithstanding the forgoing, County shall act in good faith to secure appropriations sufficient to meet its obligations hereunder for the term of the SPSA.

ARTICLE IX DISPUTE RESOLUTION

SECTION 9.1 DISPUTE RESOLUTION PROCEDURE. The Parties shall in good faith attempt to resolve any dispute or matter in controversy under this MOU. All disputes

under this MOU, if not resolved by the Parties, shall be resolved by courts of competent jurisdiction in Howard County, Maryland.

**ARTICLE X
MISCELLANEOUS**

SECTION 10.1 ASSIGNMENT. This MOU is not assignable, unless otherwise agreed to by all Parties.

SECTION 10.2 NOTICES. All notices, designations, consents, approvals, and other communications required, permitted or otherwise delivered under this MOU must be in writing and may be facsimiled or delivered by hand or mailed by first class registered or certified mail, return receipt requested, postage prepaid, or dispatched by next day delivery service and in any case must be addressed as follows:

If to the County:

Howard County Department of Public Works
The George Howard Building
3430 Court House Drive
Ellicott City, MD 21043
Attention: Director

If to the Authority:

Northeast Maryland Waste Disposal Authority
Tower II – Suite 402
100 South Charles Street
Baltimore, MD 21201
Attention: Executive Director

If to the Board:

Office of the Superintendent of Schools
10910 Route 108
Ellicott City, Maryland 21042
Attention: Executive Director, Facilities

If to the Provider:

Sun Edison LLC
12500 Baltimore Ave.
Beltsville, MD 20815
Attn: CEO
With copy to General Counsel
Re: NMWDA – Howard County SPSA

Changes in the respective addresses to which communication may be directed may be made from time to time by any Party hereto upon notice to the other Parties. Any such communications

given in accordance with this Section 10.2 will be deemed to have been given five (5) Business Days after the date of mailing and communications given by any other means will be deemed to have been given when delivered.

SECTION 10.3 ENTIRE AND COMPLETE AGREEMENT. This MOU constitute the entire and complete agreement of the Parties hereto with respect to the subject matter and supersede all prior or contemporaneous understandings, arrangements, commitments and representations with respect to the subject matter hereof, except that the Authority and the respective Parties are additionally bound by the terms of the County License and the Host Site License.

SECTION 10.4 BINDING EFFECT. This MOU binds and inures to the benefit of the Parties to this MOU and any successor or permitted assignee acquiring an interest hereunder.

SECTION 10.5 FURTHER ASSURANCES. Each Party shall execute and deliver any instruments and perform any acts that may be necessary and reasonably requested by the other party in order to give full effect to this MOU.

SECTION 10.6 APPLICABLE LAW; VENUE. The laws of the State of Maryland govern the validity, interpretation, construction and performance of this MOU. The venue and jurisdiction for any action, suit or proceeding arising out of this MOU or any transaction contemplated hereby will in the court of competent jurisdiction in Howard County, Maryland.

SECTION 10.7 COUNTERPARTS. This MOU may be executed in counterparts, each of which must be deemed an original, and all of which when executed and delivered together constitute one and the same instrument.

SECTION 10.8 AMENDMENT OR WAIVER. This MOU may be changed, modified, amended or waived only by a written instrument signed by the Authority, County and the Board.

SECTION 10.9 RELATIONSHIP OF THE PARTIES. Nothing in this MOU shall be deemed to either (i) appoint or authorize a Party as a partner, agent or legal representative of any other Party or to create any fiduciary relationship between the Parties, or (ii) create a partnership or joint venture between the Parties.

SECTION 10.10 NO PERSONAL LIABILITY. The execution and delivery of this MOU by the Authority, the County and the Board must not impose any personal liability on the members, officers, employees or agents of the Authority, the County, and/or the Board. No recourse will be had by a party to this MOU for any claims based on this MOU against any member, officer, employee or other agent of the other party to this MOU in his or her individual capacity, all such liability, if any, being expressly waived by the Authority, the County, and the Board by the execution of this MOU.

SECTION 10.11 PROVIDER'S RIGHTS AS THIRD-PARTY BENEFICIARY. The Provider has explained to the Parties the Provider's financing structure and liability for the

Project and the ramifications for non-payment of the Solar Services Payment and “Early Termination” as defined under the SPSA. In consideration of the risk posed to the Provider by a default or Early Termination under the SPSA or this MOU by the Authority, the County or the Board, the Provider shall be deemed a third-party beneficiary of the terms, covenants and conditions in this MOU that may reasonably be inferred as necessary or appropriate in order for the Provider to receive payment in accordance with the terms and conditions of the SPSA and pursuant to this MOU. Furthermore, a breach under this MOU by one of the Parties shall not effect any Party’s obligation to make payments under the SPSA, if such payments are rightfully due under the terms and conditions of the SPSA. Each Party to this MOU hereby consents to the collateral assignment by Provider of its rights hereunder to its financing party in connection with the Project.

SECTION 10.12 EXHIBITS AND SCHEDULES. All exhibits and schedules attached to this MOU are incorporated herein and made a part hereof.

[Signatures follow on the next page.]

This Memorandum of Understanding is signed this ____ day of _____, 2010.

ATTEST:

BOARD OF EDUCATION
OF HOWARD COUNTY,
a body corporate and politic

By: _____ (SEAL)
Ellen Flynn Giles
Chairman of the Board

Secretary-Treasurer

This Memorandum of Understanding has been reviewed and approved by me for the execution by the Board of Education of Howard County.

By: _____ (SEAL)
Sydney L. Cousin
Superintendent of Schools

ATTEST:

NORTHEAST MARYLAND WASTE
DISPOSAL AUTHORITY,
a body corporate and politic

By: _____ (SEAL)
Robin B. Davidov
Executive Director

ATTEST:

HOWARD COUNTY, MARYLAND,
a body corporate and politic

Lonnie R. Robbins
Chief Administrative Officer

BY: _____ (SEAL)
Ken Ulman
County Executive

APPROVED:

James M. Irvin, Director
Department of Public Works

[Signatures continue on the next page.]

APPROVED FOR SUFFICIENCY OF FUNDS:

Sharon F. Greisz
Director of Finance

APPROVED FOR LEGAL SUFFICIENCY
this ____ day of _____, 2010.

Margaret Ann Nolan
County Solicitor

EXHIBIT A

LIST OF PROJECT AGREEMENTS

- 1) Solar Power & Services Agreement – General Conditions – between the Authority and SunEdison
- 2) Solar Power & Services Agreement – Special Conditions – between the Authority and SunEdison
- 3) License Agreement between the County and the Authority
- 4) SunBurst Grant Agreement between the Authority and SunEdison
- 5) Guaranty Agreement between the Authority and SunEdison
- 6) Guaranty Agreement between County and SunEdison
- 7) Grant of Electric Line and Access Easement – between the Board and the Authority
- 8) The Authority Notice of Intent letter to the County
- 9) The Memorandum of Understanding between the Maryland Energy Administration and the Authority

EXHIBIT B

SOLAR POWER AND SERVICES AGREEMENT (“SPSA”)

CONFIDENTIAL AND PROPRIETARY

**GENERAL TERMS AND CONDITIONS OF
SOLAR POWER & SERVICES AGREEMENT**

These General Terms and Conditions (“General Conditions”) are dated as of ____ day of ___, 20__ and are witnessed and acknowledged by SunEdison Origination3, LLC (“SunEdison” or “Provider”) and Northeast Maryland Waste Disposal Authority (“Purchaser”), as evidenced by their signature on the last page of this document. These General Conditions are intended to be incorporated by reference into Solar Power & Services Agreements that may be entered into between SunEdison and Purchaser or between their respective affiliates. Except to the extent SunEdison or Purchaser becomes a party to a Solar Power & Purchase Agreement that incorporates these General Conditions, these General Conditions shall have no binding effect upon SunEdison or Purchaser.

1. DEFINITIONS.

1.1 Definitions. In addition to other terms specifically defined elsewhere in the Agreement, where capitalized, the following words and phrases shall be defined as follows:

“Actual Monthly Production” means the amount of energy recorded by Provider’s metering equipment during each calendar month of the Term, pursuant to Section 4.2.

“Affiliate” means, with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common control with such specified Person.

“Agreement” means collectively the Solar Power & Services Agreement, the General Terms and Conditions and the Special Conditions.

“Applicable Law” means, with respect to any Person, all Federal, Maryland State or Howard County Local government constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement of any Governmental Authority having jurisdiction over such Person or its property, enforceable at law or in equity, including the interpretation and administration thereof by such Governmental Authority.

“Assignment” has the meaning set forth in Section 13.1.

“Authority” meaning the Northeast Maryland Waste Disposal Authority.

“Bankruptcy Event” means with respect to a Party that either:

(i) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (B) admitted in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) made a general assignment for the benefit of its creditors; (D) commenced a voluntary case under any bankruptcy law; (E) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) failed to controvert in a timely and appropriate manner, or acquiesced in writing to, any petition filed against such Party in an involuntary case under any bankruptcy law; or (G) taken any corporate or other action for the purpose of effecting any of the foregoing; or

(ii) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of a trustee, receiver, custodian, liquidator or the like of such Party under any bankruptcy law, and such proceeding or case has continued undefended, or

any order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect for a period of sixty (60) days.

“Business Day” means any day other than Saturday, Sunday, a Federal or State holiday recognized by Howard County, Maryland, or a County furlough day, or any other day on which banking institutions in Maryland are required or authorized by Applicable Law to be closed for business.

“Commercial Operation Date” has the meaning set forth in Section 3.3(b).

“Confidential Information” has the meaning set forth in Section 15.1.

“Construction Start Date” means the date that construction of the System is to commence as set forth in the Construction Schedule attached hereto as Schedule I.

“Covenants, Conditions and Restrictions” or “CCR” means those requirements or limitations related to the Premises as may be set forth in a lease or license, if applicable, or by any association or other organization, having the authority to impose restrictions.

“County” means Howard County, Maryland, a body corporate and politic.

“Disruption Period” has the meaning set forth in Section 4.3(b).

“District” means the Howard County Public School System, who also is the Host in this Agreement, who acts through the Board of Education of Howard County, Maryland.

“Early Termination Date” means any date on which the Agreement terminates other than by reason of expiration of the then applicable Term.

“Early Termination Fee” means the fee payable by Purchaser to Provider under the circumstances described in Section 2.2, Section 4.3(a) or Section 11.2. The Early Termination Fee shall be the sum of the following amounts actually incurred, which sum may be lesser than but shall not exceed the Early Termination Fee set forth in Schedule 3 Column 1 of the Special Conditions: (1) the amount SunEdison must pay to the Financing Party at the time of Early Termination, plus (2) verified removal costs, plus (3) reasonable, documented administrative fees incurred to complete work relating to the Early Termination; plus (4) actual, demonstrable damages, if any, Provider or its affiliates incur, as a party to a Solar

REC or other contract for the System, as a result of an Early Termination.

“Effective Date” has the meaning set forth in the Special Conditions.

“Emergency” means a sudden, unforeseen event that requires immediate action to protect lives and/or property and/or the public health and safety.

“Environmental Attributes” shall mean, without limitation, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable renewable credits, or Green-e® products.

“Estimated Remaining Payments” means as of any date, the estimated remaining Solar Services Payments to be made through the end of the then-applicable Term, as reasonably determined by Provider.

“Estimated Annual Production” has the meaning set forth in Section 5.2.

“Expiration Date” means the date on which the Agreement terminates by reason of expiration of the Term.

“Fair Market Value” means, with respect to any tangible asset or service, the price that would be negotiated in an arm’s-length, free market transaction, for cash, between an informed, willing seller and an informed, willing buyer, neither of whom is under compulsion to complete the transaction.

“Financing Party” means, as applicable, (i) any Person (or its agent) from whom Provider (or an Affiliate of Provider) leases the System, or (ii) any Person (or its agent) who has made or will make a loan to or otherwise provided financing to Provider (or an Affiliate of Provider) with respect to the System.

“Force Majeure Event” has the meaning set forth in Section 10.1.

“General Conditions” means these Terms and Conditions.

“Governmental Approval” means any approval, consent, franchise, permit, certificate, resolution, concession, license, or authorization issued by or on behalf of any applicable Governmental Authority.

“Governmental Authority” means any federal, state, regional, county, town, city, or municipal government,

whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.

“Host” means The Worthington Elementary School acting through the District.

“Host Site” means Worthington Elementary School, located at 4570 Roundhill Road, Ellicott City, MD 21043.

“Indemnified Persons” means the Purchaser Indemnified Parties or the Provider Indemnified Parties, as the context requires.

“Initial Term” has the meaning set forth in Section 2.1.

“Installation Work” means the construction and installation of the System and the start-up, performance testing and acceptance (but not the operation and maintenance) thereof, all performed by or for Provider at the Premises.

“Invoice Date” has the meaning set forth in Section 6.2.

“kWh Rate” means the price per kWh set forth in Schedule 2 of the Special Conditions.

“License” means the license agreement entered into by the Purchaser and the County for the Premises.

“Liens” has the meaning set forth in Section 7.1(e).

“Local Electric Utility” means the local electric distribution owner and operator providing electric distribution and interconnection services to Purchaser at the Premises.

“Losses” means all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs and expenses (including all attorneys’ fees and other costs and expenses incurred in defending any such claims or other matters or in asserting or enforcing any indemnity obligation).

“MOU” means that certain Memorandum of Understanding among the County, the Howard County Public School System and the Authority, dated as of the Effective Date.

“Option Price” has the meaning set forth in Section 2.3.

“Party” or “Parties” has the meaning set forth in the preamble to the Solar Power & Services Agreement.

“Person” means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority.

“Premises” means the premises described in the License and Schedule 1 of the Special Conditions. For the avoidance of doubt, the Premises includes the entirety of any structures and underlying real property or leasehold interest or license interest, as the case may be, located at the address described in Schedule 1 of the Special Conditions.

“Provider” means SunEdison Origination3, LLC.

“Provider Default” has the meaning set forth in Section 11.1(a).

“Provider Indemnified Parties” has the meaning set forth in Section 16.2.

“Purchase Date” means such Business Day that occurs on the date that is ninety one (91) days after each successive annual anniversary of the Commercial Operation Date, provided, however, that no Purchase Date shall occur prior to such date that is five (5) years and ninety one (91) days after the Commercial Operation Date.

“Purchaser” means the Northeast Maryland Waste Disposal Authority.

“Purchaser Default” has the meaning set forth in Section 11.2(a).

“Purchaser Indemnified Parties” has the meaning set forth in Section 16.1.

“Purchase Option Amount” has the meaning set forth in Section 2.3.

“Renewal Term” has the meaning set forth in Section 2.1.

“Representative” has the meaning set forth in Section 15.1.

“Security Agreement” has the meaning set forth in Section 8.2.

“Solar Incentives” means any accelerated depreciation, installation or production-based incentives, investment tax credits and subsidies including, but not limited to, the subsidies in Schedule 1 of the Special Conditions and all other solar or renewable energy subsidies and incentives.

“Solar Insolation” or “Insolation” means the amount of solar kWh per square meter falling on a particular location, as specified by Provider.

“Solar Power & Services Agreement” means the Solar Power & Services Agreement (including the Schedules and Exhibits attached thereto) and these General Conditions (including the Exhibits attached hereto) to the extent incorporated therein.

“Solar Services” means the supply of electrical energy output from the System and any associated reductions in the Host’s peak demand from its Local Electric Utility.

“Solar Services Payment” has the meaning set forth in Section 6.1.

“Special Conditions” means the Solar Power and Services Agreement, excluding these General Conditions.

“Stated Rate” means a rate per annum equal to the lesser of (a) the “prime rate” (as reported in The Wall Street Journal) plus two percent (2%) and (b) the maximum rate allowed by Applicable Law.

“SunBurst Grant” means the grant funds issued by the Maryland Energy Administration (the “MEA”) and governed by the Memorandum of Understanding by and between the MEA and the Purchaser and/or the County for grant funds equal to \$1,000 per kilowatt installed to be used by the Provider to reduce the kWh Rate.

“System” means the integrated assembly of photovoltaic panels, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring, more specifically described in Schedule 1 of the Special Conditions.

“System Operations” means the Provider’s operation, maintenance and repair of the System performed in accordance the requirements herein.

“Term” has the meaning set forth in Section 2.1.

“Transfer Time” has the meaning set forth in Section 4.3(a).

1.2 Interpretation. The captions or headings in these General Conditions are strictly for convenience and shall not be considered in interpreting the Agreement. Words in the Agreement that impart the singular connotation shall be interpreted as plural, and words that impart the plural connotation shall be interpreted as singular, as the identity of the parties or

objects referred to may require. The words “include”, “includes”, and “including” mean include, includes, and including “without limitation” and “without limitation by specification.” The words “hereof”, “herein”, and “hereunder” and words of similar import refer to the Agreement as a whole and not to any particular provision of the Agreement. Except as the context otherwise indicates, all references to “Articles” and “Sections” refer to Articles and Sections of these General Conditions.

2. TERM AND TERMINATION.

2.1 Term. The term of the Agreement shall commence on the Effective Date and shall continue for twenty (20) years from the Commercial Operations Date (“Initial Term”), unless and until terminated earlier pursuant to the provisions of the Agreement. After the Initial Term, as long as the Purchaser is not in default under the Agreement, the Purchaser may renew the Agreement for an additional five (5) year term (a “Renewal Term”), by delivering a written notice of renewal to SunEdison at least one hundred and eighty (180) days prior to the expiration of the Initial Term or then applicable Renewal Term. The Purchaser shall have the option to exercise this right of renewal for two Renewal Terms, exercising the option as provided for herein. The Initial Term and the subsequent Renewal Term, if any, are referred to collectively as the “Term.” During any Renewal Term, either Party may, subject to Section 2.3, terminate the Agreement upon one hundred and eighty (180) days’ prior written notice to the other Party.

2.2 Early Termination. Purchaser may terminate the Agreement prior to any applicable Expiration Date for any reason upon sixty (60) days’ prior written notice (the “Early Termination”). In such event of Early Termination, which shall not include a termination due to a default of Provider under the Agreement or the License Agreement or a termination in the event of an Emergency or Force Majeure Event as provided in Section 4.3(a), Purchaser shall pay, as liquidated damages, the Early Termination Fee. To effect an Early Termination hereunder, Purchaser shall fund an escrow account in the amount of the Early Termination Fee for the benefit of Provider. Following the funding of such escrow account, Provider shall cause the System to be disconnected and removed from the Premises. Upon such removal and the restoration of the Premises to the County’s reasonable satisfaction, the Early Termination Fee shall be promptly released to Provider and the Agreement shall terminate automatically.

2.3 Purchase Option. On any Purchase Date or the Early Termination Date, Purchaser has the

option to purchase the System, which purchase shall include all Environmental Attributes (the "Purchase Option") for a purchase price (the "Option Price") equal to the greater of (a) the Fair Market Value of the System as of the Purchase Date, or (b) the Early Termination Fee as of the Purchase Date. To exercise its Purchase Option, Purchaser shall, not less than one hundred and eighty (180) days prior to the proposed Purchase Date, provide written notice to Provider of Purchaser's intent to exercise its option to purchase the System and the Environmental Attributes on such Purchase Date. To complete the purchase and the transfer of title to the System and the Environmental Attributes, within thirty (30) days of receipt of Purchaser's notice, Provider shall specify the Option Price, and Purchaser shall then have a period of thirty (30) days after notification to confirm or retract its decision to exercise the Purchase Option or, if the Option Price is equal to the Fair Market Value of the System and the Environmental Attributes, to dispute the determination of said Fair Market Value. In the event Purchaser confirms its exercise of the Purchase Option in writing to Provider (whether before or after any determination of the Fair Market Value determined pursuant to Section 2.4), (i) the Parties shall promptly execute all documents necessary to (A) cause title to the System and the Environmental Attributes to pass to Purchaser on the Purchase Date, free and clear of any Liens, and (B) assign all vendor warranties for the System to Purchaser, and (ii) Purchaser shall pay the Option Price to Provider on the Purchase Date, such payment to be made in accordance with any previous written instructions delivered to Purchaser by Provider or Provider's Financing Party, as applicable, for payments under the Agreement. Upon execution of the documents and payment of the Option Price, in each case as described in the preceding sentence, the Agreement shall terminate automatically and all claims to the System and the Environmental Attributes by, through or under the Provider are hereby waived and shall cease to exist. For the avoidance of doubt, payment of the Option Price shall be in lieu of and instead of any payments as described in Section 2.2 hereof. In the event Purchaser retracts its exercise of the Purchase Option, the provisions of the Agreement shall be applicable as if the Purchaser had not exercised any option to purchase the System and the Environmental Attributes and Purchaser may not exercise the continuing Purchase Option until the next Purchase Date or the Early Termination Date, if applicable.

2.4 Determination of Fair Market Value. If the Option Price indicated by Provider in accordance with Section 2.3 is equal to the Fair Market Value (as determined by Provider) and Purchaser disputes such stated Fair Market Value within thirty (30) days of receipt of such notice from Provider, then the Parties shall mutually select an independent appraiser with

experience and expertise in the solar photovoltaic industry. Such appraiser shall act reasonably and in good faith to determine Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by Purchaser if such appraisal results in a value equal or greater than the value provided by Provider pursuant to Section 2.3; otherwise, the Parties shall equally share such cost.

2.5 Removal of System at Expiration. Subject to Purchaser's exercise of its Purchase Option under Section 2.3, upon the expiration or earlier termination of the Agreement, Provider shall, at Provider's expense, remove all of its tangible property comprising the System from the Premises on a mutually convenient date but in no case later than sixty (60) days after the Expiration Date. The Premises shall be returned to its original condition and in accordance with the terms of the license or ground lease to be entered into for the Premise, except ordinary wear and tear. For purposes of Provider's removal of the System, Purchaser's covenants pursuant to Section 7.2 shall remain in effect until the date of actual removal of the System. In addition to the requirements above, Provider shall leave the Premises in neat and clean order. If Provider fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Premises to its original condition, excepting the costs of ordinary wear and tear, at Provider's reasonable cost.

In the event that, at any time, the Provider defaults under this Section 2.5 and fails to cure such default in accordance with Section 11.1 and/or abandons the Premises and fails to remove the System, then the County shall provide written notice to the Provider's Financing Party within twenty (20) days from the date of the apparent abandonment, so that the Financing Party can notify the County within thirty (30) days from the receipt of such notice whether the Financing Party (i) will assume the License, and all obligations and liabilities thereunder, and continue performance under the Agreement, or (ii) reclaim the System and remove the System in accordance with the terms and conditions of the License and the Agreement. If the Financing Party fails to respond within said thirty (30) day period or responds then fails to timely act as set forth in its notice and in accordance with the License and the Agreement, then the System and all Environmental Attributes shall become the property of the County, with all claims of ownership waived by the Provider, its Financing Party and their respective successors and assigns, and the

County shall have the right to use or dispose of the System as it determines.

2.6 Conditions of the Agreement Prior to Installation. In the event that any of the following events or circumstances occur or are discovered within eight (8) weeks from the Effective Date, or within the timeframe provided below, and Purchaser provides written notice that it cannot or elects not to cure such event or circumstance, Provider may (at its sole discretion) terminate the Agreement, in which case neither Party shall have any liability to the other except for any such liabilities that may have accrued prior to such termination:

(a) The Provider determines that the Premises, **AS IS**, is insufficient to accommodate the System.

(b) There exist site conditions (including environmental conditions) or construction requirements that were not known as of the Effective Date and that could reasonably be expected to materially increase the cost of Installation Work or would adversely affect the electricity production from the System as designed or would create a hazardous situation if the Installation Work were commenced or completed.

(c) Prior to the Commercial Operation Date, there is a material adverse change in the regulatory environment, incentive program or federal or state tax code (including the expiration of any incentive program or tax incentives in effect as of the Effective Date) that could reasonably be expected to adversely affect the economics of the installation for Provider and its investors.

(d) Prior to the Commercial Operation Date Provider is unable to obtain financing for the System on terms and conditions satisfactory to it.

(e) Prior to the Commercial Operation Date, Provider has not received a fully executed (i) license in the form of Exhibit A of these General Conditions from the owner of the Premises, and (ii) a release or acknowledgement from any mortgagee of the Premise, if required by Provider's Financing Party, to establish the priority of its security interest in the System, and (iii) such other documentation or as may be reasonably requested by Provider to evidence Purchaser's ability to meet its obligations under Section 7.2(d)(ii) to ensure that Provider will have access to the Premises throughout the Term.

(f) Prior to the Commercial Operation Date, there has been a material adverse change in the

rights of Purchaser to occupy the Premises or Provider to construct the System on the Premises.

(g) Prior to the Commercial Operation Date, Purchaser has not received evidence reasonably satisfactory to it that interconnection services will be available with respect to energy generated by the System.

(h) Purchaser or Provider has determined that there are easements, CCRs or other liens or encumbrances that would materially impair or prevent the installation, operation, maintenance or removal of the System.

(i) Prior to the Commercial Operation Date, Purchaser's credit rating is downgraded to less than investment grade.

(j) Purchaser, the County and the District have not executed the MOU in form and substance reasonably satisfactory to Provider that payments shall be received for the Solar Services provided.

(k) Prior to the Construction Start Date, it is determined that the System cannot be completed and commissioned for operation in accordance with the terms and conditions of the SunBurst Grant or the related terms of said grant set forth in Schedule II of this Agreement.

Notwithstanding anything to the contrary contained herein, Purchaser shall have the mutual right of termination under this Section 2.6 for the occurrences or the subject matter described in Sections 2.6(b), (d), (f), (h), (j) and (k).

3. CONSTRUCTION, INSTALLATION AND TESTING OF SYSTEM.

3.1 Installation Work. Provider will cause the System to be designed, engineered, installed and constructed in accordance with Schedule 1 of the Special Conditions and Applicable Law (the "Construction Plans") and Schedule I attached hereto. Prior to commencing any work under the Construction Plans, Provider shall deliver the Construction Plans to Purchaser for its review and approval of all Construction plans and designs, such approval not to be unreasonably conditioned, delayed or withheld, including engineering evaluations of the impact of the System. Provider shall perform the Installation Work at the Premises between the hours of 7:30 a.m. and 5:00 p.m. in a manner that minimizes inconvenience to and interference with the use of the Premises to the extent commercially practical. Provider, in coordination with Purchaser and Authority and with the approval of the County, may work outside

the stated hours on activities that are not unreasonably disruptive. Purchaser and the County may have a representative on the Premises to observe the Installation Work and check the work against the Construction Plans.

3.2 Approvals; Permits. Purchaser, at Provider's sole cost and expense, shall assist Provider in obtaining all necessary approvals and permits including but not limited to those related to the Local Electric Utility, any Governmental Authority, and any waivers, approvals or releases required pursuant to any applicable CCR.

3.3 System Acceptance Testing

(a) Provider shall conduct testing of the System in accordance with such methods, acts, guidelines, standards and criteria reasonably accepted or followed by photovoltaic solar system integrators in the United States. Upon no less than thirty (30) days prior written notice to Provider, Purchaser (and the Authority if different than the Purchaser) also may, at its/their sole cost and expense, hire a qualified, fully insured third-party independent engineer approved in writing by Provider, to conduct its/their own performance testing of the System no later than twenty-four (24) hours following Provider's testing, and based on such testing either provide a punch list of items for Provider to correct or proceed to preparing for the acceptance of the Solar Services on the Commercial Operation Date.

(b) If the results of such testing indicate that the System has been installed in accordance with the Construction Plans and is capable of generating electric energy for eight (8) continuous hours, using such instruments and meters as have been installed for such purposes, and the System has been approved for interconnected operation by the Local Electric Utility, then Provider shall send a written notice to Purchaser to that effect, and the date of such notice shall be the "Commercial Operation Date."

4. SYSTEM OPERATIONS.

4.1 Provider as Owner and Operator. The System will be owned by Provider or Provider's Financing Party and will be operated and maintained and, as necessary, repaired and/or replaced by Provider at its sole cost and expense; provided, that any repair, replacement or maintenance costs incurred by Provider as a result Purchaser's negligence or breach of its obligations hereunder shall be reimbursed by Purchaser.

4.2 Metering. Provider shall install and maintain, at the Premises, a utility grade kilowatt-hour

(kWh) meter for the measurement of electrical energy provided by the System and may, at its election and upon the approval of the Host, install a utility grade kilowatt-hour (kWh) meter for the measurement of electrical energy delivered by the Local Electric Utility and consumed by Host at the Host Site.

4.3 System Disruptions.

(a) Substitution of Premises. If, for reasons other than Provider's breach of its obligations hereunder, Provider ceases to have access rights to the Premises as necessary to operate the System prior to the Expiration Date, then Purchaser shall either (i) provide Provider with a mutually agreeable substitute premises in a location with similar Solar Insolation, or (ii) terminate the Agreement pursuant to Section 2.2. Purchaser shall provide at least one hundred and eighty (180) days' written notice prior to the date on which it desires to effect such substitution. In connection with such substitution, Purchaser and Provider shall amend the Agreement to specify the substitute premises. Purchaser shall also provide any new owner, lessor, licensor, or mortgagee consents or releases required by Provider's Financing Party in connection with the substitute premises. If Purchaser is unable to obtain such consents and releases for a substitute premises, the substitution shall not be allowed and Purchaser shall terminate the Agreement pursuant to Section 2.2. Purchaser shall pay all costs associated with relocation of the System including all costs and expenses incurred by or on behalf of Provider in connection with removal of the System from the existing Premises and repair or maintenance of the Premises, if applicable, and installation and testing of the System at such substitute premises and all applicable interconnection fees and expenses at the substitute premises, as well as costs of new title search and other out of pocket expenses connected to preserving and refiling the security interest of Provider's Financing Party in the System. Provider shall make commercially reasonable efforts to remove all of its tangible property comprising the System from the vacated Premises prior to the termination of Purchaser's rights to use such Premises. Upon removal of the tangible property comprising the System from the Premises, the Premises shall be returned to its original condition, except for ordinary wear and tear. In connection with any substitution of Premises, Purchaser shall reimburse Provider for, a reasonable amount, averaged as provided below, of lost Solar Services Payments during any transfer or construction time period (the "Transfer Time"), including any actual lost revenue Provider suffers associated with reduced sales of Environmental Attributes and any actual reduction in Solar Incentives Provider suffers during the Transfer Time. For the purpose of calculating Solar Services Payments for such

Transfer Time, Solar Services shall be deemed to have been produced at the average rate over the preceding twelve (12) months (or, if the substitution occurs within the first twelve (12) months of operation, the average over such period of operation).

Notwithstanding anything to the contrary contained herein, in the event that the substitution of Premises or termination of the Agreement under this Section 4.3(a) is due to a Force Majeure Event or an Emergency that is not due to a Purchaser Act (as defined in Section 4.3(b) requiring such relocation and/or termination, then Purchaser shall have no liability or obligation to Provider under this Section 4.3(a) and shall have no liability to pay the Early Termination Fee, provided that such Emergency, resulting in a termination of the Agreement, is not caused by or due to the Purchaser, the Host, the County, or any of their respective employees, designees, agents, or assigns. For purposes of clarity, if an Emergency requiring a substitution of Premises or termination of the Agreement is caused by or due to the Purchaser, the Host, the County, or any of their respective employees, designees, agents, or assigns, then Purchaser shall be liable to Provider under this Section 4.3(a) and, if applicable, Section 2.2.

(b) System Disruptions. In the event that any act or omission of Purchaser or Purchaser's employees, Affiliates, agents or subcontractors, that is not an act taken in the event of (x) Force Majeure, (y) an Emergency not caused by or due to the Purchaser, the Host, the County, or any of their respective employees, designees, agents, or assigns, or (z) a Provider Default (defined below), (collectively a "Purchaser Act") results in a disruption or outage in System production, then, in either case, Purchaser shall (i) pay Provider for all work reasonably required by Provider to disassemble or move the System, and (ii) continue to make all payments for the Solar Services and (iii) reimburse Provider for any actual lost revenue associated with reduced sales of Environmental Attributes and any actual reduction Solar Incentives Provider suffers during such period of System disruption (the "Disruption Period"). For the purpose of calculating Solar Services Payments for such Disruption Period, Solar Services shall be deemed to have been produced at the average rate over the preceding twelve (12) months (or, if the disruption occurs within the first twelve (12) months of operation, the average over such period of operation).

5. DELIVERY OF SOLAR SERVICES.

5.1 Purchase Requirement. Purchaser agrees to purchase one hundred percent (100%) of the

Solar Services generated by the System up to the Estimated Annual Production over the associated 12-month period. In the event that Purchaser decides that additional Solar Services are required for the Host Site above the Estimated Annual Production and the Solar Services can be provided by the System, then Purchaser may elect to purchase whatever additional Solar Services that are generated and may be required by Purchaser. The Parties shall cooperate in estimating the Host Site's electricity needs and the potential System generation for the remaining days in the 12-month period. While the Solar Services are calculated and billed on a per kWh basis as set forth in Schedule 2 of the Special Conditions, they represent a package of services and benefits, including reduction in the Purchaser's peak demand from the Local Electric Utility.

5.2 Estimated Annual Production. The annual estimate of Solar Services with respect to the System for any given year as determined pursuant to this Section shall be the "Estimated Annual Production." The Estimated Annual Production for each year of the Initial Term is set as forth in Schedule 4 of the Special Conditions.

5.3 Environmental Attributes, Etc. Purchaser's purchase of Solar Services does not include Environmental Attributes or Solar Incentives or any other attributes of ownership of the System. Environmental Attributes shall be retained by Provider. Solely for purposes of this Section 5.3, Environmental Attributes shall not include renewable energy credits as defined by MD Code Pub. Util. Cos. § 7-701(i) ("RECs"), which such RECs belong to Purchaser pursuant to MD Code Pub. Util. § 7-306(h)(5); provided, however, that subject to Sections 2.3 and 7.1(f) of this Agreement, Purchaser hereby transfers to Provider all right, title, and interest in 100% of the RECs associated with the System's production for the System's operating life. Purchaser shall take all reasonable actions necessary to assist Provider in demonstrating Provider's rights to the RECs, provided that Provider shall promptly reimburse Purchaser for any out-of-pocket costs Purchaser incurs in taking such actions. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, Purchaser, if engaged in commerce and/or trade, shall submit to Provider for approval any press releases regarding Purchaser's use of solar or renewable energy and shall not submit for publication any such releases without the written approval of Provider. Approval shall not be unreasonably withheld, conditioned or delayed and Provider's review and approval shall be made in a timely manner to permit Purchaser's timely publication. Purchaser and Provider may by mutual written agreement set forth specific statements that may be used by Purchaser in any press releases that address Purchaser's

use of solar or renewable energy.

5.4 Title to System. Throughout the duration of the Agreement, Provider or Provider's Financing Party shall be the legal and beneficial owner of the System at all times, and the System shall remain the personal property of Provider or Provider's Financing Party and shall not attach to or be deemed a part of, or fixture to, the Premises. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use reasonable commercial efforts to place all parties having an interest in or lien upon the real property, leasehold or license interest supporting the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as attaching to the System as a fixture of the Premises, Purchaser shall provide, at Provider's request, a disclaimer or release from such lien holder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing by Provider, on behalf of Purchaser, of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction of the Premises. If Purchaser is not the fee owner, Purchaser will, at Provider's request, use commercially reasonable efforts to obtain such consent from such owner.

6. PRICE AND PAYMENT.

6.1 Consideration. Subject to the terms of Section 5.1 of this Agreement, Purchaser shall pay to Provider a monthly payment (the "Solar Services Payment") for the Solar Services generated by the System during each calendar month of the Term equal to the product of (x) Actual Monthly Production for the System for the relevant month multiplied by (y) the kWh Rate. The Purchaser and the Provider shall cooperate in estimating the needs of the Host Site versus the estimated production of the System. In the event that Host is a municipality or other Governmental Authority, if sufficient funds to provide for payment(s) owed by Purchaser under this Agreement are not appropriated, the Purchaser may terminate this Agreement upon notice in writing to Provider in accordance with the terms of Section 2.2, including, without limitation, the payment to Provider of the Early Termination Fee. Notwithstanding anything to the contrary contained herein, the total Solar Services Payment to be paid by Purchaser for a period of 12-months shall not exceed the amount which equals the Estimated Annual Production multiplied by the kWh

Rate, subject to the additional purchase right provided for in Section 5.1.

6.2 Invoice. Provider shall invoice Purchaser, with copies to Purchaser, the Host and the County, at the addresses set forth in Schedule 5 of the Special Conditions, on or about the first day of each month (each, an "Invoice Date"), commencing on the first Invoice Date to occur after the Commercial Operation Date, for the Solar Services Payment in respect of the immediately preceding month. The last invoice shall include production only through the Expiration Date of this Agreement.

6.3 Time of Payment. Purchaser or Purchaser's billing agent shall pay all undisputed amounts due hereunder within thirty (30) days after the date of the applicable Invoice Date.

6.4 Method of Payment. Purchaser shall make all payments under the Agreement by electronic funds transfer in immediately available funds to the account designated by Provider from time to time. All payments that are not paid when due shall bear interest accruing from the date becoming past due until paid in full at a rate equal to the Stated Rate. All payments made hereunder shall be non-refundable, be made free and clear of any tax, levy, assessment, duties or other charges and not subject to reduction, withholding, set-off, or adjustment of any kind.

6.5 Disputed Payments. If a *bona fide* dispute arises with respect to any invoice, Purchaser shall not be deemed in default under the Agreement and the Parties shall not suspend the performance of their respective obligations hereunder, including payment of undisputed amounts owed hereunder. If an amount disputed by Purchaser is subsequently deemed to have been due pursuant to the applicable invoice, interest shall accrue at the Stated Rate on such amount from the date becoming past due under such invoice until the date paid.

6.6 kWh Rate "Buy Down". Purchaser may, at any time during the Term, make a lump-sum payment to Provider for the purpose of reducing the kWh Rate for the remainder of the Term. If Purchaser exercises its right under this Section 6.6, the Parties shall determine the revised kWh Rate and amend the Agreement accordingly.

7. GENERAL COVENANTS.

7.1 Provider's Covenants. Provider covenants and agrees to the following:

(a) Notice of Damage or Emergency. Provider shall (x) promptly notify Purchaser if it becomes aware of any damage to the Premises or any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (y) immediately notify Purchaser it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises.

(b) System Condition. Provider shall take all actions reasonably necessary to ensure that the System is capable of providing Solar Services at a commercially reasonable continuous rate.

(c) Governmental Approvals. While providing the Installation Work, Solar Services, and System Operations, Provider shall obtain and maintain and secure all Governmental Approvals required to be obtained and maintained and secured by Provider and to enable Provider to perform such obligations and shall comply with all Applicable Laws, including without limitation all employment laws and regulations and all laws and regulations affecting government and public schools, including without limitation Section 11-722 of the Criminal Procedure Article of the Maryland Annotated Code (2008), as amended, and applicable to Provider as a result of Provider's performance under the Agreement.

(d) Health and Safety and Security. Provider shall take all necessary and reasonable safety precautions with respect to providing the Installation Work, Solar Services, and System Operations that shall comply with all Applicable Laws pertaining to the health and safety of persons and real and personal property. Provider also shall be totally responsible for securing the Premises and System.

(e) Liens. Other than a Financing Party's security interest in or ownership of the System, Provider shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to the Premises or any interest therein, in each case to the extent such Lien arises from or is related to Provider's performance or non-performance of its obligations hereunder. If Provider breaches its obligations under this Section, it shall (i) immediately notify Purchaser in writing, (ii) promptly cause such Lien to be discharged and released of record without cost to Purchaser, and (iii) defend and indemnify Purchaser against all costs and expenses (including reasonable attorneys' fees and court costs at

trial and on appeal) incurred in discharging and releasing such Lien.

(f) Renewable Energy Credits. Provider shall obtain and maintain all Governmental Approvals required of Provider with regard to the purchase and sale of Renewable Energy Credits, as defined in Section 5.3.

(g) Provider covenants that in no event shall the Early Termination Fee or the Option Price be greater than the sum of (1) the amount SunEdison must pay to the Financing Party at the time of Early Termination, plus (2) verified removal costs, plus (3) reasonable, documented administrative fees incurred to complete work relating to the Early Termination; plus (4) actual, demonstrable damages, if any, Provider or its affiliates incur, as a party to a Solar REC or other contract for the System, as a result of an Early Termination. Notwithstanding the foregoing, in no case shall the Early Termination Fee or the Option Price exceed the applicable amount set forth in Schedule 3 of the Special Conditions.

7.2 Purchaser's Covenants. Purchaser covenants and agrees as follows:

(a) Notice of Damage or Emergency. Purchaser shall (x) promptly notify Provider if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (y) immediately notify Provider it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises.

(b) Liens. Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein. If Purchaser breaches its obligations under this Section, it shall immediately notify Provider in writing, shall promptly cause such Lien to be discharged and released of record without cost to Provider, or bond the same, and shall indemnify Provider, subject to Howard County appropriations and Applicable Laws, against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

(c) Consents and Approvals. Purchaser shall ensure that any authorizations required of Purchaser under this Agreement are provided in due course. To the extent that only Purchaser is authorized to request, obtain or issue any necessary approvals, permits, rebates or other financial incentives, Purchaser, at Provider's sole cost and expense, shall cooperate with Provider to obtain such approvals, permits, rebates or other financial incentives.

(d) Access to Premises, Grant of License. Purchaser hereby grants to Provider a commercial license coterminous with the Term, containing all the rights necessary for Provider to use and occupy portions of the Premises for the installation, operation and maintenance of the System pursuant to the terms of this Agreement, including ingress and egress rights to the Premises for Provider and its employees, contractors and subcontractors and access to electrical panels and conduits to interconnect or disconnect the System with the Premises' electrical wiring. Access rights to the Host Site shall be obtained by Provider dealing directly with the Host.

(i) Regardless of whether Purchaser is owner of the Premises or leases the Premises from a landlord, Purchaser hereby covenants that (x) Provider shall have access to the Premises and System during the Term of this Agreement and for so long as needed after termination to remove the System pursuant to the applicable provisions herein, and (y) neither Purchaser nor Purchaser's landlord will interfere or handle any Provider equipment or the System without written authorization from Provider; provided, however, that Purchaser and Purchaser's landlord shall at all times have access to and the right to observe the Installation Work or System removal.

(ii) If Purchaser is a lessee or licensee of the Premises, Purchaser further covenants that it shall deliver to Provider, a sublicense or sublease from Purchaser's landlord in substantially the form attached hereto as Exhibit A of these General Conditions.

(e) Temporary storage space during installation or removal. Purchaser shall use commercially reasonable efforts to obtain an agreement for sufficient space at the Premises for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the Installation Work, System Operations or System removal, and access for rigging and material handling.

(f) Sunlight Easements. Purchaser will take all reasonable actions as necessary to prevent other buildings, structures or flora on Purchaser's property from overshadowing or otherwise blocking access of sunlight to the System. Provider shall be responsible for obtaining any solar access easement which may be necessary for operations in accordance with Section 3 of this Agreement.

(g) Amendment of MOU. Without the prior written consent of Provider and any Financing Party,

which consent shall not be unreasonably withheld, conditioned or delayed, Purchaser shall not supplement, modify, amend or waive any provision of the MOU which reasonably could be expected to have a material and adverse effect on Provider, including without limitation any provision relating to the County's obligations to make payments to the Purchaser corresponding to payments due from Purchaser hereunder.

8. REPRESENTATIONS & WARRANTIES.

8.1 Representations and Warranties Relating to Agreement Validity. In addition to any other representations and warranties contained in the Agreement, each Party represents and warrants to the other as of the Effective Date that:

(a) it is duly organized and validly existing and in good standing in the jurisdiction of its organization;

(b) it has the full right and authority to enter into, execute, deliver, and perform its obligations under the Agreement;

(c) it has taken all requisite corporate or other action to approve the execution, delivery, and performance of the Agreement;

(d) the Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, governance or government, and other similar laws now or hereafter in effect relating to creditors' rights generally;

(e) there is no litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other Governmental Authority by, against, affecting or involving any of its business or assets that could reasonably be expected to adversely affect its ability to carry out the transactions contemplated herein; and

(f) its execution and performance of the Agreement and the transactions contemplated hereby do not constitute a breach of any term or provision of, or a default under, (i) any contract or agreement to which it or any of its Affiliates is a party or by which it or any of its Affiliates or its or their property is bound, (ii) its organizational documents, or (iii) any Applicable Laws.

8.2 Representations Regarding Security Interest. Purchaser has been advised that part of the collateral securing the financial arrangements for the System may be the granting of a first priority perfected security interest (the "Security Interest") in the System to a Financing Party. In connection therewith, Purchaser represents and warrants as follows:

(a) To Purchaser's knowledge, the granting of the Security Interest will not violate any term or condition of any covenant, restriction, lien, financing agreement, or security agreement affecting the Premises.

(b) Purchaser is aware of no existing lease, license, mortgage, security interest or other interest in or lien upon the Premises that could attach to the System as an interest adverse to Provider's Financing Party's Security Interest therein.

(c) To Purchaser's knowledge, there exists no event or condition which constitutes a default, or would, with the giving of notice or lapse of time, constitute a default under this Agreement.

Any Financing Party shall be an intended third-party beneficiary of this Section 8.2.

8.3 Intentionally Omitted.

9. TAXES AND GOVERNMENTAL FEES.

9.1 Purchaser Obligations. Purchaser warrants that it is a tax-exempt entity and as such Purchaser has no liability for any taxes, fees or charges imposed or authorized by any Governmental Authority and paid by Provider due to Provider's sale of the Solar Services to Purchaser.

9.2 Provider Obligations. Subject to Section 9.1 above, Provider shall be responsible for the payment of all taxes, fees or charges imposed or authorized by any Governmental Authority, including all income, gross receipts, ad valorem, personal property or real property or other similar taxes and any and all franchise fees or similar fees assessed against it due to its ownership of the System. Provider shall not be obligated for any taxes payable by or assessed against Purchaser based on or related to Purchaser's overall income or revenues.

10. FORCE MAJEURE.

10.1 Definition. "Force Majeure Event" means any act or event that prevents the affected Party

from performing its obligations in accordance with the Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, "Force Majeure Event" shall include without limitation the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) a deleterious environmental condition that precludes the safe occupation of the Premises; (iii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iv) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (v) strikes or labor disputes (except strikes or labor disputes caused solely by employees of the Provider or as a result of such party's failure to comply with a collective bargaining agreement); (vi) action by a Governmental Authority, including a moratorium on any activities related to the Agreement; and (vii) the inability for one of the Parties, despite its reasonable efforts, to obtain, in a timely manner, any Governmental Approval necessary to enable the affected Party to fulfill its obligations in accordance with the Agreement, provided that the delay or non-obtaining of such Governmental Approval is not attributable to the Party in question and that such Party has exercised its reasonable efforts to obtain such Permit. A Force Majeure Event shall not be based on the economic hardship of either Party.

10.2 Excused Performance. Except as otherwise specifically provided in the Agreement, neither Party shall be considered in breach of the Agreement or liable for any delay or failure to comply with the Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief under this Section 10 shall immediately (i) notify the other Party in writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event, and (iv) resume performance of its obligations hereunder as soon as practicable thereafter; provided, however, that Purchaser shall not be excused from making any payments and paying any unpaid amounts due in respect of Solar Services delivered to Purchaser prior to the Force Majeure Event performance interruption.

10.3 Termination in Consequence of Force Majeure Event. If a Force Majeure Event shall have occurred that has affected Provider's or Purchaser's

performance of its obligations hereunder and that has continued or reasonably can be deemed to continue for a continuous period of ninety (90) days, then Purchaser shall be entitled to terminate the Agreement upon thirty (30) days' prior written notice to Provider. Upon such termination for a Force Majeure Event, neither Party shall have any liability to the other other than any such liabilities that have accrued prior to such termination, nor shall Purchaser have any liability for Early Termination under Section 2.2 or any other section of this Agreement.

11. DEFAULT.

11.1 Provider Defaults and Purchaser Remedies.

(a) Provider Defaults. The following events shall be defaults with respect to Provider (each, a "Provider Default"):

(i) Subject in each case to Force Majeure Event(s), Provider fails to commence Installation Work in accordance with Section 3 of this Agreement by the Construction Start Date or fails to complete the Installation Work within five (5) months from the date of commencing the Installation Work;

(ii) Purchaser's third-party independent engineer determines before the Commercial Operation Date that the Installation Work is completed with substandard materials;

(iii) The System fails to provide at least seventy percentage (70%) of the Estimated Annual Production for two consecutive years, provided that such failure is not due to a Purchaser Act, or the acts or omissions of the Host, the District, or the County; third-party shading of the System; or an Event of Force Majeure;

(iv) Provider defaults under the lease or the license, as applicable, for the Premises and fails to cure such default within the cure period specified therein.

(v) A Bankruptcy Event shall have occurred with respect to Provider;

(vi) Provider fails to pay Purchaser any undisputed amount owed under the Agreement within thirty (30) days from receipt of notice from Purchaser of such past due amount; or

(vii) Provider breaches any material term of the Agreement, not otherwise specified

above, and (A) if such breach can be cured within thirty (30) days after Purchaser's written notice of such breach and Provider fails to so cure, or (B) Provider fails to promptly commence and diligently pursue a cure within such thirty (30) day period if a longer cure period is needed.

(b) Purchaser's Remedies. If a Provider Default described in Section 11.1(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Section 12, Purchaser may terminate the Agreement without penalty and without any obligation or liability of payment of any fees, charges or liquidated damages provided for under this Agreement, such as the Early Termination Fee, and may exercise all other remedies it may have at law or in equity or as provided under the Agreement.

11.2 Purchaser Defaults and Provider's Remedies.

(a) Purchaser Default. The following events shall be defaults with respect to Purchaser (each, a "Purchaser Default"):

(i) A Bankruptcy Event shall have occurred with respect to Purchaser, which is not dismissed in sixty (60) days;

(ii) Purchaser breaches any material term of the Agreement if (A) such breach can be cured within thirty (30) days after Provider's notice of such breach and Purchaser fails to so cure, or (B) Purchaser fails to promptly commence and diligently pursue said cure within such thirty (30) day period if a longer cure period is needed; and

(iii) Purchaser fails to pay Provider any undisputed amount due Provider under the Agreement within thirty (30) days from receipt of notice from Provider of such past due amount.

(iv) In the event of a Purchaser Act (as defined in Section 4.3(b)), one or more of the County's payment obligations under the MOU terminates for any reason and is not replaced, pursuant to the MOU or one or more other agreements, with similar rights and obligations reasonably acceptable to Provider or, due to a Purchaser Act, Purchaser loses its access rights to the Premises under the Licenses for any reason not related to a Provider Default. For purposes of clarity, termination of the MOU or the License as a result of Purchaser's or its designee's exercise of the purchase option in Section 2.3 hereof shall not be deemed an event of default pursuant to this section.

(b) Provider's Remedies. If a Purchaser Default described in Sections 11.2(a) has occurred and is continuing, and Purchaser has not exercised its Purchase Option hereunder, Provider may terminate this Agreement and upon such termination, Provider shall be entitled to receive from Purchaser the Early Termination Fee pursuant to Section 2.2, as liquidated damages. The Parties acknowledge that the calculation of damages will be difficult to ascertain and that the Parties therefor agree to this provision for liquidated damages. Notwithstanding the forgoing, in the event of a Purchaser Default pursuant to Section 11.2(a)(iii) and provided that Purchaser is not otherwise in default, Provider shall make reasonable efforts to seek payment from the Host and/or the County before terminating the Agreement hereunder, and, so long as either the Host or County makes full and complete payment for all amounts due by Purchaser under the Agreement within fifteen (15) days of Provider's demand therefor, including all liabilities accruing up to such assumption, Provider shall not terminate the Agreement.

11.3 Removal of System. Upon any termination of the Agreement pursuant to this Section 11, Provider will remove the System pursuant to Section 2.5 hereof, absent any purchase of the System by Purchaser pursuant to Section 2.2 hereof.

12. LIMITATIONS OF LIABILITY.

12.1 Except as expressly provided herein, neither Party shall be liable to the other Party or its Indemnified Persons for any special, punitive, exemplary, indirect, or consequential damages, losses or damages for lost revenue or lost profits, whether foreseeable or not, arising out of, or in connection with the Agreement.

12.2 Unless otherwise provided for herein, a Party's maximum liability to the other Party under the Agreement, shall be limited to the aggregate Estimated Remaining Payments as of the date of the events giving rise to such liability, provided, however, the limits of liability under this Section 12.2 shall not apply with respect to (i) indemnity obligations hereunder with respect to personal injury or intellectual property infringement claims, or (ii) the Early Termination Fee, if applicable.

13. ASSIGNMENT.

13.1 Assignment by Provider. Provider shall not sell, transfer or assign (collectively, an "Assignment") the Agreement or any interest therein, without the prior written consent of Purchaser, which

shall not be unreasonably withheld, conditioned or delayed; provided, however, that, without the prior consent of Purchaser, Provider may (i) assign this Agreement to an Affiliate of Provider; (ii) assign this Agreement as collateral security in connection with any financing of the System (including, without limitation, pursuant to a sale-leaseback transaction). In the event that Provider identifies such secured Financing Party in Schedule 5 of the Special Conditions, or in a subsequent notice to Purchaser, then Purchaser shall comply with the provisions set forth in Exhibit B of these General Terms and Conditions. Any Financing Party shall be an intended third-party beneficiary of this Section 13.1. Any assignment by Provider without any required prior written consent of Provider shall not release Purchaser of its obligations hereunder.

13.2. Acknowledgment of Collateral Assignment. In the event that Provider identifies a secured Financing Party in Schedule 5 of the Special Conditions, or in a subsequent notice to Purchaser, then Purchaser hereby:

(a) acknowledges the collateral assignment by Provider to the Financing Party, of Provider's right, title and interest in, to and under the Agreement, as consented to under Section 13.1 of the Agreement.

(b) acknowledges that the Financing Party as such collateral assignee shall be entitled to exercise any and all rights of lenders generally with respect to the Provider's interests in this Agreement.

(c) acknowledges that it has been advised that Provider has granted a first priority perfected security interest in the System to the Financing Party and that the Financing Party has relied upon the characterization of the System as personal property, as agreed in this Agreement in accepting such security interest as collateral for its financing of the System.

Any Financing Party shall be an intended third-party beneficiary of this Section 13.2.

13.3 Assignment by Purchaser. Except as otherwise provided herein, Purchaser shall not assign the Agreement or any interest therein, without Provider's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment by Purchaser without the prior written consent of Provider shall not release Provider or Purchaser of their obligations hereunder. Notwithstanding the forgoing, Purchaser may assign the Agreement to the County or the District without Provider's prior written consent, provided that the County or District, as the assignee, has a credit rating of

at least BBB as determined by S&P or Baa as determined by Moody's or better at the time of such assignment.

14. NOTICES.

14.1 Notice Addresses. Unless otherwise provided in the Agreement, all notices and communications concerning the Agreement shall be in writing and addressed to the other Party (or Financing Party, as the case may be) at the addresses set forth in Schedule 6 of the Special Conditions, or at such other address as may be designated in writing to the other Party from time to time.

14.2 Notice. Unless otherwise provided herein, any notice provided for in the Agreement shall be hand delivered, sent by registered or certified U.S. Mail, postage prepaid, or by commercial overnight delivery service, or transmitted by facsimile and shall be deemed delivered to the addressee or its office when received at the address for notice specified above when hand delivered, upon confirmation of sending when sent by facsimile (if sent during normal business hours or the next Business Day if sent at any other time), on the Business Day after being sent when sent by overnight delivery service (Saturdays, Sundays and legal holidays excluded), or five (5) Business Days after deposit in the mail when sent by U.S. mail.

14.3 Address for Invoices. All invoices under the Agreement shall be sent to the address provided by Purchaser. Invoices shall be sent by regular first class mail postage prepaid.

15. CONFIDENTIALITY.

15.1 Confidentiality Obligation. If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the financing, design, operation and maintenance of the System or of Purchaser's business ("Confidential Information") to the other or, if in the course of performing under the Agreement or negotiating the Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall, to the extent permitted under the Maryland Public Information Act, as set forth in the State Government Article of the Annotated Code of Maryland, (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance

of the Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its officers, directors, members, managers, employees, agents, contractors and consultants, and Affiliates, lenders, and potential assignees of the Agreement or acquirers of Provider or its Affiliates (provided and on condition that such potential assignees be bound by a written agreement restricting use and disclosure of Confidential Information) (collectively, "Representatives"), in each case whose access is reasonably necessary. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of the Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Article, except as set forth in Section 15.3. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party.

15.2 Permitted Disclosures. Notwithstanding any other provision herein, neither Party shall be required to hold confidential any information that:

(a) becomes publicly available other than through the receiving Party;

(b) is required to be disclosed by a Governmental Authority, under Applicable Law or pursuant to a validly issued subpoena or required filing, but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement;

(c) is independently developed by the receiving Party; or

(d) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality.

15.3 Goodwill and Publicity. Neither Party shall use the name, trade name, service mark, or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of the Agreement, and each Party shall have the right to

promptly review, comment upon, and approve any publicity materials, press releases, or other public statements by the other Party that refer to, or that describe any aspect of, the Agreement; provided that no such publicity releases or other public statements (except for filings or other statements or releases as may be required by Applicable Law) shall be made by either Party without the prior written consent of the other Party. At no time will either Party acquire any rights whatsoever to any trademark, trade name, service mark, logo or other intellectual property right belonging to the other Party. Notwithstanding the foregoing, Purchaser agrees that Provider may, at its sole discretion, take photographs of the installation process of the System and/or the completed System, and Provider shall be permitted to use such images (regardless of media) in its marketing efforts, including but not limited to use in brochures, advertisements, websites and news outlet or press release articles. The images shall not include any identifying information without Purchaser permission, which may be withheld in the sole and absolute discretion of Purchaser, and the installation site shall not be disclosed beyond the type of establishment (such as "Retail Store," "Distribution Center," or such other general terms), and state.

15.4 Enforcement of Confidentiality Obligation. Each Party agrees that the disclosing Party would be irreparably injured or harmed by a breach of this Article by the receiving Party or its Representatives or other Person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of any breach of the provisions of this Article. To the fullest extent permitted by Applicable Law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Article, but shall be in addition to all other remedies available at law or in equity.

16. INDEMNITY.

16.1 Provider's Indemnity. Subject to Section 12, Provider agrees that it shall indemnify and hold harmless Purchaser, its permitted successors and assigns, and their respective officials, directors, officers, members, shareholders, as applicable, and employees (collectively, the "Purchaser Indemnified Parties") from and against any and all Losses incurred by the Purchaser Indemnified Parties to the extent arising from or out of the following: all claims, losses, damages, costs and expenses, including reasonable attorney fees and professional fees and court cost, arising out of or relating to any injury to or death of any Person or loss or damage

to property of any Person, including without limitation damage to sensitive electrical equipment, or to the Premises to the extent arising out of or relating to (a) Provider's acts, omissions, negligence or willful misconduct, or (b) the Installation Work, or (c) the System or System Operations, or (d) any infringement of patents or the improper use of other proprietary rights by Provider or its employees or representatives that may occur in connection with the performance of the Installation Work, System Operations or Solar Services and the ownership and use of the System. Provider shall not, however, be required to reimburse or indemnify any Purchaser Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Purchaser Indemnified Party.

16.2 Intentionally Omitted.

17. INSURANCE.

Provider shall maintain the insurance coverages in full force and effect throughout the Term as set forth in Exhibit C.

18. MISCELLANEOUS.

18.1 Integration; Exhibits. The Agreement, together with the Exhibits and Schedules attached thereto and hereto, constitute the entire agreement and understanding between Provider and Purchaser with respect to the subject matter thereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits and Schedules attached thereto and hereto are integral parts hereof and are made a part of the Agreement by reference. In the event of a conflict between the provisions of these General Conditions and any applicable Special Conditions, the provisions of the Special Conditions shall prevail.

18.2 Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Provider and Purchaser.

18.3 Industry Standards. Except as otherwise set forth herein, for the purpose of the Agreement the normal standards of performance within the solar photovoltaic power generation industry in the relevant market shall be the measure of whether a Party's performance is reasonable and timely. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

18.4 Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of Provider or Purchaser shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

18.5 Intentionally Omitted.

18.6 Limited Effect of Waiver. The failure of Provider or Purchaser to enforce any of the provisions of the Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance or of any other provision in any instance.

18.6 Survival. The obligations under Sections 2.2 (Early Termination), 2.5 (Removal of System), Section 7.1 (Provider Covenants), Sections 7.2(d), (e), and (f) (Purchaser Covenants), , Article 9 (Taxes and Governmental Fees), Article 12 (Limitation of Liability), Article 14 (Notices), Article 15 (Confidentiality), Article 18 (Miscellaneous), or pursuant to other provisions of this Agreement that, by their sense and context, are intended to survive termination of this Agreement shall survive the expiration or termination of this Agreement for any reason.

18.7 Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Maryland without reference to any conflict of law principles. The Parties agree that the courts of the State of Maryland shall have jurisdiction over any action or proceeding arising under the Agreement to the fullest extent permitted by Applicable Law. The Parties waive to the fullest extent permitted by Applicable Law any objection it may have to the laying of venue of any action or proceeding under this Agreement any courts described in this Section 18.7.

18.8 Severability. If any term, covenant or condition in the Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of the Agreement shall not be affected thereby, and each term, covenant or condition of the Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law and, if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the Parties and to the intended economic benefits of the Parties.

18.9 Relation of the Parties. The relationship between Provider and Purchaser shall not be that of partners, agents, or joint ventures for one another, and nothing contained in the Agreement shall be deemed to constitute a partnership or agency agreement between

them for any purposes, including federal income tax purposes. Provider and Purchaser, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

18.10 Successors and Assigns. This Agreement and the rights and obligations under the Agreement shall be binding upon and shall inure to the benefit of Provider and Purchaser and their respective successors and permitted assigns.

18.11 Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument

18.12 Facsimile Delivery. This Agreement may be duly executed and delivered by a Party by execution and facsimile or electronic, "pdf" delivery of the signature page of a counterpart to the other Party.

18.13 Attorneys' Fees. If any legal action, arbitration, or other proceeding is brought for the enforcement of the Agreement or because of an alleged dispute, default, misrepresentation, or breach in connection with any of the provisions of the Agreement, except as expressly excluded in the Agreement, the successful or prevailing Party shall be entitled to recover reasonable attorneys' fees, expenses expert witness fees, and other costs incurred in that action or proceeding in addition to any other relief to which it may be entitled.

18.14 Liquidated Damages Not Penalty. Purchaser acknowledges that the Early Termination Fee constitutes liquidated damages, and not penalties, in lieu of Provider's actual damages resulting from the early termination of the Agreement. Purchaser further acknowledges that in accordance with Purchaser's rights and obligations under the Agreement, the Early Termination Fee constitutes fair and reasonable damages to be borne by Purchaser.

18.15 Provider's Right to Enforce MOU. If at any time during the Term of this Agreement, Purchaser fails to assert its rights under the MOU relating to the District's or County's payment obligations, then, upon thirty (30) day's notice to the Purchaser, if Purchaser continues to fail to assert such rights, then Provider may enforce such rights directly against the District or County as if the Provider was the Purchaser thereunder.

18.16 Limit on Purchaser's Obligations. Notwithstanding anything herein to the contrary, all obligations to be undertaken by the Purchaser pursuant to this Agreement shall not constitute general obligations of the Purchaser and shall not pledge the full faith and credit

of the Purchaser, but shall be limited obligations of the Purchaser only, payable solely from funds provided by the County pursuant to the MOU, which County funds are subject to appropriation. The Purchaser shall be required to make payments and to perform such of its obligations under this Agreement as require the expenditure of funds only to the extent that there are any funds available to the Purchaser from the County in accordance with the terms and conditions of the MOU.

[Remainder of page intentionally left blank.]

These General Terms and Conditions are witnessed and acknowledged by SunEdison and Party B below. For the avoidance of doubt, neither SunEdison nor Party B shall have any obligations or liability resulting from its witnessing and acknowledging these General Terms and Conditions.

“SUNEDISON”: SUNEDISON ORIGINATION3, LLC

By: _____

Name: _____

Title: _____

Date: _____

“Purchaser”: Northeast Maryland Waste Disposal Authority

By: _____

Name: _____

Title: _____

Date: _____

**Exhibit A
of General Conditions**

[PURCHASER'S LETTERHEAD]

Director
Department of Public Works
Howard County Government
3430 Courthouse Drive
Ellicott City, MD 21043

Re: Proposed Solar Power Installation at 4361 New Cut Road, Ellicott City, Maryland 21043 (the "Premises") for Solar Services to be provided to Worthington Elementary School, located at 4570 Roundhill Road, Ellicott City, MD 21043

NOTICE OF License dated [] between Northeast Maryland Waste Disposal Authority (Authority) and Howard County, Maryland (the "License Agreement")

Dear Director:

The Authority and SunEdison Origination3, LLC ("SunEdison") have entered into a Solar Power & Services Agreement (the "SPSA"), dated _____, pursuant to which SunEdison will install, finance, operate, and maintain a solar photovoltaic system (the "System") at the Premises subject to the terms, conditions and provisions of the License Agreement . By signing below and returning this letter to us, you confirm that:

1. In accordance with the related SPSA, the solar photovoltaic system and the renewable energy (including environmental credits and related attributes) produced by the system (collectively the "System") are personal property, and shall not be considered the property (personal or otherwise) of Howard County upon installation of the System at the Premises.
2. Subject to the terms, conditions and provisions of the License Agreement, SunEdison or its designee (including finance providers) shall have the right to access the Premises in order to install, operate, inspect, maintain, and remove the System.
3. Howard County has been advised that the finance providers for the System have a first priority perfected security interest in the System.

We thank you for your consideration of this opportunity and we look forward to working with you in our environmental campaign to increase the utilization of clean, renewal energy resources.

Very truly yours,

By: _____
Name: _____, Executive Director
Title: Authorized Representative

Acknowledged and agreed by:

Howard County
By: _____
Name: Director Department of Public Works
Title: Authorized Representative

Exhibit B
of General Conditions

Certain Agreements for the Benefit of the Financing Parties

Purchaser acknowledges that Provider will be financing the installation of the System either through a lessor, lender or with financing accommodations from one or more financial institutions and that the Provider may sell or assign the System and/or may secure the Provider's obligations by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interest in the System. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any such financial institutions of which Provider has notified Purchaser in writing Purchaser agrees as follows:

(a) **Consent to Collateral Assignment.** Purchaser consents to either the sale or conveyance to a lessor or the collateral assignment by Provider to the a lender that has provided financing of the System, of the Provider's right, title and interest in and to this Agreement.

(b) **Notices of Default.** Purchaser will deliver to the Financing Party, concurrently with delivery thereof to Provider, a copy of each notice of default given by Purchaser under the Agreement, inclusive of a reasonable description of Provider default. No such notice will be effective absent delivery to the Financing Party.

(c) **Rights Upon Event of Default.** Notwithstanding any contrary term of this Agreement:

i. The Financing Party, as collateral assignee, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement and only in the event of Provider's or Host's default. The Financing Party shall also be entitled to exercise all rights and remedies of secured parties generally with respect to this Agreement and the System.

ii. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Purchaser hereby gives it the option to do so.

iii. Upon the exercise of remedies under its security interest in the System, including any sale thereof by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party) in lieu thereof, the Financing Party shall give notice to Host of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement.

iv. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of the Financing Party made within ninety (90) days of such termination or rejection, Host shall enter into a new agreement with the Financing Party or its assignee having the same terms and conditions as this Agreement.

(d) **Right to Cure.**

i. Except in an event of Emergency (provided such Emergency is not due to the acts or omissions of the Purchaser, Host, District, or any of their employees, agents, or assigns) or Force Majeure or in the event Provider fails to maintain the required insurance coverages, Purchaser will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice by sending notice to the Financing Party (at the address provided by Provider) of its intent to terminate or suspend this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving

rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement. The Parties respective obligations will otherwise remain in effect during any cure period; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed additional ninety (90) days.

ii. If the Financing Party (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Sub-section (c)(i) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such person or entity shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

Exhibit C
of General Conditions

Provider Insurance Requirements

1. Provider shall carry the following required insurance coverage, in addition to the insurance required under the lease or license for the Premises. Losses valued at or below policy deductibles shall be considered covered losses and Provider and/or its contractors and subcontractors (collectively “Contractors” herein) shall be responsible for payment of all insurance policy deductibles with no contribution by the Purchaser, the Host, or the County.

a. **“Builder’s Risk”/All-Risk” Property Insurance** covering the work and materials used in developing the System with a limit of coverage at least equal to the full replacement value of the System. Such property insurance shall be written on a replacement cost basis, subject to standard exclusions, property limitations and conditions. Such insurance shall include the Purchaser, the County, the District and the Host, as Additional Named Insureds, and shall insure against fire, extended coverage and all risk perils (including resultant loss or damage from or as a consequence of faulty materials, workmanship or design).

Licensee expressly waives all right of recovery against the Purchaser, the County, the District and the Host for damage to its tools and equipment and shall assure that the Builder’s Risk insurer agrees to waive of subrogation against the Purchaser, the County, the District and the Host.

b. **Worker’s Compensation Insurance** with limits of coverage as follows:

(i) Coverage A: Coverage for all applicable states with statutory Maryland jurisdiction coverage mandatory.

(ii) Coverage B: \$100,000

c. **Automobile Liability Insurance** with limits of liability of at least \$1,000,000 combined single limit per occurrence, naming the Purchaser, the County, the District and the Host as additional insureds. Coverage for non-owned and hired vehicles shall be included. If hazardous materials are transported, insurance shall comply with applicable law relating to such transport.

d. **Commercial General Liability Insurance** with combined single limits of \$10,000,000 per occurrence, naming the Purchaser, the County, the District and the Host as an additional insureds. Unless deemed unnecessary by the Purchaser, the policy shall contain, but not be limited to, the following coverage endorsements:

(i) Contractual Liability, including Contractors

(ii) Personal and Advertising Injury

(iii) Products and Completed Operations

(iv) Explosion, Collapse, and Underground Hazards (XCU) - required if such exposure exists due to the nature of the work to be performed.

This insurance may be provided by a combination of a primary policy and excess coverage.

e. **Provider’s Pollution Liability Insurance** with combined single limits of \$10,000,000 per claim naming the Purchaser, the County, the District and the Host as an additional insureds. Such coverage may be included under the Commercial General Liability Insurance policy by endorsement if there is no exclusion for sudden and accidental pollution or claims arising out of environmental work or laboratory analysis.

f. **Professional Liability/Errors and Omissions Insurance** to the Provider’s profession with policy limits of at least \$3,000,000 per claim. Provider shall continue to maintain such insurance, covering incidents occurring or claims made, for a period of three (3) years after substantial completion of the System.

2. If any of the insurance policies required to fulfill the requirements of the Installation Work are written on a claims-made basis, Provider shall continue to maintain such insurance, covering incidents occurring or claims made, for a period of three years after substantial completion of the Installation Work.

3. All policies of insurance shall be underwritten by companies licensed to do business in the State of Maryland.

4. The Provider shall assure that all Contractors performing services in accordance with the SPSA carry identical insurance coverage required of the Provider, either individually or as an Additional Insured on the policies of the Provider or coverage limits in accordance with local industry practice at the discretion of the Design Builder. Subject to a limitation of \$10,000,000 per occurrence per Contractor, Provider shall indemnify the Purchaser for any underinsured or uninsured losses relating to the contractual services involving Contractors, except for workers' compensation claims for which Purchaser shall be indemnified up to the statutory limits.

Provider shall be responsible for maintaining a list of all Contractors and their respective insurance companies and policies and coverage and shall provide the list to Purchaser.

5. The Provider shall not commence Installation Work under the SPSA until evidence of all required coverage is received by the Purchaser. Further, the Provider shall continue to provide the Purchaser with evidence of policy renewals until the completion of the SPSA and shall not reduce or cancel or change any of the required coverage without 60 days notice of such change to the Purchaser.

6. The Provider will indemnify, defend and hold harmless the Purchaser from liability for any injuries to the employees, servants, agents, Contractors or assignees of the Provider arising out of or during the course of services relating to the SPSA.

7. Except as otherwise provided in Section 5.04.C, the providing of any insurance required herein does not relieve the Provider of any of the responsibilities or obligations assumed by the Provider in the SPSA for which the Provider may be liable by law or otherwise.

8. Failure to provide and continue in force such insurance as required above shall be deemed as a material breach of the SPSA and at the Purchaser's election shall operate as an immediate termination of the SPSA, without penalty or payment of the Early Termination Fee. The Purchaser may, but is not obligated to, obtain any insurance not being maintained by Provider and required under this SPSA. In the event the Purchaser does obtain such insurance, then Provider shall immediately pay the full premium to Purchaser, plus an administrative fee of ten percent (10%) of the insurance premium. In the event Provider fails to pay the premium, the amount of the premium will be deducted from payments due to Provider. If Purchaser purchases any insurance as provided for herein, such purchase shall be deemed to be a waiver by Purchaser of the right to declare a breach based on Provider's said default, as long as Purchaser does not incur any unpaid expense related thereto.

9. As evidence of the above-required insurance, Provider shall provide Purchaser with certificates of insurance, and all new and renewal certificates replacing any such policies that expire shall be delivered to Purchaser at least thirty (30) days before the date of expiration. Such certificates shall name Purchaser, the County, the District and the Host as additional insureds as required above, and provide that that Purchaser shall receive thirty (30) days prior written notice of non-renewal, cancellation of or significant modification to any of the above policies and indicate that the comprehensive bodily injury and property damage insurance have been endorsed as described above. All insurance shall be placed and maintained with insurers authorized to do business in the State of Maryland and who have an A.M. Best rating of A/XI or better unless otherwise approved by Purchaser in writing. Notwithstanding the forgoing or anything to the contrary in the Agreement, a downgrade in Provider's insurer's A.M. Best rating shall not constitute a default under the Agreement and shall not give rise to any right by Purchaser to terminate the Agreement, provided that Provider uses commercially reasonable efforts to obtain replacement coverages from an insurer meeting the rating requirements herein as soon as reasonably possible.

Schedule I
of General Conditions

System Construction Schedule

NTP (Notice to Proceed): To be determined

Review and Permitting: Five (Weeks)

Construction: Fourteen (14) Weeks

Commissioning: Two (2) Weeks

Total: Twenty-one weeks

Last Date for Start of Construction: January 7, 2011

Last Date for Commissioned Project: June 7, 2011

Schedule II
of General Conditions

SunBurst Grant Special Conditions

The Provider acknowledges and confirms that the Purchaser and the County applied for and have been awarded the SunBurst Grant as defined in the foregoing General Conditions, and that the Sunburst Grant Special Conditions in this Schedule II have been incorporated into the Agreement. The Provider further acknowledges that the SunBurst Grant is material to the overall success of the Agreement and, therefore, the Provider covenants to meet the deadlines and abide by the terms and conditions of the SunBurst MOU (defined below) applicable to the Provider as the Contractor thereunder and will take all actions to enable the Purchaser to meet the Purchaser's obligations and deadlines. Additionally, the Provider agrees that:

1. Early Termination Right Without Penalty. Pursuant to the Memorandum of Understanding by and between the MEA and the Purchaser, attached to this Schedule II, (the "SunBurst MOU"), the commissioning deadline of the SunBurst Grant governs the period within which the Project must be financed, designed, constructed and deemed commercially operational. Notwithstanding anything in the General Conditions, the Parties agree that Installation Work will commence only if the Commercial Operation Date will occur within the timeline prescribed by the SunBurst MOU.

Installation Work must commence prior to January 7, 2011 (the "SunBurst Termination Date"), unless an alternate date is agreed to by all Parties in writing. If construction has not commenced on the System by the SunBurst Termination Date, and no alternative date is agreed to by the Parties, the Agreement may be terminated by the Purchaser or caused to be terminated by the County, without penalty of any kind including without limitation no Early Termination Fee, upon which termination all Parties shall be released of all obligations and liabilities under the Agreement and all related agreements, excepting obligations that survive pursuant to specific provisions thereof for liability incurred prior to said termination. The Parties shall sign a release and waiver within five (5) business days after the SunBurst Termination Date.

As provided for above, termination of the Agreement under this Schedule II shall not trigger the payment of the Early Termination Fee and the Provider hereby waives all claims to such payment being due.

2. Schedule 2 ("kWh Rate") of the Special Conditions of the SPSA (Solar Power and Services Agreement) shall be finalized to factor into said rate and payment, as applicable, a reduction for the benefit of the County and the Host.

**MEMORANDUM OF UNDERSTANDING
BETWEEN**

**MARYLAND ENERGY ADMINISTRATION
60 West Street, Suite 300
Annapolis, MD 21401**

AND

**NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY
100 South Charles Street
Tower II, Suite 402
Baltimore, MD 21201**

This Memorandum of Understanding (“MOU” or “Agreement”)) is between the Northeast Maryland Waste Disposal Authority (“Authority”) and the Maryland Energy Administration (MEA). Each of Authority and MEA may be referred to herein as a “party” or collectively as “parties”.

WHEREAS, MEA is a separate unit of State government that under the approval of the Governor implements and administers conservation, allocation, or other energy programs or measures under State Law or federal laws, orders or regulations. Md. Code Ann., State Gov’t §9-2002;

WHEREAS, MEA has received funding through the United States Department of Energy (“DOE”) State Energy Program (“SEP”) and such funding was made available pursuant to the American Recovery and Reinvestment Act of 2009 (“ARRA”);

WHEREAS, the Authority is a public instrumentality of the State of Maryland the exercise of whose powers is “deemed to be the performance of essential public function.” Md. Code Ann., Nat’l Res. Art. § 3-903(a) (1);

WHEREAS, the Authority was created by the Maryland General Assembly in part to assist participating political subdivisions of the State, other public entities and the private sector to “provide adequate waste disposal facilities (including those facilities that provide energy generation and resource recovery) and facilities for the generation of steam, electricity, or other forms of energy form fuels” related to waste disposal facilities “by providing a regional coordinating agency and a financing vehicle for such facilities.” Md. Code Ann., Nat’l Res Art. §3-902;

WHEREAS, the Authority has carried out its functions through public-private partnerships thereby enabling the Authority and its participating subdivisions to benefit from the tax benefits and efficiencies afforded by the private ownership of Authority projects;

WHEREAS, the Authority is not deemed to be a public service company within the meaning of the Public Utility Companies Article, and the jurisdiction and powers of the Public

Service Commission shall not extend to the Authority;

WHEREAS, clean energy plays a critical role in addressing Maryland's energy challenges and meeting the State's Renewable Portfolio Standard ("RPS") and EmPOWER Maryland legislative goals;

WHEREAS, photovoltaic energy systems provide a long term hedge against rising fossil fuel energy prices;

WHEREAS, photovoltaic energy systems produce no carbon dioxide or other pollutants during their operation;

WHEREAS, distributed photovoltaic energy systems reduce transmission congestion and reduce energy demand during summer peaks;

WHEREAS, MEA now wishes to make such ARRA funds available to the Authority subject to the terms and conditions of this MOU.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

I. RESPONSIBILITIES

MEA agrees to:

1. Engage in a partnership with the Authority to use a portion of MEA's ARRA funds to provide rebates to renewable energy systems hosted by the Authority.
2. Make such ARRA funds available to the Authority subject to the terms and conditions of this Agreement to support a Power Purchase Agreement (PPA) for renewable energy from systems hosted and co-located with the Authority.
3. Acknowledge that the Authority has completed a public procurement for solar services on behalf of Howard County, MD and intends to execute, subject to the approval of the County Council of Howard County and the Board of the Howard County Public School System, a PPA for the installation of a 462kW (DC) photovoltaic system at the New Cut Road Landfill, located at 4361 New Cut Road, Ellicott City, Maryland 21043 (the "Project").
4. Acknowledge that the application of ARRA funds, coupled with the improvement in the financing environment and other factors, will now allow the project to go

forward, creating jobs for local installers and generating clean energy for 20 years or more.

5. Acknowledge that the nature of the location of the Project places additional constraints on the design, permitting and construction of the project and that because of these challenges the dates for construction start and commissioning are listed below.

The Authority agrees to:

1. Execute a PPA by September 1, 2010.
2. Execute a separate grant agreement with the preferred vendor reflecting the award of SunBurst Rebate funds to the project and incorporating ARRA provisions by September 1, 2010.
3. Commence construction of the project by January 7, 2011.
4. Require the commissioning of the solar photovoltaic system(s) by June 15, 2011, if not sooner.
5. Ensure that the project complies with all requirements of ARRA and associated federal regulations pertaining to the funding with, use of, restrictions on, and tracking of, ARRA monies, and all State and local laws and regulations.
6. Submit Project Sunburst reports (“Reports”) and invoices (“Invoices”) to MEA on a monthly basis.
7. Require the Authority’s solar contractor to offer the SRECs generated by the project for sale in Maryland if they are also offered for sale to entities outside of Maryland. The terms of any offer of sale of SRECs to Maryland entities must be no less favorable than those offered to non-Maryland entities. The Authority’s solar contractor shall offer SRECs for sale to Maryland entities for the duration of no less than one week, and such one week period shall be extended to provide a reasonable period of negotiation if a Maryland entity expresses interest in purchasing the SRECs during the initial one week period.

II. ADMINISTRATIVE CONTACTS:

The Agreement Contacts for any questions regarding this Agreement are:

THE AUTHORITY:

Robin Davidov
Executive Director
Northeast Maryland Waste Disposal Authority
410-333-2730

MEA:

Malcolm Woolf
Director
Maryland Energy Administration
410-260-751

(or any other individual designated by the Director of MEA)

III. TERM OF MOU

The term of this MOU shall be from the date on which the Director of MEA signs this MOU (the "Effective Date"), until July, 31, 2011, unless terminated at an earlier date by MEA pursuant to Section V of this MOU, or at an earlier date by expressed written consent of both parties.

IV. SOURCE OF FUNDING

The funds to be provided the Authority by MEA pursuant to the terms and conditions of this MOU are made available through a DOE SEP grant authorized by ARRA. The Authority agrees to adhere to all terms and conditions mandated by ARRA and the associated federal regulations and guidelines, including but not limited to the requirements listed in Sections VIII and IX of this MOU. Any expenditure of Grant funds that is not consistent with the purposes and restrictions stated in this Agreement or any documents expressly incorporated by reference herein, are subject to the terms set forth in Title 10 of the Code of Federal Regulations Part 600 and 10 CFR Section 420.18. Should any expenditure be disallowed or should the Authority violate any of the terms of this Agreement so as to cause DOE to suspend or terminate this program, the State may require repayment to the State Treasury of any expenditure of State funds for expenses incurred by the State in implementing or administering this grant, including its termination or suspension. The Authority agrees to assist MEA in fulfilling all obligations and responsibilities incurred pursuant to 10 CFR Part 600 (Financial Assistance Rules), which are expressly incorporated into this Agreement, and the Authority agrees to abide by such requirements.

V. FUNDING; DISBURSEMENT AND RECAPTURE

1. During the term of this Agreement, MEA shall provide funds to Authority in the amount of \$1,000 per kW of solar capacity installed up to Four Hundred Sixty Two

Thousand (\$462,000). Upon the Effective Date of this Agreement, MEA will reserve \$462,000 based on potential solar capacity identified in the Authority's grant application to MEA, received on March 26, 2010. MEA will transfer funds in the amount of \$1,000 per kW to the Authority ten (10) days after the solar project certificate of commercial operations is received by MEA.

2. Authority will execute a grant agreement or PPA with renewable energy developer/service provider stating terms for the transfer of grant funds from Authority to renewable energy service provider upon successful commissioning of solar photovoltaic system. The grant must correspond to the actual solar photovoltaic capacity installed and must be calculated based on the \$/kW rate stated in this document. The grant agreement must incorporate all ARRA provisions as outlined in Section VII below and detailed in Attachment A: ARRA-Addendum Special Terms and Conditions for ARRA SEP Projects.

3. In the event that actual photovoltaic capacity installed is less than the amount anticipated, the equipment rebate award will be adjusted to match the actual photovoltaic capacity installed and any funds transferred by MEA to Authority in excess of this amount must be returned to MEA within thirty (30) days after project commissioning if not sooner.

4. In the event that the terms of the power purchase agreement cannot be fulfilled either by the renewable energy service provider or by Authority by the date listed in this MOU, the Authority agrees to return the equipment rebate funds to MEA.

5. If MEA in its sole discretion, concludes that Authority has failed to make progress towards meeting the milestones listed in this Agreement, MEA shall notify Authority that Authority is not meeting such milestones and shall give Authority thirty (30) days to provide evidence to MEA that adequate progress toward the milestones is being made. If the thirty (30) day period expires, MEA, in its sole discretion, concludes that Authority still has not provided adequate evidence that it is making progress towards meeting such milestones, MEA reserves the right to terminate this Agreement if it determines that such termination is in the best interest of MEA. MEA shall pay all reasonable costs associated with this Agreement that Authority has incurred up to the date of termination and all reasonable costs associated with termination of this Agreement. However, the Authority shall not be reimbursed for any anticipatory costs or expenses that have not been incurred up to the date of termination.

VI. REPORTING AND INVOICING REQUIREMENTS

1. Project Sunburst Reports and Invoices shall be submitted by the Authority to MEA on a monthly basis. Reports and Invoices are due to MEA by the 5th day of the month following the previous month's reporting period. Reports and Invoices shall be sent to MEA at the following address:

**Maryland Energy Administration
Attn: Project Sunburst – Progress Report/Invoice
60 West Street, Suite 300
Annapolis, MD 21401**

MEA reserves the right to require Reports to be submitted in the future, in whole or in part, through an electronic submission system.

2. Reports must be submitted to MEA using Attachment D: Project Sunburst Report form.

3. Invoices must be submitted to MEA on the Authority's letter head and must contain the following information: MEA Grant number, federal tax identification number, contact information, and invoice supporting documentation. Invoice supporting documentation includes, but is not limited to, copies of receipts and vendor invoices, as appropriate.

4. Invoices submitted to MEA under the Project Sunburst program must be itemized by the following budget categories: equipment, labor, materials. For equipment and material purchases, documentation must be attached outlining the specific purchases made using grant funds including, but not limited to: product name, model number, and serial number. For labor expenditures, please provide a breakdown of labor costs including, but not limited to: labor category description, hourly wage, and number of hours worked per labor category during each reporting period.

5. Project reporting and invoicing shall begin the month that the Agreement receives final signature by MEA's Director, or designee signatory for MEA, and continue until all project funds are disbursed or the MOU is terminated.

6. For monitoring and evaluation purposes, the Authority shall make available to MEA, or its agents, all reports, activities logs, work sites, timelines, estimated and actual energy generation, or other information related to activities performed under the MOU at any reasonable time during the MOU term.

7. The Authority shall retain bills of sale or other satisfactory evidence of the acquisition of any real or personal property for at least three (3) years after the date of this Agreement. MEA, the Department of Budget and Management, the State Comptroller, and the Legislative Auditor, or any of them, may examine and audit this evidence on request, at any reasonable time within the retention period.

8. The Authority shall begin submitting the monthly project reports the month that construction begins on the Project and ending the month that the Project is commissioned.

VII. COMPLIANCE WITH ARRA AND ASSOCIATED REGULATIONS

The funds to be provided to the Authority by MEA pursuant to the terms and conditions of this MOU are made available through ARRA. The Authority shall comply with all requirements of ARRA and the associated federal regulations and guidelines associated with receiving funds made available in whole or in part by ARRA. The Authority agrees to abide by the special ARRA-mandated terms and conditions contained in the ARRA Addendum attached hereto, the entire contents of which are expressly incorporated by reference into this MOU.

1. **National Environmental Policy Act (“NEPA”)** The Department of Energy (“DOE”) has provided a conditional exclusion from NEPA for ARRA SEP grants for the development, implementation, and installation of solar electricity/photovoltaic systems that are appropriately sized for existing rooftops and parking shade structures; or 60 KW and smaller installed on the ground within the boundaries of an existing facility. For ground-mounted projects above 60 KW, DOE has provided an SEP ARRA Environmental Questionnaire available on MEA’s website which must be completed, reviewed, and approved by DOE. No ground-mounted Sunburst projects above 60 KW can begin construction until an Environmental Questionnaire has been completed and DOE has determined that no additional NEPA review is required.

2. **State Historic Preservation Office Review** Upon execution of this agreement, the Authority shall complete Attachment B: Maryland Historical Trust Project Review Form for each facility that may host a solar photovoltaic system and submit these forms to MEA. MEA will then work with the Maryland Historical Trust to ensure that the proposed project(s) will not have an adverse effect on any historic properties. No Sunburst projects can begin construction activities until the Maryland Historical Trust determines that the proposed project will have no adverse effect on historic properties.

3. **Davis-Bacon Certified Payrolls** The Authority shall ensure that all contractors and subcontractors it hires create Davis-Bacon certified payrolls in accordance with the terms and conditions listed in Attachment A: ARRA Addendum – Special Terms and Conditions for ARRA-Funded SEP Grants, for all construction activities occurring on projects funded in whole or in part by Sunburst. Certified payrolls must be collected from contractors and subcontractors by the Authority and forwarded to MEA at the conclusion of each payroll week. Paper copies of certified payroll records must be sent to MEA. Electronic copies are not acceptable. Certified payroll records should be sent to the following address:

**Maryland Energy Administration
Attn: Project Sunburst - Certified Payroll
60 West Street, Suite 300
Annapolis, MD 21401**

4. **Buy American** Project Sunburst equipment rebates are being used to fund projects on a “public building” or “public work”, as defined in Attachment A: ARRA Addendum - Special Terms and Conditions for ARRA-Funded SEP Grants. These projects are required to comply with the Buy American Act which requires that all iron, steel, and

manufactured goods used in Sunburst projects are produced in the United States. See Attachment A for more information.

VIII. RETENTION OF RECORDS - AUDITS

Upon prior notification, MEA shall have the right, during normal business hours, to examine and audit all records of the Authority that MEA deems necessary or advisable in order to verify compliance by the Authority with the terms and conditions of this MOU and expenditures for which reimbursement is requested, including any and all records in the possession, custody or control of the Authority. The Authority shall retain and maintain all records and documents relating to this MOU for a period of three years following the commissioning of solar photovoltaic system(s) or any applicable statute of limitations, whichever is longer. The Authority shall promptly grant access to its facilities to authorized state agency representative(s) for review of documents, information and interviews of company personnel. The Authority will provide to the State (including MEA) upon request copies of any invoices, records, timesheets, work logs, contracts, or any other documents or information needed in order for the State to comply with all applicable State or federal reporting and audit requirements.

IX. AUTHORIZATION AND RELATED DELIVERABLES

The Authority shall ensure that at the time its authorized representative executes this MOU, that it has the necessary authorization to enter into this MOU, including the expressed approval of its Board of Directors. Within ten (10) business days of executing this MOU, the Authority shall deliver to MEA copies of expressed approval of the Authority's Board of Directors to enter into this MOU.

X. DISPUTES

If a dispute arises under this MOU, each party shall appoint a representative to resolve the dispute. Both parties shall use best efforts to arrive at a final resolution of the dispute. In the event that a final resolution negotiated between party representatives is not attainable, each party reserves any legal or equitable rights it may have under law. This Section shall not affect the rights and obligations of MEA and the Authority.

XI. APPLICABLE LAW

The laws of the State of Maryland shall govern this MOU, and the parties hereby expressly agree that the courts of the State of Maryland shall have exclusive jurisdiction to decide any question arising hereunder.

XII. MERGER; MODIFICATION

This MOU embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations referring to the subject matter, other than those contained herein or incorporated herein by reference. This MOU may only be modified by a written amendment to the MOU, signed by both parties.

XIII. NONDISCRIMINATION

The Authority may not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, familial status, marital status, sexual orientation, physical or mental disability, or any other characteristic forbidden as a basis for discrimination by applicable laws, and certifies that it is a public instrumentality of the State of Maryland subject to the Governor's Code of Fair Practices.

XIV. INSURANCE

The Authority shall include in all of its contracts and subcontracts for work performed under the MOU a provision or provisions requiring all contractors and subcontractors to purchase and maintain comprehensive third-party legal liability insurance and other such insurance as is appropriate for the services to be performed under this MOU. All insurance provided by contractors and subcontractors must name MEA as an additional insured, and shall include, but not be limited to, insurance protecting MEA from bodily injury and property damage, including, but not limited to all workers' compensation insurance, and errors and omissions, and with a term no longer than the Construction Period. The Construction Period shall be defined as the period beginning on the date that is fifteen (15) days following the date of the Amendment of the SPSA between the Authority and its contractor and ending thirty (30) days after the commissioning of the Project. Certificates of such insurance acknowledging the foregoing shall be filed with MEA as soon as practicable after the Authority contracts with a contractor or subcontractor.

XV. PARTY REPRESENTATIVES

The following individuals shall have the Authority to act under, and shall be the designated contacts for any notices sent pursuant to, this MOU, subject to all necessary approvals:

THE AUTHORITY:

Robin Davidov
Executive Director
Northeast Maryland Waste Disposal Authority
410-333-2730

Or Designee

MEA:

Malcolm Woolf
Director
Maryland Energy Administration
410-260-7511

Or Designee

XVI. MOU BINDING ON SUCCESSORS AND ASSIGNS

This MOU is binding on the parties and any successors and assigns of the parties.

XVII. ASSIGNMENT OR TRANSFER

The Authority may not sell, transfer, or assign any of its obligations under this MOU, or its rights, title, or interest in this MOU, without the expressed prior written consent of MEA, except to Howard County. MD or the Board of the Howard County Public School System.

XVIII. APPROVAL

IN WITNESS WHEREOF, this MOU represents the full intent and interest of the parties hereto as evidenced by their respective signatures affixed below as of the day and year written.

MARYLAND ENERGY ADMINISTRATION

BY: _____
Malcolm D. Woolf, Director

DATE

NORTHEAST MARYLAND WASTE DISPOSAL AUTHORITY

BY: Robin Davidov
Robin Davidov, Authority

June 18, 2010
DATE

Approved for Form and Legal Sufficiency
this _____ day of _____, 2010.

Assistant Attorney General
Maryland Energy Administration

ATTACHMENT A**ARRA Addendum – Special Terms and Conditions for ARRA SEP Projects**

These Special Terms and Conditions are expressly incorporated by reference into the Memorandum of Understanding (MOU) between the Maryland Energy Administration (MEA) and the Grantee (hereinafter referred to as the “Grantee” or the “Recipient”). The Grantee agrees to abide by all terms and conditions contained herein, as well as any applicable federal and State laws and regulations.

Funds provided to the Grantee by MEA through the Grant Agreement are subject to the provisions of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (ARRA or Recovery Act), federal regulations and ARRA implementing guidance from the federal government and the MEA, as may be revised and updated from time to time (collectively “ARRA Requirements”).

The Recipient agrees that it will comply with all applicable ARRA Requirements, including modifications or additional requirements that may be imposed by law, future guidance and clarifications of ARRA Requirements.

The Recipient agrees that to the extent ARRA Requirements conflict with State requirements, the ARRA Requirements shall control.

The Recipient agrees that if it or one of its contractors or subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, MEA may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to MEA under all applicable State and federal laws.

1. Recovery Act Information

The American Recovery and Reinvestment Act of 2009, Public Law 111-5 (ARRA or Recovery Act), was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. Recipients shall use funds in a manner that maximizes job creation and economic benefit.

The Recipient shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in the Recovery Act itself and as discussed below. The Recipient should begin planning activities for its contractors and subcontractors, including having them obtain a Dun & Bradstreet DUNS number (or updating their existing DUNS record) (see below for more information), and registering with the federal government’s Central Contractor Registration (CCR) if applicable.

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, the Recipient must ensure that it and its contractors and subcontractors keep separate records for Recovery Act funds, and ensure those records comply with the requirements of the Recovery Act.

The Federal Government has not fully developed the implementing instructions of the Recovery Act,

particularly concerning specific final procedural requirements for the new reporting requirements. The Recipient will be provided or otherwise made aware of these details as they become available. The Recipient must comply with all requirements of the Recovery Act. Any apparent inconsistency (or if the Recipient believes there is any inconsistency) between Federal statutes and regulations, including ARRA Requirements, and the terms and conditions contained in the MOU, must be referred to MEA for guidance and reconciliation.

2. Definitions

For purposes of this clause, “Covered Funds” means funds expended or obligated from appropriations under the Recovery Act. Covered Funds will have special accounting codes and will be identified as Recovery Act funds. Covered Funds must be disbursed by September 30, 2015.

“Non-Federal employer” means any employer with respect to Covered Funds – the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Covered Funds; or with respect to Covered Funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

3. Segregation of Costs

The Recipient must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

4. Restrictions of Use of Funds

None of the funds provided to the Grantee by MEA through the Grant Agreement that are derived from ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

5. Access to Records and Interviews

The Recipient agrees that with respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the Recovery Act, that the United States Inspector General or any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or the United States Comptroller General is authorized – (1) to examine any records of the Recipient or its contractors, any of its subcontractors, or any State or local agency administering such award that pertain to, and involve transactions relating to, the contract, subcontract, grant, or subgrant; and (2) to interview the Recipient or any officer or employee of its contractors or their subcontractors, or any State or local agency administering such award, regarding such transactions. Nothing in this Paragraph shall be interpreted to limit or restrict in any way any existing authority of the United States Comptroller General. The Recipient shall include in all of its agreements with contractors and subcontractors who are performing work funded in whole or in part with ARRA funds pursuant to this award, and shall require all subcontractors to include with lower tier subcontractors, the language provided in this Paragraph.

6. Whistleblower Protection

The Recipient and its contractors and subcontractors agree to abide by the requirements of Section 1553 of the Recovery Act, which are summarized below. They include, but are not limited to:

A. **Prohibition on Reprisals:** An employee of any non-Federal employer receiving covered funds under ARRA may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the federal Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of:

- Gross mismanagement of an agency contract or Grant relating to ARRA funds;
- A gross waste of ARRA funds;
- A substantial and specific danger to public health or safety related to the implementation or use of ARRA funds;
- An abuse of authority related to the implementation or use of ARRA funds; or
- A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or Grant, awarded or issued relating to ARRA funds.

B. **Agency Action:** Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

C. **Nonenforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration:**

Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

D. **Requirement to Post Notice of Rights and Remedies:** The Recipient (if it has employees), and any contractor or subcontractor employer receiving Covered Funds under ARRA shall post notice of the rights and remedies as required therein, including Recovery Act section 1553.

More information related to ARRA Whistleblower Protection requirements, including a downloadable poster, can be found at <http://www.oig.dol.gov/recovery/arrawhistleblowers.htm>.

7. False Claims Act

The Recipient and any of its contractors and subcontractors shall promptly refer to the United States Department of Energy or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under

the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

8. Information in Support of Recovery Act Reporting

The Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. The Recipient shall provide copies of backup documentation at the request of the MEA or its designees.

9. Reporting and Registration Requirements

The Recipient shall adhere to the following reporting requirements in addition to any other reporting requirements listed herein, in the Grant Agreement or any of its attachments, or otherwise made known to the Recipient by the MEA. Noncompliance may result in withholding of future payments, suspension or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future award by Federal agencies.

Dissemination of scientific/technical reports. Scientific/technical reports submitted under this award will be disseminated on the Internet via the DOE Information Bridge (www.osti.gov/bridge), unless the report contains patentable material, protected data, or SBIR/STTR data. Citations for journal articles produced under this award will appear on the DOE Energy Citations Database (www.osti.gov/energycitations).

Restrictions. Reports submitted to the DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

- (a) This award requires the Recipient to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this award. **Information from these reports will be made available to the public.**
- (b) The reports are due to MEA no later than the fifth (5th) calendar day of each month, for the previous month's reporting data, in which the Recipient receives the assistance award funded in whole or in part by the Recovery Act.
- (c) The Recipient and its contractors must maintain current registrations in the federal government's Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.
- (d) The Recipient shall report to MEA no later than the fifth (5th) calendar day of each month, for the previous month's reporting data, the following information, as well as any changes, amendments or modifications to such reporting data.
 - Recipient's legal name, address and any "doing-business-as" (DBA) name;
 - Recipient's congressional district (can be found at <http://www.house.gov/zip/ZIP2Rep.html>);
 - Amount of the Recipient's funding from MEA;
 - Location of project (if different from Recipient's legal address);
 - All contractor and subcontractor names, addresses and DUNS numbers;

- A description of the contractors and subcontractors services.
- Jobs created and jobs retained through the use of the ARRA funds.
- The following specific project information (to be completed for each project and for each contractor and subcontractor working on a project):
 - Contact Person
 - Alternate Contact Person
 - Street Address
 - City, State, Zip Code
 - Phone, Fax and E-mail
 - Federal ID#
 - Congressional District
 - County
 - MBE
 - MBE Goal
 - MBE Commitment Amount
 - Target Energy Saved
 - Actual Energy Saved
 - Energy Saved in BTUs
 - Cumulative Hours Worked by Project Employees
 - Number of Hours in Full-Time Employee Schedule
 - Jobs Retained (designate full-time and part-time)
 - Jobs Created (designate full-time and part-time)
 - Description of Jobs Retained and Jobs Created
 - Leveraged Funds Amount
 - Origin of Leveraged Funds
- Project start and end dates.
- Amount of Grant funding spent to date.
- Any additional achievements or miscellaneous notes.

10. Buy American Requirements

[This Paragraph is only applicable if the Recovery Act funds are being used by the Recipient for the construction, alteration, maintenance or repair (including painting and decorating) of a public building or public work, and the total project value is estimated to be less than \$7,443,000.]

(a) Definitions. As used in this award term and condition--

(1) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been--

(i) Processed into a specific form and shape; or

(ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(2) Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Domestic preference. (1) This term and condition implements Section 1605 of the Recovery Act, by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition. (2) This requirement does not apply to the material listed by the Federal Government as follows: **To Be Determined**

(3) The United States Department of Energy (DOE) may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that--

- (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
- (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act. (1)(i) Any Recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including--

- (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Cost;
 - (E) Time of delivery or availability;
 - (F) Location of the project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.
- (iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
- (iv) Any Recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the Recipient does not submit a satisfactory explanation, the DOE award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the DOE award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the DOE award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the Recovery Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the

survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of measure	Quantity	Cost
(dollars)*			

Item 1:

Foreign steel, iron, or manufactured good _____

Domestic steel, iron, or manufactured good _____

Item 2:

Foreign steel, iron, or manufactured good _____

Domestic steel, iron, or manufactured good _____

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[*Include all delivery costs to the construction site.]

11. Prevailing Wage Requirements (Davis-Bacon Act)

[This Paragraph is only applicable if the Recipient is a commercial business or industrial business, a government entity or an organization, and if the Recipient's project using any Recovery Act monies will involve construction, alteration, maintenance, or repair (including painting and decorating) valued at over \$2,000.]

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. **Prevailing wage rates may be found at <http://www.gpo.gov/davisbacon/allstates.html>.** Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct Recipients concerning application of the standard Davis-Bacon contract clauses set forth in that section. **Recipients of Recovery Act monies shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts with contractors (and in subsequent contracts with sub contractors) that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating). These contractual requirements are also listed below in Paragraph 12 of these Special Terms and Conditions.**

(b) For additional guidance on the wage rate requirements of section 1606, contact the MEA. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

12. Davis-Bacon Act Requirements

[This Paragraph is only applicable if the Recipient is a commercial business or industrial business, a government entity or an organization, and if the Recipient's project using any Recovery Act monies will involve construction, alteration, maintenance, or repair (including painting and decorating) valued at over \$2,000. If so, the Recipient is to ensure that the following contractual language is included in any contract with a contractor or sub contractor for work on any project valued in excess of \$2,000.]

Davis Bacon Act and Contract Work Hours and Safety Standards Act.

Definitions: For purposes of this clause, Davis Bacon Act and Contract Work Hours and Safety Standards Act, the following definitions are applicable:

(1) “Award” means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Recipients (other than a unit of State or local government whose own employees perform the construction) Subrecipients, Contractors, and subcontractors.

(2) “Contractor” means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients’ or Subrecipients’ contractors, subcontractors, and lower-tier subcontractors. “Contractor” does not mean a unit of State or local government where construction is performed by its own employees.”

(3) “Contract” means a contract executed by a Recipient, Subrecipient, prime contractor, or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and grants; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. “Contract” does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.

(4) “Contracting Officer” means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

(5) “Recipient” means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement, or technology investment agreement directly from the Federal Government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.

(6) “Subaward” means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower-tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient’s procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of “Award” above.

(7) “Subrecipient” means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

(a) Davis Bacon Act

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and, without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or

mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, *provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *provided* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The Department of Energy or the Recipient or Subrecipient 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 the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any

subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors

shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 3729 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Department of Energy or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees—

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually

registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

(6) Contracts and Subcontracts. The Recipient, Subrecipient, the Recipient's, and Subrecipient's contractors and subcontractor shall insert in any Contracts the clauses contained herein in(a)(1) through

(10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.

(7) Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Recipient, Subrecipient, the Contractor (or any of its subcontractors), and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(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 onehalf 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 (b)(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 (b)(1) of this section, in the sum of \$10 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 (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Department of Energy or the Recipient or

Subrecipient 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) Contracts and Subcontracts. The Recipient, Subrecipient, and Recipient's and Subrecipient's contractor or subcontractor shall insert in any Contracts, 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 Recipient 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.

(5) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

13. Required Use of Maryland Workforce Exchange

This funding is made possible in whole or in part by federal ARRA monies. To as quickly as possible help achieve the hiring of individuals into jobs that are ARRA-funded in whole or in part, the Recipient and any of its contractors and subcontractors shall:

- A. Post all jobs which are to be newly filled, whether for an entirely new job or for an existing job that is currently vacant, on the Maryland Workforce Exchange website of the Maryland Department of Labor, Licensing and Regulation. The link to the applicable website is: <https://mwe.dllr.state.md.us/default.asp?SessionUID=a>. Posting shall be done after funding is made available to the Recipient pursuant to this award, as part of "start-up" procedures to fulfill the requirements of this award.
- B. Continue to post for the duration of this Agreement, on the Maryland Workforce Exchange new jobs that are created to perform under this award, and existing jobs that are filled as a result of turnover of existing employees that fully or substantially work under this award.
- C. Stipulate the requirements for posting job openings with the Maryland Workforce Exchange, as per clauses A and B of this Paragraph, as requirements for any sub recipient(s) the Recipient uses in the fulfillment of this award.

The requirements to post ARRA-funded job openings on the Maryland Workforce Exchange, as per clauses A, B and C of this Paragraph, are not meant to be the exclusive means for the Recipient or any sub recipients to hire employees. The Recipient or any of its contractors or subcontractors may use any other means of job advertising and recruitment, in addition to the use of the Maryland Workforce Exchange.

14. Historic Preservation

Prior to the expenditure of Federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with the United States Department of Energy's (DOE) 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the Recipient must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>.

Section 110(k) of the NHPA applies to DOE funded activities. Recipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Recipients should be aware that the DOE will consider the recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Recipient that it does not object to its Section 106 finding or determination. Recipient shall provide a copy of this concurrence to DOE.

15. Lobbying Restrictions

By accepting funds, the Recipient agrees that none of the funds obligated shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

16. Notice Regarding the Purchase of American-Made Equipment and Products –Sense of Congress

It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

17. Decontamination and/or Decommissioning (D&D) Costs

Notwithstanding any other provisions of this Agreement, the Government shall not be responsible for or have any obligation to the recipient for (i) Decontamination and/or Decommissioning (D&D) of any of the Recipient's facilities, or (ii) any costs which may be incurred by the recipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

18. Federal, State and Municipal Requirements

The Recipient must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

19. Intellectual Property Provisions and Contact Information

The intellectual property provisions applicable to this award are provided as an attachment to this award or are referenced on the Agreement Face Page. A list of all intellectual property provisions may be found at http://www.gc.doe.gov/financial_assistance_awards.htm.

Questions regarding intellectual property matters should be referred to the DOE Award Administrator and

the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at [http://www.gc.doe.gov/documents/Intellectual_Property_\(IP\)_Service_Providers_for_Acquisition.pdf](http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf).

20. Statement of Federal Stewardship

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

21. Site Visits

DOE's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. The Recipient must provide reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

22. Publications

a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under this award.

b. An acknowledgement of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgement: "This material is based upon work supported by the Department of Energy under Award Number DE-EE0000097.

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness or any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring the Notice on each page to which the Notice applies:

Notice of Restriction on Disclosure and Use of Data

The data contained in pages ---- of this application have been submitted in confidence and contain trade

secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

ATTACHMENT B



PROJECT REVIEW FORM

Request for Comments from the Maryland Historical Trust/
MDSHPO on State and Federal Undertakings

MHT USE ONLY	
Date Received: _____	Log Number: _____

Submit hard copy of form and all attachments to:
Beth Cole, MHT, 100 Community Place, Crownsville, MD 21032

Print Form

Section A: General Project Information

Project Name County

This is a new submittal **OR** This is additional information related Project Log Number:

Section B: Primary Contact Information

Contact Name Company/Agency

Mailing Address

City State Zip

Email Phone Number Ext.

Section C: Description of Undertaking

Location - Attach a map, preferably a section of a USGS quad, showing the location and boundaries of the project

Address City/Vicinity

List all federal and state agencies / programs (funding, permits, licenses) involved in this project (e.g. Bond Bill Loan of 2009, Chapter #; Transportation Enhancement Grant; HUD/CDBG; MDE/COE permit; etc.).	Agency Type	Agency/Program/Permit Name	Project/Permit/Tracking Number (if applicable)
	<input style="width: 40px;" type="text"/>		
	<input style="width: 40px;" type="text"/>		
	<input style="width: 40px;" type="text"/>		
	<input style="width: 40px;" type="text"/>		

Proposed Work - Attach project description, scope of work, site plans / drawings

This project includes (check all applicable): **New Construction** **Demolition** **Remodeling/Rehabilitation**

This project involves: **State or Federal Rehabilitation Tax Credits**
 Properties subject to an easement held by MHT, MET, or another entity

Section D: Identification of Historic Properties

This project involves: **Properties designated as historic by a local government, listed in the National Register, or included in Maryland Inventory of Historic Properties**

Property/District Name

The subject property **has** **has not** been the subject of previous archeological, architectural, or historical investigations.

Please describe

Attachments **Map** **Project Description/Scope of Work** **Site Plans/Drawings**

Photographs - Attach prints or digital photographs showing the project site including images of **all** buildings and structures, preferably keyed to a site plan

Conditions - Attach a brief description of past and present conditions of the project area (wooded, mined, developed, agricultural uses, etc) including construction dates of buildings, if known.

MHT Determination	MHT Reviewer:	Date:
<input type="checkbox"/> There are NO HISTORIC PROPERTIES in the area of potential effect	<input type="checkbox"/> The project will have NO ADVERSE EFFECT WITH CONDITIONS	
<input type="checkbox"/> The project will have NO EFFECT on historic properties	<input type="checkbox"/> MHT REQUESTS ADDITIONAL INFORMATION	
<input type="checkbox"/> The project will have NO ADVERSE EFFECT on historic properties	<input type="checkbox"/> The project will have ADVERSE EFFECTS on historic properties	

ATTACHMENT C

MARYLAND ENERGY ADMINISTRATION

Sunburst Project Approval Form

The _____ has been approved to commence with the Sunburst project described in the Scope of Work below. The project has been determined to comply with the following requirements of the Sunburst Program:

- Review by MEA to confirm that the proposed project is eligible to receive Sunburst funds.
- Review and determination by the Maryland Historical Trust (Trust) that the proposed project will have “no adverse effect” on any historic property.
- Review by Department of Energy that no further NEPA review is necessary if project involves ground-mounted system greater than 60 KW.

SCOPE OF WORK

REQUIRED ARRA REPORTING METRICS (as indicated below)

- Jobs (in FTE)
- Energy cost savings (\$)
- Renewable Energy Capacity and Generation
- Emissions reductions

Approved by:

_____ Date: _____

Mike Hartley
Clean Energy Program Manager
Maryland Energy Administration

ATTACHMENT D

PROJECT SUNBURST Monthly Report

Instructions: Please complete and forward the PROJECT SUNBURST Monthly Report to MEA by the 5th day of the month following the prior month's reporting period.

Example: Submit the monthly report to MEA by October 5, 2010 for the September 2010 reporting period.

1. Local Government Name and Address:	2. Name/ Title/Phone Number of Report Submitter:
3. Congressional District:	
4. Address of Project (if different than the address shown above)	
5. Reporting Period Month: _____ Year: _____ Is this the final PROJECT SUNBURST monthly report? <input type="checkbox"/> Yes <input type="checkbox"/> No	
6. MEA Grant Number:	7. Local Government Invoice Number (if invoices are being submitted to MEA for payment):
8. Federal Tax Identification Number:	
9. Expenditures Please indicate the amount of PROJECT SUNBURST grant funds spent during a) the reporting period and b) over the course of the project to date.	
a. \$ Spent during Reporting Period	
b. Total Project Expenditures (\$)	
10. Project Status Update	

- a. Provide a brief narrative of project milestones and/or accomplishments achieved during the reporting period. Please indicate if any specific energy measure(s) were placed into service during the reporting period.

- b. Were any obstacles encountered during the reporting period? If so, please explain.

11. ARRA Reporting Metrics:

Please enter N/A for any reporting metric that does not apply to your specific project.

a. Job Creation

Job creation numbers must be reported in Full-Time Equivalents (FTE). FTE can be calculated by dividing the total number of hours worked in a month by the total hours available in a full-time schedule.

i. Jobs created through non-Federal funds (FTE)

ii. Jobs created through Recovery Act funds (FTE)

b. Energy Cost Savings (\$ saved per month due to project)

c. Renewable Energy Capacity and Generation

i. Amount of electricity generated by photovoltaic systems (KWH)

iv. Installed photovoltaic system capacity (KW-DC)

d. Emission Reductions

i. Criteria air pollutants reduced (tons)

ii. Greenhouse Gas reduced (CO2 equivalents)

SOLAR POWER & SERVICES AGREEMENT

This Solar Power & Services Agreement is made and entered into as of this ____ day of March, 2010 (the “Effective Date”), between SunEdison Origination3, LLC, a Delaware limited liability company (“Provider”), and Northeast Maryland Waste Disposal Authority (“Purchaser”; and, together with Provider, each, a “Party” and together, the “Parties”).

WITNESSETH:

WHEREAS, Purchaser desires that Provider install and operate a solar photovoltaic system at the Premises (as hereafter defined) for the purpose of providing Solar Services (as hereafter defined), and Provider is willing to do the same;

WHEREAS, Provider and Purchaser acknowledged those certain General Terms and Conditions of Solar Power & Services Agreement dated as of, ____, 2010 (“General Conditions”), which are incorporated by reference as set forth herein; and

WHEREAS, the terms and conditions of this Solar Power & Services Agreement, excluding the General Conditions incorporated herein, constitute the “Special Conditions” referred to in the General Conditions.

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Incorporation of General Conditions. The General Conditions are incorporated herein as if set forth in their entirety.
2. Schedules. The following Schedules hereto are the respective Schedules to the Special Conditions referenced in the General Conditions:

Schedule 1	Description of the Premises & System
Schedule 2	kWh Rate
Schedule 3	Purchase Option Amount
Schedule 4	Estimated Annual Production
Schedule 5	Notice Information

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Provider and Purchaser have executed this Agreement as of the Effective Date.

SUNEDISON ORIGATION3, LLC

[]

By: SUNEDISON LLC

By: _____
Name:
Title:
Date:

By: _____
Name:
Title:
Date

SCHEDULES

I. Schedule 1: Description of Premises and System

Solar System Premises: 8170 Hillsborough Road, Ellicott City, MD 21043

Solar System Size: 450 kW (DC)
Sunburst grant amount:* \$1/watt
Scope: Design and supply grid-interconnected, ground mounted or roof-top solar electric (PV) system.

Module: Solon 270W or Equivalent
Inverter: IEEE 1547 qualified

II. Schedule 2 - - kWh Rate*

The kWh Rate with respect to the System under the Agreement shall be in accordance with the following schedule:

Year of System Term	kWh Rate** (\$/kWh)	Year of System Term	\$/kWh Rate** (\$/kWh)
1	\$0.0950	11	\$0.1277
2	\$0.0979	12	\$0.1315
3	\$0.1008	13	\$0.1354
4	\$0.1038	14	\$0.1395
5	\$0.1069	15	\$0.1437
6	\$0.1101	16	\$0.1480
7	\$0.1134	17	\$0.1524
8	\$0.1168	18	\$0.1570
9	\$0.1203	19	\$0.1617
10	\$0.1240	20	\$0.1666

*The kWh Rate is contingent upon Purchaser’s receipt of a Sunburst grant in the amount shown in Schedule 1 herein and application of such grant amount in accordance with Section 6.6 of the General Conditions.

**Calculated based on the year 1 kWh Rate multiplied by 3% inflation factor each year.

III. Schedule 3 – Early Termination Fee

The Early Termination Fee with respect to the System under the Agreement shall be calculated in accordance with the following understanding the actual amount may change as it is based on dollars per watt (\$/watt) and could change based on final system size configuration at installation:

Early Termination Occurs in Year:	Column 1 Early Termination Fee where Purchaser does not take Title to the System (including costs of removal)	Extended (\$/watt X 462 kW)	Purchase Date Occurs on the 91st day following : (Each “Anniversary” below shall refer to the anniversary of the Commercial Operation Date)	Column 2 Early Termination Fee where Purchaser takes Title to the System (does not include costs of removal)*	Extended (\$/watt X 462 kW)
1*	\$ 10.52	\$4,860,057			
2	\$ 7.43	\$3,432,660			
3	\$ 6.93	\$3,201,660			
4	\$ 6.36	\$2,938,320			
5	\$ 5.76	\$2,661,120			
6	\$ 5.12	\$2,365,440	5 th Anniversary	\$ 4.62	\$2,134,440
7	\$ 5.00	\$2,310,000	6 th Anniversary	\$ 4.50	\$2,079,000
8	\$ 4.86	\$2,245,320	7 th Anniversary	\$ 4.36	\$2,014,320
9	\$ 4.71	\$2,176,020	8 th Anniversary	\$ 4.21	\$1,945,020
10	\$ 4.53	\$2,092,860	9 th Anniversary	\$ 4.03	\$1,861,860
11	\$ 4.29	\$1,981,980	10 th Anniversary	\$ 3.79	\$1,750,980
12	\$ 4.01	\$1,852,620	11 th Anniversary	\$ 3.51	\$1,621,620
13	\$ 3.71	\$1,714,020	12 th Anniversary	\$ 3.21	\$1,483,020
14	\$ 3.39	\$1,566,180	13 th Anniversary	\$ 2.89	\$1,335,180
15	\$ 3.06	\$1,413,720	14 th Anniversary	\$ 2.56	\$1,182,720
16	\$ 2.72	\$1,256,640	15 th Anniversary	\$ 2.22	\$1,025,640
17	\$ 2.37	\$1,094,940	16 th Anniversary	\$ 1.87	\$863,940
18	\$ 2.00	\$924,000	17 th Anniversary	\$ 1.50	\$693,000
19	\$ 1.62	\$748,440	18 th Anniversary	\$ 1.12	\$517,440
20	\$ 1.43	\$660,660	19 th Anniversary	\$ 0.93	\$429,660

At Expiration (the end of the Initial Term), the amount in Column 1 shall be deemed to be zero (0).

*Includes Early Termination prior to the Commercial Operation Date.

IV. Schedule 4 – Estimated Annual Production

Estimated Annual Production commencing on the Commercial Operation Date with respect to System under the Agreement shall be as follows:

Year of System Term	Estimated Production (kWh)	Year of System Term	Estimated Production (kWh)
1	573,300	11	529,052
2	568,714	12	524,820

Standard SPSA Special Conditions – New Cut – 20 year term, w/o REC purchase, w/ Sunburst grant

3	564,164	13	520,621
4	559,651	14	516,456
5	555,173	15	512,325
6	550,732	16	508,226
7	546,326	17	504,160
8	541,956	18	500,127
9	537,620	19	496,126
10	533,319	20	492,157

The values set forth in the table above are estimates (and not guarantees), of approximately how many kWhs are expected to be generated annually by the System.

V. Schedule 5 – Notice Information

Purchaser:

Northeast Maryland Waste Disposal Authority
 Executive Director
 Tower II - Suite 402
 100 S. Charles Street
 Baltimore, MD 21201
 Tel. (410) 333-2730
 Fax. (410) 333-2721

Provider:

SunEdison Origination3, LLC
 c/o Sun Edison LLC
 12500 Baltimore Avenue
 Beltsville, MD 20705
 1-888-786-3347

With a copy to

General Counsel
 12500 Baltimore Avenue
 Beltsville, MD 20705-6375
 Tel. (443) 909-7200
 Fax (443) 909-7121

Financing Party:

[To be provided by Provider when known]

EXHIBIT C
COUNTY LICENSE

LICENSE AGREEMENT FOR A TERM OF YEARS

This License Agreement for a Term of Years (the “**Agreement**”) is dated as of _____, 20__, by and between **Howard County, Maryland** (the “**County**”), a body corporate and politic, and the **Northeast Maryland Waste Disposal Authority** (the “**Licensee**”), a body politic of the State of Maryland.

RECITALS

A. The County has identified a surface area of land on which a solar array for the generation of energy can be located, which surface area is not needed for other public purposes as of the date of this Agreement.

B. Licensee desires to develop and operate a solar array on said surface area for the purposes of supplying an alternate form of energy in Howard County and in particular to a Howard County school, as identified below, which solar supply of energy will benefit the public and the school.

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

1. Premises. The County owns a parcel of land located at 4361 New Cut Road, Ellicott City, Maryland 21043, commonly known as the New Cut Road Landfill (the “**Land**”). The Land is more particularly described and shown in Exhibit A attached hereto. Subject to all provisions, terms and conditions of this Agreement, including without limitation Section 2 below, “**Effective Date/Due Diligence Period**”, the County grants to Licensee and Licensee accepts from the County a license, for a term of years, to enter upon, occupy and use approximately 242,540 square feet (or 5.567 acres, plus or minus) of the surface of the Land (the “**Premises**”), as more particularly described and shown in Exhibit B attached hereto, for the use, and subject to the terms and conditions, set forth in this Agreement.

2. Effective Date/Due Diligence Period. This Agreement shall be effective only on the date that all of the following have been satisfied: (i) the County Council of Howard County has approved the SPSA (defined in Section 5), this Agreement, and all other related agreements requiring Council approval, (ii) the Licensee and the Provider (defined in Section 5) have entered into or caused to be entered into the approved SPSA providing for the sale and purchase of the solar energy, and (iii) both parties sign this Agreement (the “**Effective Date**”). Beginning on the Effective Date for a period of eight (8) weeks (the “**Due Diligence Period**”), Licensee is only permitted to enter the Premises for the limited purpose of making appropriate engineering and boundary surveys, inspections, and other reasonably necessary investigations and signal, topographical, geotechnical, structural and environmental tests (collectively the “**Investigations and Tests**”) that Licensee may deem necessary or desirable to determine the physical condition, feasibility and suitability of the Premises for the intended use. If Licensee determines, during the Due Diligence Period, that the Premises is not appropriate for Licensee’s intended use, or if for any other reason, or no reason, Licensee decides not to commence its tenancy of the Premises, then Licensee has the right to terminate this Agreement without penalty upon written notice to the County at any time during the Due Diligence Period and prior to the Term Commencement Date (defined in Section 3). The County and Licensee expressly acknowledge and agree that Licensee’s access to the Premises during this Due Diligence Period is solely for the limited purpose of performing the Investigations and Tests. Notwithstanding anything to the contrary contained herein, Licensee shall not do any digging or soil borings on the Premises without the prior written consent of the County, which consent may be withheld in the sole and absolute subjective discretion of the County. Licensee acknowledges that the Premises is on a landfill and that below the surface of the Premises there are capped soils encapsulating methane gas, which cap must be safeguarded and cannot be punctured, degraded or compromised in anyway. Thus, Licensee shall comply with all digging and testing requirements and procedures (collectively “**Requirements and Procedures**”) set forth in Exhibit C attached hereto, as may be modified by the County with notice to the Licensee.

Licensee shall provide notice to the County at least forty-eight (48) hours prior to any planned entry and the County shall have the right to be present during all entries. Licensee’s entry upon the Premises during the Due Diligence Period shall be limited to the hours between 8:00 a.m. – 5:00 p.m., Monday through Friday.

All entries and inspections shall be at Licensee’s sole cost and risk. Licensee shall indemnify, defend and hold harmless the County from and against all claims, actions, losses, damages, or expenses, of whatever kind or nature, including without limitation reasonable attorney’s fees (“**Losses**”), arising out of Licensee’s entries and inspections. Licensee shall restore the

Premises and Land to the existing condition prior to Licensee's first entry upon the Premises and Land, subject to normal wear and tear. All obligations and liabilities arising under this Section shall survive any termination or breach of this Agreement. Licensee shall use all reasonable efforts not to cause damage to the Premises and Land.

3. **Term.** The term of this Agreement commences on the Effective Date (the "**Term Commencement Date**") and terminates on the twenty-fifth (25th) anniversary of the Term Commencement Date (the "**Term**"), unless otherwise terminated earlier in accordance with this Agreement. As long as (i) there has been no default by Licensee under this Agreement or any "Project Agreements" (collectively this Agreement, the Construction Documents (defined below in Section 6), the SPSA, and any other agreement entered into by the County and Licensee, and/or the Provider (defined below), and (ii) the SPSA has not been terminated, then Licensee has the right to extend the Term for five (5) successive one (1) year periods, each a renewal term (collectively the "**Renewal Term**"), subject to the County's early termination rights set forth in Section 9 below. Licensee shall deliver to the County written notice of its election to exercise its renewal right no earlier than eight (8) months and no later than six (6) months prior to the expiration of the then current term. Each renewal is on the same terms and conditions as set forth in this Agreement, except that the amount of the License Fee may increase, at the County's discretion, and there shall be no additional Renewal Terms.

4. **License Fee.** On the Term Commencement Date and on the first day of each month thereafter, without notice, demand, deduction or setoff, Licensee shall pay to the County, in advance, as an annual License Fee of Zero Dollars (\$0.00) (the "**License Fee**"), in twelve (12) equal monthly installments. The License Fee for any fractional month at the beginning or at the end of the Term or Renewal Term will be prorated. The License Fee shall be payable to the County at 3430 Court House Drive, Ellicott City, MD 21043, Attention: Director of Finance.

5. **Use.** The Premises shall be used solely for the construction, operation and maintenance of a photovoltaic system (the "**System**") pursuant to a Solar Power and Services Agreement (the "**SPSA**") between Licensee and SunEdison Origination3, LLC, or its successors or assigns pursuant to section 13.1 of the SPSA (the "**Provider**") and pursuant to the Requirements and Procedures and all Federal, Maryland State or Howard County Local government constitutional provisions, laws, statutes, rules, regulations, ordinances, treaties, orders, decrees, judgments, decisions, certificates, holdings, injunctions, registrations, licenses, franchises, permits, authorizations, guidelines, governmental approvals, consents or requirements applicable to the subject matter in this Agreement, enforceable at law or in equity, including the interpretation and administration thereof by such governmental authority (collectively the "**Applicable Law**"), including without limitation all employment laws and regulations and all laws and regulations affecting government and public schools. The Licensee hereby is permitted to grant a license under this Agreement or to assign this Agreement to the Provider to own, operate and maintain the System on the Premises. The parties agree that all rights available to and all obligations and liabilities of Licensee under this Agreement shall inure to the benefit of and be binding upon the Provider if either a license agreement is entered into or the Agreement is assigned to the Provider. From and after the Term Commencement Date, the Premises will be used exclusively by Licensee and Provider for the sole purpose of supplying solar power energy services first to the Worthington Elementary School, second to other sites designated by the County, if any, and third to the grid. The County agrees to reasonably cooperate with Licensee, at Licensee's sole cost and expense, in making application for and obtaining all licenses, permits and any and all other necessary approvals that may be required for Licensee's intended use of the Premises.

6. **Facility Utilities; Access.**

(a) Subject to the Requirements and Procedures and the County's approval, which approval will not be unreasonably withheld, Licensee has the right to allow Provider to construct, erect, install, maintain, test, replace, remove, operate and upgrade on the Premises a solar photovoltaic system, including without limitation photovoltaic panels, fencing, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices, wiring, wire kits, data monitoring systems and electrical transmission lines (collectively the "**Facility**"). In connection therewith, Licensee will cause Provider to present construction drawings, plans and specifications, and a construction schedule to the County for review and approval (such approval not to be unreasonably withheld) of all work necessary to prepare, operate and maintain the Premises with the Facility (collectively the "**Construction Documents**"). All of Provider's construction and installation work must be performed at Provider's sole cost and expense, in accordance with the Construction Documents, and in a good and workmanlike manner. Subject to any purchase of the Facility pursuant to section 2.3 of the SPSA, Provider holds title to the Facility and all of the Facility must remain Provider's personal property and are not improvements to the Land. Upon the expiration or earlier termination of this Agreement, Licensee must cause the removal of the Facility from the Premises and cause the restoration of the Premises and Land to substantially its original condition, subject

to normal wear and tear, including without limitation grading the Premises and Land to the topography existing before construction of the Facility and restoring grass and landscaping.

(b) Except as otherwise provided in Section 2, on and after the Term Commencement Date, Licensee, Licensee's employees, agents and contractors shall have reasonable access to the Premises between the hours of 7:00 a.m. – 7:00 p.m., and except in the event of an Emergency, defined in Section 9 below, Licensee shall provide notice to the County twenty-four (24) hours prior to entering the Premises. In the event of an Emergency, Licensee shall notify the County immediately at 410-313-4414 and the County shall have immediate access to the Premises during the Emergency twenty-four (24) hours a day, seven (7) days a week. The County grants to Licensee, and Licensee's agents, employees and contractors, a non-exclusive right of entry for pedestrian and any vehicular, including, but not limited to, construction vehicles and vehicles to transport construction vehicles and equipment, ingress and egress across the Land, by virtue of the right of entry described and shown in Exhibit B.

(c) The County will use reasonable efforts to maintain all access roadways from the nearest public roadway to the Premises in a manner sufficient to allow pedestrian and any vehicular, including, but not limited to, construction vehicles, access at all times under normal weather conditions when Licensee is permitted access hereunder. The County will maintain and repair such roadways, at its sole expense, based on the County's normal use of the roadways. In the event that Licensee's use of the roadways requires maintenance and repair beyond the County's normal maintenance and repair or as a result of damage caused by Licensee's use, then the County shall invoice Licensee, and Licensee, within thirty (30) days of such invoice, shall pay the County for invoiced all costs and expenses related to the repair and/or replacement of such roadways. Notwithstanding the foregoing, upon the County's approval, which approval may be withheld in the sole and absolute subjective discretion of the County, Licensee may construct an access road to the Premises ("**Access Road**") across the Land as more fully described and shown in Exhibit B, if Licensee reasonably determines such Access Road is necessary for Licensee's ingress to and egress from the Premises. Licensee is responsible for construction, maintaining, repairing, and, if required, removing such Access Road until the expiration or earlier termination of this Agreement, at its sole cost and expense. If the construction of the Access Road is approved, then Licensee shall follow, all Applicable Law, the Requirements and Procedures, and all additional terms and conditions as set forth in the County's Design Manuals, including without limitation Volume III – Roads and Bridges and Volume IV – Standard Specifications and Details for Construction, as required by the site conditions of the Premises.

(d) The County shall provide a staging area on the Land for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the installation, operations or removal of the Facility, and access for rigging and material handling. After construction of the Facility is complete, Licensee, at its sole cost and expense, shall restore said staging area substantially to its original condition.

(e) Licensee shall provide the County written progress reports of construction/installation on a bi-weekly basis, however, Licensee will inform the County within the hour of any activities that may impair or damage the Land or the Premises, and/or underlying membranes or caps. Licensee bears sole liability for all costs associated with any repair to the Land or the Premises resulting from the acts or omissions of Licensee, or Licensee's employees, contractors, and agents, on the Land or the Premises. The Licensee, at its sole cost and expense, shall restore/repair the Land and the Premises, including all membranes and caps thereunder, to their original condition either during or after Licensee's use thereof, as the circumstances may require.

(f) Upon the County's prior written consent, Licensee, at its sole cost and expense, may take all approved actions to (i) prevent other buildings, structures or flora on the Premises or the Land from overshadowing or otherwise blocking access of sunlight to the System, Licensee shall (a) obtain any other easement, waiver, or amendment of an existing easement reasonably required for the installation of the System on the Premises, and (ii) obtain assurance that there are no undisclosed material easements or restrictive covenants that could reasonably affect the System.

(g) Upon reasonable notice, the County, and its employees, contractors and agents, may enter upon the Premises at any time and for any purpose, with Licensee's right to be present. If upon the County's entry the County discovers that Licensee has breached or is in default under this Agreement or the terms, provisions and/or contents of the Construction Documents, then the County shall notify Licensee of said breach or default and demand that such breach or default be cured (i) immediately if the breach or default creates an Emergency, or (ii) within thirty (30) days if no Emergency is created, provided that if Licensee promptly commences and diligently pursues a cure within said thirty (30) day period and a longer cure period is needed, then the County will allow up to an additional thirty (30) days to cure. In the event that Licensee fails to cure the breach or default as provided herein, then the County may terminate the Agreement and Licensee shall comply with the

provisions of Section 9 below. Notwithstanding the foregoing, in the Event of an Emergency, the County shall have the right to enter upon the Premises without prior notice to Licensee or the right of Licensee to be present.

7. Taxes. Licensee shall pay when due all real property taxes, assessments and deferred taxes on the Premises, if any, and all personal property taxes, use taxes and all other charges and fees assessed against the System and/or the Facility.

8. Waiver of the County's Lien to System/No Liens on Leasehold Interest.

(a) The County acknowledges that Licensee has or will enter into a financing arrangement including promissory notes and financial and security agreements for the financing of the Facility (the "Collateral") with a Financing Party (and may in the future enter into additional financing arrangements with other Financing Parties). In connection therewith, the County (i) consents to the installation of the Collateral on the Premises, and (ii) disclaims any interest in the Collateral, as improvement or otherwise.

(b) Licensee shall not mortgage, pledge, encumber or in any way permit a lien to be placed against this Agreement or the Premises or in any way transfer or convey or assign this Agreement, except for the assignment permitted in Section 14 of this Agreement. In the event that the Premises or any part thereof or interest therein shall be mortgaged, pledged, encumbered by any lien, assigned, or otherwise transferred, or Licensee shall be divested of its interest under this Agreement in any manner or way, whether voluntarily or involuntarily, then the same shall constitute a default under this Agreement and the County shall have the right, at its option, to (i) immediately terminate this Agreement, (ii) accelerate all payments due hereunder to become immediately due and payable, and/or (iii) exercise all rights and remedies available to it under this Agreement and at law and in equity.

(c) The County shall not, directly or indirectly, cause, create, incur, assume or suffer to exist any lien, mortgage, pledge, security interest, encumbrance or claim of any nature on or with respect to the Facility. If County breaches its obligation under this Section 8(c), it shall immediately notify Licensee and Provider in writing, shall promptly cause such lien to be discharged and released of record without cost to Licensee or Provider.

9. Termination. Subject to the terms of Section 2 and 6.(e) and (g) and the indemnity provided for therein, this Agreement may be terminated without further liability or obligation: (i) by either party upon a default of any covenant or term under this Agreement or the Project Agreements by the other party or the Provider, which default is not cured within the applicable cure period, except that this Agreement cannot be terminated if the default cannot reasonably be cured within such period and the defaulting party has promptly and diligently commenced to cure the default within the applicable cure period and diligently pursues the cure to completion; provided, however, that the grace period for any monetary default is five (5) days from when such payment is due and there is no grace period for a default which creates an Emergency or is a default under Section 8(b) above, or (ii) within sixty (60) days from the date of receipt of written notice delivered by Licensee to the County if Licensee, in good faith, cannot obtain or maintain any license, permit or other approval necessary for the construction and operation of the Facility, or (iii) by Licensee prior to the expiration of the Due Diligence Period if (a) any environmental report for the Premises reveals the presence of any Hazardous Material (defined below), which Licensee believes, in good faith, will compromise the installation and operations of the System, or (b) Licensee determines that the Premises is not appropriate for its operations for economic or technological reasons. If the SPSA is terminated, then this Agreement shall terminate sixty (60) days after the SPSA termination date in order to provide Licensee the time needed to remove the Facility in accordance with the terms of this Agreement.

The County may terminate this Agreement in the event of an Emergency or a Force Majeure Event without penalty under this Agreement or the SPSA, (provided the Emergency is not due to the acts or omissions of the County, or the County's employees, contractors or agents).

Upon termination of this Agreement, if directed by the County, Licensee shall immediately remove the System, without damage to the Premises or the Land, and Licensee shall restore the Premises and the Land to substantially the same condition and grading that existed prior to the construction of the System. If Licensee fails to remove the Facility within sixty (60) days after expiration or termination of this Agreement, as the case may be, the County shall deem the Facility abandoned and shall take no responsibility or have any liability for loss or damage to the Facility due to Licensee's failure to remove such facilities from the Premises.

If the Licensee abandons the Premises and the Facility, then the County shall provide written notice to the Licensee's Financing Party (defined below) within twenty (20) days from the date of the apparent abandonment, so that the Financing Party can notify the County within thirty (30) days from the receipt of such notice whether the Financing Party (i) will assume the Agreement, and all obligations and liabilities hereunder, and continue performance under the SPSA, or (ii) reclaim the Facility and remove it in accordance with the terms and conditions of this Agreement. If the Financing Party fails to respond within said thirty (30) day period or responds then fails to timely act as set forth in its notice and in accordance with this Agreement, then the Facility and all Environmental Attributes, as defined in the SPSA, shall become the property of the County, with all claims of ownership waived by the Licensee, its Financing Party and their respective successors and assigns, and the County shall have the right to use or dispose of the Facility as it determines. The term "Financing Party" as used in this License shall have the same meaning as set forth in the SPSA, which meaning is, as applicable, (i) any person (or its agent) from whom the Licensee (or an affiliate of the Licensee) leases the equipment of the Facility, such as in a "sale/leaseback", or (ii) any person (or its agent) who has made or will make a loan to or otherwise provided financing to Licensee (or an affiliate of Licensee) with respect to the equipment of the Facility.

Licensee shall reimburse the County, in the event that the County is required to restore/repair the Premises and the Land to substantially the same condition and grading that existed prior to the construction by Licensee and for any costs associated with the removal and/or storage of the Licensee's abandoned material, including the System. The County shall have exclusive rights to any salvage of abandoned material, including the System, and the Licensee shall have no right to offset such salvage value against outstanding expenses owed to the County.

For purposes of this Agreement, "Emergency means a sudden, unforeseen event that requires immediate action to protect lives and/or property and/or the public health and safety.

"Force Majeure Event" means any act or event that prevents the affected party from performing its obligations in accordance with the Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected party and such party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, "Force Majeure Event" shall include without limitation the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) a deleterious environmental condition that precludes the safe occupation of the Premises; (iii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iv) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (v) strikes or labor disputes; (vi) action by a governmental authority, including a moratorium on any activities related to the Agreement; and (vii) the inability for one of the parties, despite its reasonable efforts, to obtain, in a timely manner, any governmental approval necessary to enable the affected party to fulfill its obligations in accordance with the Agreement, provided that the delay or non-obtaining of such governmental approval is not attributable to the party in question and that such party has exercised its reasonable efforts to obtain such permit. A Force Majeure Event shall not be based on the economic hardship of either party.

10. Destruction. If the Premises or the Facility are damaged or destroyed, and this License has not been terminated under Section 9, then Licensee may elect to terminate this Agreement as of the date of the damage or destruction by giving notice to the County no more than forty-five (45) days following the date of such damage or destruction. Upon such termination and upon the County's approval to enter upon the damaged Premises, Licensee shall remove the System as provided for in Section 9.

11. Insurance.

The Licensee shall purchase and maintain during the term of the Agreement, including any renewals thereof, such policies of insurance acceptable to the County as will protect the Licensee and the County from claims or losses, regardless of whether such claims or losses result from the Licensee's actions or omissions or those acts or omissions of a subcontractor or those of anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. The following coverages are mandatory but may not be all inclusive, based on the parameters of the Project:

- (a) **"Builder's Risk"/All-Risk" Property Insurance** covering the work and materials used in developing the Facility with a limit of coverage at least equal to the full replacement value of the Facility. Such property insurance shall be written on a replacement cost basis, subject to standard exclusions, property limitations and conditions. Such insurance shall include the County as Additional Named Insured, and shall insure against fire, extended coverage and

all risk perils (including resultant loss or damage from or as a consequence of faulty materials, workmanship or design).

Licensee expressly waives all right of recovery against County for damage to its tools and equipment and shall assure that the Builder's Risk insurer agrees to waive of subrogation against the County.

(b) **Workers' Compensation Insurance** with limits of coverage as follows:

1. Coverage A: Statutory, covering Maryland jurisdiction.
2. Coverage B: \$100,000.00

(c) **Automobile Liability Insurance** with limits of liability of at least \$1,000,000.00 combined single limit per occurrence. Coverage for non-owned and hired vehicles shall be included. If hazardous materials are transported, insurance shall comply with Applicable Law relating to such transport.

(d) **Commercial General Liability Insurance** with combined single limits of \$10,000,000.00 per occurrence, naming the County as an additional insured. Unless deemed unnecessary by the County, the policy shall contain, but not be limited to, the following coverage endorsements:

- Contractual Liability, including Subcontractors
- Personal and Advertising Injury
- Products and Completed Operations
- Explosion, Collapse, and Underground Hazards (XCU)

(e) **Contractor's Pollution Liability Insurance** with combined single limits of \$10,000,000.00 per occurrence, naming the County as an additional insured. Such coverage may be included under the Commercial General Liability Insurance policy by endorsement if there is no exclusion for sudden and accidental pollution or claims arising out of environmental work.

(f) **Professional Liability/Errors and Omissions** insurance appropriate to the contractor's profession with policy limits of at least \$3,000,000.00 per claim. Licensee shall continue to maintain such insurance, covering incidents occurring or claims made, for a period of three (3) years after substantial completion of the project.

(g) **Property Insurance** with a limit of coverage equal to the total construction cost on a replacement cost basis, and written on an all-risk policy form. Licensee's deductible or self-insured retention may not exceed \$100,000.00 per occurrence.

If any of the insurance policies required under this Agreement are written on a claims-made basis, Licensee shall continue to maintain such insurance, covering incidents occurring or claims made, for a period of three (3) years after substantial completion of the project.

All policies of insurance shall be underwritten by companies licensed to do business in the State of Maryland.

The Licensee shall assure that all subcontractors performing services in accordance with this Agreement carry identical insurance coverage required of the Licensee, either individually or as an Additional Insured on the policies of the Licensee. Exceptions may be made only with the approval of the County. Licensee shall indemnify the County for any uninsured losses relating to the contractual services involving subcontractors, including workers' compensation claims.

The Licensee shall not commence work under the Agreement or any contract until evidence of all required coverage, including all coverage that Licensee requires to be carried and maintained by Licensee's contractors and subcontractors, is received by the County. Further, the Licensee shall continue to provide the County with evidence of policy renewals until the termination or expiration of the Agreement and shall not reduce or cancel or change any of the required coverages without 60 days notice of such change to the County.

The Licensee will not hold the County liable for any injuries to the employees, servants, agents, subcontractors or assignees of the Licensee arising out of or during the course of services relating to this Agreement, so long as such injuries are not due solely to the negligence or willful misconduct of the County.

Providing the insurance required herein does not relieve the Licensee of any responsibilities or obligations assumed by the Licensee under this Agreement, which the Licensee may be liable by law or otherwise.

Failure to provide and continue in force such insurance as required above shall be deemed as a material breach of the contract and shall operate as an immediate termination thereof.

12. Waiver of Subrogation. Subject to the Licensee's covenants of indemnification provided for in this Agreement or in the Project Agreements, the County and Licensee release each other and their respective principals, employees, representatives and agents, from claims for damage to any person or to the Land or the Premises or to the Facility or any other property thereon caused by, or that result from, risks insured against under any insurance policies carried by the parties and in force at the time of any such damage. Licensee must cause each insurance policy obtained by Licensee to provide that the insurance company waives all right of recovery by way of subrogation against the County in connection with any damage covered by any policy. Deductibles and self-insured retentions shall not be considered covered amounts under insurance policies.

13. Liability and Indemnity. Licensee shall indemnify, defend and hold the County harmless from and against all claims, losses, liabilities, damages, costs, and expenses (including environmental claims and damages, reasonable attorneys' and consultants' fees, costs and expenses) (collectively "Losses") arising from the Licensee's breach of or default under any term or condition of this Agreement or from the negligence or willful misconduct of Licensee or its agents, employees, licensees, invitees or contractors in or about the Premises and the Land. The duties described in this Section 13 apply as of the Effective Date of this Agreement and survive the termination of this Agreement for three (3) year. Notwithstanding the foregoing, Licensee shall not be required to reimburse or indemnify the County for any Loss to the extent such Loss is due solely to the negligence or willful misconduct of the County or its employees, agents, or subcontractors.

14. Assignment and Subletting. Licensee may assign this Agreement, or sublet or license the Premises or any portion thereof, only to the Provider as identified herein, or upon a default of the Provider, the Agreement may be assigned to the Provider's Financing Party, conditioned upon the Provider and/or the Financing Party, as the case may be, executing a written assignment of the Agreement. By the written assignment, the Provider and/or the Financing Party shall assume all of the obligations, duties and liabilities of the Licensee under this Agreement and represent that as assignee of this Agreement, said assignee shall be bound by all of the terms, conditions and covenants of the Agreement. No other assignment of this Agreement, or licensing of the Premises, is permitted without the written consent of the County, which consent may be withheld in the sole and absolute subjective discretion of the County. The County will notify Licensee at least sixty (60) days prior to any proposed assignment. Thereafter, within ten (10) days from receipt of the County's notice, the Licensee shall have a right to deliver a written notice of protest to the County regarding the proposed assignment. Upon the timely receipt of the Licensee's protest notice, the County shall use commercially reasonable efforts to address Licensee's concerns about the proposed assignment, including, without limitation, working with the Licensee to protect its proprietary commercial information, subject to all Applicable Law.

15. Warranty of Title and Quiet Enjoyment. The County warrants that: (i) the County owns the Land in fee simple, has rights of access thereto from the nearest public roadway, which Licensee is legally permitted to use, and the Land and access rights are free and clear of all liens, encumbrances and restrictions except those listed on Exhibit D annexed hereto; and (ii) the County covenants and agrees with Licensee that Licensee may peacefully and quietly enjoy the Premises and such access thereto, provided that Licensee is not in default of this Agreement after notice and expiration of all cure periods.

16. Repairs. Licensee must repair all damage to the Premises or Land caused by the acts or omissions or the negligence or willful misconduct of Licensee. Except as set forth in Section 6(a) above, upon expiration or termination of this Agreement, Licensee must restore the Premises to substantially the condition and grading in which it existed upon start of construction.

17. Hazardous Material.

(a) As of the Effective Date of this Agreement, Licensee represents and warrants that (i) it shall not use, generate, handle, store, disrupt, remove or dispose of any Hazardous Material in, on, under, upon or affecting the Premises or the Land in violation of any Environmental Law (as defined below), and (ii) it shall comply with the Environmental Law and all Requirements and Procedures.

(b) Without limiting Section 13, Licensee must indemnify, defend and hold the County harmless from and against all Losses (specifically including, without limitation, reasonable attorneys', engineers', consultants' and experts' fees,

costs and expenses) arising from (i) any breach of any representation or warranty made in this Section 17, and/or (ii) environmental conditions or noncompliance with any Environmental Law that result from operations in or about the Premises or Land by Licensee or Licensee's agents, employees, invitees or contractors. The provisions of this Section 17 apply as of the Effective Date of this Agreement and survive termination of this Agreement for three (3) years.

(c) **"Hazardous Material"** means any solid, gaseous or liquid wastes (including hazardous wastes), regulated substances, pollutants or contaminants or terms of similar import, as such terms are defined in any Environmental Law, and shall include, without limitation, any petroleum or petroleum products or by-products, flammable explosives, radioactive materials, asbestos in any form, polychlorinated biphenyls and any other substance or material which constitutes a threat to health, safety, property or the environment or which has been or is in the future determined by any governmental entity to be prohibited, limited or regulated by any Environmental Law.

(d) **"Environmental Law"** means all present or future federal, state or local laws, rules, regulations, codes, ordinances, or by-laws, and any judicial or administrative interpretations thereof, including orders, decrees, judgments, rulings, directives or notices of violation, that create duties, obligations or liabilities with respect to (i) human health, (ii) landfills, or (iii) environmental pollution, impairment or disruption, including, without limitation, laws governing the existence, use, storage, treatment, discharge, release, containment, transportation, generation, manufacture, refinement, handling, production, disposal, or management of any Hazardous Material, or otherwise regulating or providing for the protection of the environment.

18. Miscellaneous.

(a) This Agreement constitutes the entire agreement and understanding between the parties, and supersedes all offers, negotiations and other agreements concerning the subject matter contained in this Agreement. Any amendments to this Agreement must be in writing and signed by both parties.

(b) If any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of such provision to persons other than those as to whom it is held invalid or unenforceable is not affected and each provision of this Agreement is valid and enforceable to the fullest extent permitted by law and, if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the Parties and to the intended economic benefits of the Parties.

(c) This Agreement is binding on and inures to the benefit of the successors and permitted assignees of the respective parties.

(d) Any notice or demand required to be given under this Agreement is made by certified or registered mail, return receipt requested, or reliable overnight courier to the address of the respective parties set forth below, except where a call notice is expressly permitted under the terms of this Agreement:

The County:

Howard County, Maryland
3430 Court House Drive
Ellicott City, MD 21043
Attn: Director of Department of Public Works
Phone: 410-313-4414

Licensee:

Northeast MD Waste Disposal Authority
Tower II, Suite 402
100 South Charles Street
Baltimore, MD 21210
Attn: Executive Director
Phone: 410.333.2730

Provider:

SunEdison Origination3, LLC
c/o Sun Edison LLC
12500 Baltimore Avenue
Beltsville, MD 20705
Attn: VP, Sales
Phone: 443-909-7250

With a copy to:

Sun Edison LLC
12500 Baltimore Avenue
Beltsville, MD 20705
Attn: General Counsel
Phone: 443-909-7250

The County or Licensee may from time to time designate any other address for this purpose by written notice to the other party. All notices under this Agreement are deemed received upon actual receipt or refusal to accept delivery.

- (e) This Agreement is governed by the laws of the State of Maryland.
- (f) The County agrees to sign and deliver to Licensee a Memorandum of Agreement in the form annexed hereto as Exhibit E and acknowledges that such Memorandum of Agreement will be recorded by Licensee in the official records of the county where the Land is located.
- (g) The County agrees to fully cooperate with Licensee, at Licensee's sole cost and expense, (including obtaining and/or executing necessary documentation) to clear any outstanding title issues that could adversely affect Licensee's use of the Premises created by this Agreement.
- (h) Each of the parties under this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and perform their respective obligations under this Agreement.
- (i) Both parties took part in the negotiation of this Agreement and agree that legal concepts intended to construe the Agreement against the drafter will not apply against either party.
- (j) In the event of any breach or default by either party, the other party is entitled to all rights and remedies provided for in this Agreement, and/or available at law, in equity, by statute or otherwise, all of which rights and remedies are cumulative (and not exclusive). The failure of either party to take action as a result of a breach by the other party shall constitute neither a waiver of the particular breach involved nor a waiver of either party's right to enforce any provision of this Agreement through any remedy granted by law or this Agreement.
- (k) The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision of this Agreement.
- (l) All Recitals set forth above, and all Riders and Exhibits annexed hereto, form material parts of this Agreement and are incorporated into this Agreement by this reference.
- (m) This Agreement may be signed in duplicate counterparts, each of which is an original.
- (n) The parties shall promptly notify each other and the Provider of any matters it is aware of pertaining to any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System.

(o) The County, the Licensee and the Provider will promptly and duly execute and deliver such further documents as are required to make further assurances for and take the further actions reasonably requested by each other, all as may be reasonably necessary to carry out more effectively the intent and purpose of this Agreement.

(p) Notwithstanding anything to the contrary in this Agreement, in no event shall the Licensor, the Licensee, or Provider be liable to each other or any other party for any special, punitive, exemplary, indirect, or consequential damages, losses or damages for lost revenue or lost profits, whether foreseeable or not, arising out of, or in connection with this Agreement.

(q) As provided in the joinder below, the Provider's parent company, Sun Edison LLC, shall enter into the Guaranty Agreement attached hereto as Exhibit F.

[Signatures follow on the next page.]

In witness whereof, the parties have signed this Agreement, with the intent that it be a sealed instrument, as of the date of the last signature below.

HOWARD COUNTY, MARYLAND

ATTEST:

Lonnie R. Robbins
Chief Administrative Officer

By: _____(SEAL)
Ken Ulman
County Executive
Howard County

APPROVED: DEPARTMENT OF
PUBLIC WORKS

James M. Irvin, Director

APPROVED FOR SUFFICIENCY
OF FUNDS:

Sharon Greisz, Director
Department of Finance

APPROVED as to Form and Legal Sufficiency
This _____ day of _____, 20__

Margaret Ann Nolan
County Solicitor

WITNESS:

LICENSEE:

**NORTHEAST MARYLAND WASTE DISPOSAL
AUTHORITY**, a Body Politic of the State of Maryland

By: _____

Name: _____

Title: _____

Date: _____

JOINDER OF PROVIDER AND GUARANTY

SunEdison Origination3, LLC, hereby binding itself and its successors or assigns, (collectively the “**Provider**” in the above License Agreement) joins in this License Agreement to be bound by all terms, covenants and provisions of the License Agreement as if the Licensee had assigned all of its rights, interest, obligations and duties under the License Agreement to the Provider and the Provider had the status of a sublicensee, even if a written assignment is not fully executed. Furthermore, Sun Edison LLC, the parent company of the Provider, simultaneously upon the execution of this License Agreement will execute the Guaranty Agreement attached to this License Agreement as Exhibit F.

Sun Edison LLC
a Delaware Limited Liability Company

By: _____ (SEAL)
Name: _____
Title: _____ and Authorized Signatory

STATE OF MARYLAND, _____ COUNTY, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 20__, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Ken Ulman, the County Executive for Howard County, Maryland, who acknowledged the same to be the act of the County and that he executed the foregoing Agreement for the purposes therein contained by signing in my presence the name of Howard County, Maryland as County Executive.

AS WITNESS my Hand and Notarial Seal.

Notary Public

My Commission Expires: _____

STATE OF _____
COUNTY OF _____

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the _____ and authorized signatory of the Licensee whose name is subscribed to the within License Agreement, and ___acknowledged to me that he/she signed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted is bound by the License Agreement.

WITNESS my hand and official seal.

(SEAL)
Notary Public

My commission expires: _____

STATE OF _____
COUNTY OF _____

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the _____ and authorized signatory of the Provider whose name is subscribed to the within License Agreement, and ___acknowledged to me that he/she

signed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted is bound by the License Agreement.

WITNESS my hand and official seal.

_____ (SEAL)
Notary Public

My commission expires: _____

STATE OF _____
COUNTY OF _____

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the _____ and authorized signatory of the Guarantor whose name is subscribed to the within License Agreement, and ___acknowledged to me that he/she signed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted is bound by the License Agreement.

WITNESS my hand and official seal.

_____ (SEAL)
Notary Public

My commission expires: _____

STATE OF _____
COUNTY OF _____

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the _____ and authorized signatory of the Guarantor whose name is subscribed to the within License Agreement, and ___acknowledged to me that he/she signed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted is bound by the License Agreement.

WITNESS my hand and official seal.

_____ (SEAL)
Notary Public

My commission expires: _____

STATE OF _____
COUNTY OF _____

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the _____ and authorized signatory of the Guarantor whose name is subscribed to the within License Agreement, and ___acknowledged to me that he/she signed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted is bound by the License Agreement.

WITNESS my hand and official seal.

_____ (SEAL)
Notary Public

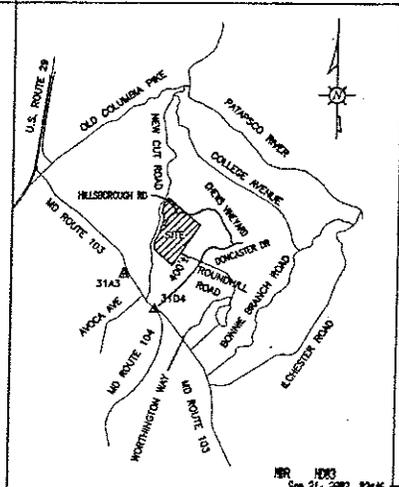
My commission expires: _____

EXHIBIT A
DESCRIPTION OF LAND

LINE TABLE

LINE	LENGTH	BEARING	LINE	LENGTH	BEARING	LINE	LENGTH	BEARING	LINE	LENGTH	BEARING
L1	6.43	S54°54'07"W	L78	41.27	N46°24'47"W	L155	18.99	S50°31'18"W	L232	56.72	N04°27'36"E
L2	29.39	S89°22'35"E	L79	143.19	N49°09'49"W	L156	67.11	S29°29'39"W	L233	27.28	N75°38'36"E
L3	21.78	S4°08'22"E	L80	38.94	N68°04'30"W	L157	97.98	N07°57'56"W	L234	33.21	N8°09'28"W
L4	17.81	S4°18'25"W	L81	34.83	S37°48'23"W	L158	74.37	S37°48'23"W	L235	24.28	N63°11'11"E
L5	64.54	N50°37'44"W	L82	44.59	N72°42'18"E	L159	56.22	N52°04'45"W	L236	71.52	N02°57'31"E
L6	628.39	N33°25'37"E	L83	53.82	S18°01'24"W	L160	91.30	N10°10'08"W	L237	0.00	N90°00'00"E
L7	59.22	S30°10'44"W	L84	34.50	N62°36'01"W	L161	87.83	S47°26'06"E	L238	54.47	N81°13'05"E
L8	35.34	S17°14'45"W	L85	34.94	N74°04'09"W	L162	82.31	N44°58'01"W	L239	29.08	N18°57'10"E
L9	55.64	S25°28'03"W	L86	25.66	S27°02'06"W	L163	45.26	S43°37'33"E	L240	46.29	N14°28'18"E
L10	29.67	S45°07'20"W	L87	31.81	S87°43'36"E	L164	87.73	S84°23'02"W	L241	27.22	N29°33'41"E
L11	21.65	S89°14'19"E	L88	18.57	S37°31'51"E	L165	19.14	S29°27'11"W	L242	23.78	N68°36'17"W
L12	28.51	S84°35'36"E	L89	12.12	S42°26'41"W	L166	129.37	N50°25'43"W	L243	80.56	N12°44'21"E
L13	21.40	N67°32'45"E	L90	302.23	S61°39'35"W	L167	492.58	N50°31'23"W	L244	36.17	N45°52'17"E
L14	57.35	S30°17'45"W	L91	61.78	N65°54'27"W	L168	75.53	S78°34'27"E	L245	14.82	N3°28'47"E
L15	47.35	S27°22'56"E	L92	48.60	N40°43'28"E	L169	76.31	S13°37'25"E	L246	29.11	S38°37'08"E
L16	71.38	S62°25'31"E	L93	26.43	N75°46'57"E	L170	54.18	S54°22'13"E	L247	106.46	S47°15'49"E
L17	56.91	S23°02'24"E	L94	58.95	N65°46'19"W	L171	183.31	S47°09'04"E	L248	44.91	S22°50'14"E
L18	84.08	S29°33'23"E	L95	58.74	N47°37'14"W	L172	56.68	S90°12'46"W	L249	81.24	S19°22'39"E
L19	53.35	S13°14'14"W	L96	136.59	N46°01'42"E	L173	54.30	S117°17'50"W	L250	184.53	N52°04'46"W
L20	107.12	S34°59'22"E	L97	91.41	N05°29'01"E	L174	21.93	S40°09'44"E	L251	72.37	N47°46'44"W
L21	76.00	S16°38'59"W	L98	167.75	N68°10'32"E	L175	13.47	N44°49'52"E	L252	38.83	N57°17'39"E
L22	70.77	S13°31'21"W	L99	71.87	N54°41'13"E	L176	32.66	N40°31'16"E	L253	56.37	N25°05'25"W
L23	41.65	S23°37'19"W	L100	90.64	N67°46'49"E	L177	21.38	N43°00'00"E	L254	662.24	S29°29'37"E
L24	13.94	S86°25'38"W	L101	33.56	N56°28'31"E	L178	30.97	N10°39'47"E	L255	143.55	S29°02'56"E
L25	36.70	S18°27'02"E	L102	21.93	N72°43'43"E	L179	25.92	N67°23'42"E	L256	381.44	S10°15'50"W
L26	47.89	S46°34'33"W	L103	23.93	N75°42'15"E	L180	18.16	N19°42'19"E	L257	89.62	S33°21'11"E
L27	97.66	S31°49'42"E	L104	30.89	S51°52'11"E	L181	36.43	N10°48'04"E	L258	35.98	N39°27'10"E
L28	74.36	S59°22'25"E	L105	39.37	S31°21'55"W	L182	32.24	N07°18'19"E	L259	40.89	N62°11'29"E
L29	25.81	S86°35'00"W	L106	84.53	S31°28'34"W	L183	33.64	N15°34'28"E	L260	43.41	N23°38'19"E
L30	14.14	S15.87	L107	82.56	S27°40'37"W	L184	75.34	S22°02'22"E	L261	13.61	S32°03'41"E
L31	41.66	N40°39'44"W	L108	33.63	S18°24'26"W	L185	102.50	S18°24'26"W	L262	83.65	N41°17'01"W
L32	44.33	N59°22'25"W	L109	23.84	N75°52'02"E	L186	43.97	S75°48'19"W	L263	71.47	N68°00'46"W
L33	109.63	N61°49'42"W	L110	28.85	N26°39'14"E	L187	29.81	N70°30'22"W	L264	62.29	N44°21'07"E
L34	35.98	S45°18'40"W	L111	46.46	N10°06'25"E	L188	44.21	N47°39'55"W	L265	478.26	S48°59'49"E
L35	82.12	S18°27'02"E	L112	56.79	N30°23'14"W	L189	38.49	N07°00'20"E	L266	15.51	S31°15'50"W
L36	48.03	S46°36'14"E	L113	56.69	N20°03'18"E	L190	31.88	N63°07'13"E	L267	37.34	S14°34'26"W
L37	105.37	S28°26'14"E	L114	31.94	S20°14'11"W	L191	27.27	S61°39'28"W	L268	68.78	S19°19'39"W
L38	27.76	S75°16'12"E	L115	21.96	S20°04'14"W	L192	378.92	N53°25'37"E	L269	58.28	N85°54'28"W
L39	13.49	S47°42'33"E	L116	55.36	S29°10'21"E	L193	82.77	S41°30'00"E	L270	128.98	N51°03'38"W
L40	56.36	S25°54'20"E	L117	62.17	S29°10'21"E	L194	42.79	S39°10'21"E	L271	34.18	S36°52'17"E
L41	34.35	S24°14'34"E	L118	54.66	S25°07'03"W	L195	56.16	S25°11'38"W	L272	125.87	S52°13'31"E
L42	21.50	S30°03'34"W	L119	24.01	S15°08'17"W	L196	43.93	S33°00'00"W	L273	36.64	S29°49'41"E
L43	57.07	S31°52'39"W	L120	23.77	S88°14'25"E	L197	109.51	S43°19'03"W	L274	21.28	N64°51'43"E
L44	25.03	S22°03'15"W	L121	25.86	N49°19'24"W	L198	48.19	S32°09'29"W	L275	11.00	S42°26'19"E
L45	24.49	N62°47'01"W	L122	37.14	N25°08'42"E	L199	37.87	S32°47'17"W	L276	38.01	S36°06'23"W
L46	88.15	N52°20'31"E	L123	20.63	N58°50'09"E	L200	19.84	S31°08'30"W	L277	12.07	S25°48'41"E
L47	32.23	N07°58'38"W	L124	50.11	N55°32'59"E	L201	128.48	S22°14'10"W	L278	36.07	N58°11'13"E
L48	158.06	N41°12'49"W	L125	55.12	N61°27'10"E	L202	44.59	S56°32'29"W	L279	59.79	S16°36'12"E
L49	89.00	S23°16'22"W	L126	72.38	S28°06'17"W	L203	70.37	S28°29'02"W	L280	65.57	S22°04'37"W
L50	53.79	S13°35'11"W	L127	29.64	S33°03'10"W	L204	29.90	S13°35'11"W	L281	0.00	S17°06'13"E
L51	35.11	S21°23'21"E	L128	36.46	N14°58'41"E	L205	18.41	N35°26'22"E	L282	24.24	S45°58'01"E
L52	72.23	S53°59'49"E	L129	49.75	S16°51'30"W	L206	95.33	N53°41'19"W	L283	42.44	N64°48'39"E
L53	38.43	S68°10'14"E	L130	42.40	S66°29'18"W	L207	34.32	N01°19'11"E	L284	31.46	S32°24'03"E
L54	38.37	S34°41'13"E	L131	37.76	S83°14'27"W	L208	34.11	N31°31'10"E	L285	93.70	S89°34'33"W
L55	20.82	S16°27'15"W	L132	55.81	N67°33'56"W	L209	30.31	N48°31'05"W	L286	34.47	N48°31'05"W
L56	14.70	S48°14'48"E	L133	18.64	N44°58'41"E	L210	23.43	S73°31'11"E	L287	19.68	N25°15'37"E
L57	96.24	N11°40'08"E	L134	44.74	N78°12'21"E	L211	46.63	S11°01'43"E	L288	129.66	N45°58'36"E
L58	99.89	N17°23'29"E	L135	43.82	N58°34'20"E	L212	108.33	S10°19'33"W	L289	108.33	N45°58'36"E
L59	97.13	N04°03'25"E	L136	74.51	N20°56'30"E	L213	99.89	S11°29'33"W	L290	45.27	N69°16'50"W
L60	64.63	N18°09'49"E	L137	38.26	N34°41'27"E	L214	32.25	S13°29'45"W	L291	57.29	N7°05'50"W
L61	45.95	N02°09'29"W	L138	71.82	S99°78'59"W	L215	71.98	S99°78'59"W	L292	32.31	N62°29'31"E
L62	81.42	N01°11'32"E	L139	108.05	N07°58'58"W	L216	54.75	N02°50'58"W	L293	24.16	N62°44'31"E
L63	77.71	N07°36'13"W	L140	38.49	N84°11'19"W	L217	21.06	N52°47'37"W	L294	21.06	N52°47'37"W
			L141	38.72	N87°24'00"W	L218	66.06	S20°26'05"E	L295	13.53	N85°04'41"W
			L142	190.59	N69°28'18"E	L219	74.13	S25°25'36"E	L296	25.57	N53°32'00"W
			L143	71.69	N27°08'08"E	L220	43.09	S19°45'06"E	L297	52.31	N53°09'17"W
			L144	55.34	N58°28'20"E	L221	52.85	S30°18'02"E	L298	38.22	S85°15'48"W
			L145	99.69	N65°49'24"E	L222	69.15	S12°59'06"W	L299	26.27	S38°40'19"W
			L146	96.59	S25°31'28"E	L223	22.02	S87°41'31"W	L300	31.78	S27°26'84"W
			L147	13.81	S17°56'18"W	L224	42.76	N07°46'37"W	L301	55.47	S27°50'29"W
			L148	43.94	S37°10'49"W	L225	33.51	N6°21'08"W	L302	74.96	S12°18'47"W
			L149	39.94	S29°33'56"W	L226	35.88	S30°28'50"W	L303	43.97	S28°34'29"W
			L150	51.13	N65°43'19"W	L227	14.08	N65°32'14"W	L304	58.04	S24°27'01"W
			L151	76.62	S17°35'33"W	L228	50.70	N48°43'41"W	L305	39.34	S28°39'32"W
			L152	22.19	S27°08'07"W	L229	32.77	N48°00'31"W	L306	111.63	S45°28'31"W
			L153	63.54	S19°34'23"W	L230	33.37	S14°36'38"W	L307	53.37	S14°36'38"W
			L154	58.37	S10°58'46"W	L231	99.50	N08°29'49"W	L308	71.29	S78°52'02"W

LINE	LENGTH	BEARING
L309	31.90	N23°31'34"W
L310	70.25	N84°23'05"E
L311	11.06	N09°22'02"E
L312	32.63	N02°09'26"W
L313	42.88	N62°01'51"W
L314	31.87	N66°15'29"W
L315	24.45	N61°45'25"W
L316	47.19	N66°36'08"W
L317	32.09	S49°05'52"W
L318	49.60	S46°52'01"W
L319	28.73	S36°05'30"W
L320	23.19	S20°37'10"E
L321	406.26	S20°37'23"E
L322	56.45	S45°39'44"E
L323	198.21	S47°22'37"W
L324	42.88	S34°27'39"W
L325	30.42	S36°35'00"W



PLAT M.D.R. NO. 16201

GENERAL NOTES
 1. SUBJECT PROPERTY ZONED R-20 PER THE 10/18/93 COMPREHENSIVE ZONING PLAN.
 2. THIS PLAT IS BASED ON A FIELD RUN BOUNDARY SURVEY PERFORMED BY BONDER AND ASSOCIATES FOR HOWARD COUNTY ON JUNE 15, 1993.
 3. COORDINATES BASED ON HAD 83 MARYLAND COORDINATE SYSTEM AS PROJECTED BY HOWARD COUNTY GEODETIC CONTROL STATIONS NO. 31A3 AND 31D4.
 4. CERTAIN AREAS OF THIS PROPERTY ARE ENCUMBERED BY 12 FOREST RETENTION EASEMENTS. THE EASEMENT AGREEMENT OUTLINES THE MAINTENANCE RESPONSIBILITIES OF THE PROPERTY OWNER AND ENUMERATES THE USES PERMITTED ON THE PROPERTY.
 5. THE FOREST RETENTION EASEMENTS ESTABLISHED ON THIS PROPERTY RESTRICTS FURTHER DEVELOPMENT IN THE FOREST RETENTION AREAS.
 6. [Symbol] DENOTES AN AREA OF FOREST RETENTION EASEMENT.
 7. NO CLEARING, GRADING, OR CONSTRUCTION IS PERMITTED WITHIN THE FOREST RETENTION EASEMENTS. HOWEVER, FOREST MANAGEMENT PRACTICES AS DEFINED IN THE DEED OF FOREST RETENTION EASEMENT ARE ALLOWED.
 8. THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE PARCEL 529 AND RESUBDIVIDE SNOVELL PROPERTY LOTS 1 AND 2 TO CREATE NEW CUT LANDFILL PARCELS A&B. REVISE THE FOREST CONSERVATION EASEMENTS, ADD PUBLIC ROAD RIGHT-OF-WAY FOR HILLSBOROUGH ROAD, AND TO ADD VARIOUS EASEMENTS.
 9. PARCEL 783, LOTS 1 AND 2 WERE ORIGINALLY LOTS 1 AND 2 OF THE SNOVELL SUBDIVISION WHICH WAS RECORDED AS PLAT NO. 4615 ON 6-11-1990 AMONG THE LAND RECORDS OF HOWARD COUNTY. THE FOREST CONSERVATION OBLIGATION FOR S29-08-109 WAS MET BY PROVIDING 20.430 ACRES OF FOREST CONSERVATION ACRES.
 11. THE 20' DRAINAGE EASEMENT, SHOWN ON LOT 2 OF THE SNOVELL SUBDIVISION, PLAT NO. 4615, IS TO BE ABANDONED BY THIS PLAT.

CURVE TABLE

CURVE	LENGTH	RADIUS
C1	157.74	390.00
C2	165.13	370.00

SEP 24 2003

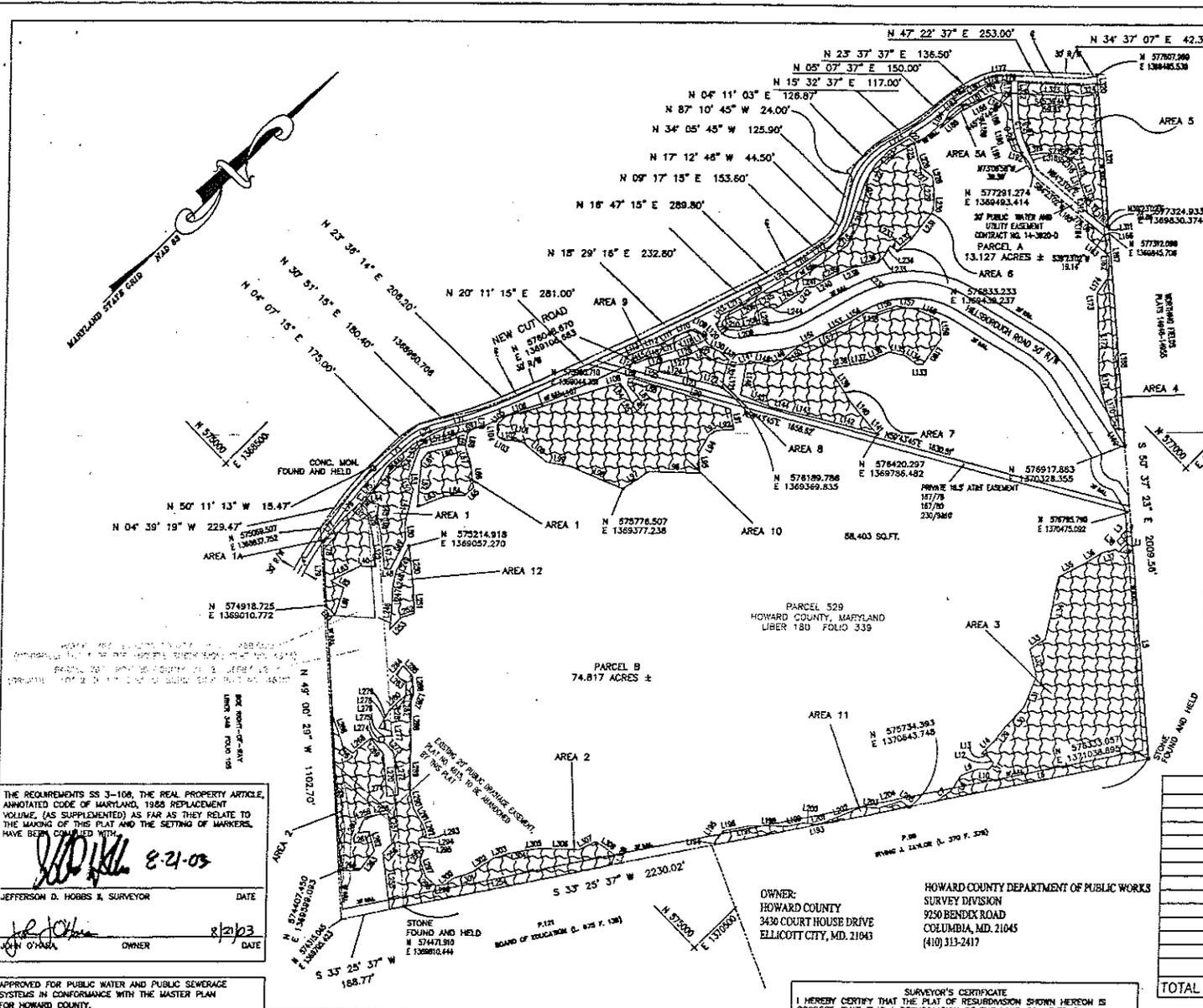
STATE OF MARYLAND DEPARTMENT OF REVENUE AND TAXATION
 HOWARD COUNTY
 RECEIVED BY
 DATE 9/24/03 PLAT

AREA TABULATION

TOTAL NUMBER OF BUILDABLE LOTS TO BE RECORDED	2
TOTAL NUMBER OF OPEN SPACE LOTS TO BE RECORDED	0
TOTAL NUMBER OF LOTS TO BE RECORDED	2
TOTAL AREA OF BUILDABLE LOTS TO BE RECORDED	87.944 ACRES +/-
TOTAL AREA OF OPEN SPACE LOTS TO BE RECORDED	0.000 ACRES +/-
TOTAL AREA OF LOTS TO BE RECORDED	87.944 ACRES +/-
TOTAL AREA OF ROADWAY TO BE RECORDED	2.037 ACRES +/-
TOTAL AREA TO BE RECORDED	89.981 ACRES +/-

THE REQUIREMENTS SS 3-100, THE REAL PROPERTY ARTICLE, ANNOTATED CODE OF MARYLAND, 1986 REPLACEMENT VOLUME, (AS SUPPLEMENTED) AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT AND THE SETTING OF MARKERS, HAVE BEEN COMPLIED WITH.

JEFFERSON D. HOBBS II, SURVEYOR
 DATE 8/21/03
 OWNER



- GENERAL NOTES
1. SUBJECT PROPERTY ZONED R-20 PER THE 10/18/93 COMPREHENSIVE ZONING PLAN.
 2. THIS PLAT IS BASED ON A FIELD RUN BOUNDARY SURVEY PERFORMED BY BOENDER AND ASSOCIATES FOR HOWARD COUNTY ON JUNE 15, 1993.
 3. COORDINATES BASED ON NAD 83 MARYLAND COORDINATE SYSTEM AS PROJECTED BY HOWARD COUNTY GEODETIC CONTROL STATIONS NO. 31A3 AND 31D4.
 4. CERTAIN AREAS OF THIS PROPERTY ARE ENCUMBERED BY 12 FOREST RETENTION EASEMENTS. THE EASEMENT AGREEMENT OUTLINES THE MAINTENANCE RESPONSIBILITIES OF THE PROPERTY OWNER AND ENUMERATES THE USES PERMITTED ON THE PROPERTY.
 5. THE FOREST RETENTION EASEMENTS ESTABLISHED ON THIS PROPERTY RESTRICTS FURTHER DEVELOPMENT IN THE FOREST RETENTION AREAS.
 6. [Symbol] DENOTES AN AREA OF FOREST RETENTION EASEMENT.
 7. NO CLEARING, GRADING, OR CONSTRUCTION IS PERMITTED WITHIN THE FOREST RETENTION EASEMENTS. HOWEVER, FOREST MANAGEMENT PRACTICES AS DEFINED IN THE DEED OF FOREST RETENTION EASEMENT ARE ALLOWED.
 8. THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE PARCEL 529 AND RESUBDIVIDE SNOWELL PROPERTY LOTS 1 AND 2 TO CREATE NEW CUT LANDFILL PARCELS A&B, REVISE THE FOREST CONSERVATION EASEMENTS, ADD PUBLIC ROAD RIGHT-OF-WAY FOR HILLSBOROUGH ROAD, AND TO ADD VARIOUS EASEMENTS.
 9. PARCEL 763, LOTS 1 AND 2 WERE ORIGINALLY LOTS 1 AND 2 OF THE SNOWELL SUBDIVISION WHICH WAS RECORDED AS PLAT NO. 4615 ON 6-11-1980 AMONG THE LAND RECORDS OF HOWARD COUNTY.
 10. THE FOREST CONSERVATION OBLIGATION FOR SDP-99-109 WAS MET BY PROVIDING 20.430 ACRES OF FOREST CONSERVATION ACREAGE.
 11. THE 20' DRAINAGE EASEMENT, SHOWN ON LOT 2 OF THE SNOWELL SUBDIVISION, PLAT NO. 4615, TO BE ABANDONED BY THIS PLAT.

PLAT NO. 16202

AREA TABULATION	
TOTAL NUMBER OF BUILDABLE LOTS TO BE RECORDED	2
TOTAL NUMBER OF OPEN SPACE LOTS TO BE RECORDED	0
TOTAL NUMBER OF LOTS TO BE RECORDED	2
TOTAL AREA OF BUILDABLE LOTS TO BE RECORDED	87,944 ACRES +/-
TOTAL AREA OF OPEN SPACE LOTS TO BE RECORDED	0.000 ACRES +/-
TOTAL AREA OF LOTS TO BE RECORDED	87,944 ACRES +/-
TOTAL AREA OF ROADWAY TO BE RECORDED	2.077 ACRES +/-
TOTAL AREA TO BE RECORDED	86,967 ACRES +/-

STATE DEPT. OF ASSESSMENTS & TAXATION
HOWARD COUNTY
Banner Best Deal
 RECEIVED BY
 DATE 9/24/03 PLAT

FOREST RETENTION AREA TABULATION

AREA 1	53,773 SQ.FT. OR 1.234 ACRES ±
AREA 1A	26,982 SQ.FT. OR 0.619 ACRES ±
AREA 2	137,140 SQ.FT. OR 3.148 ACRES ±
AREA 3	216,287 SQ.FT. OR 4.985 ACRES ±
AREA 4	26,731 SQ.FT. OR 0.614 ACRES ±
AREA 5	63,300 SQ.FT. OR 1.453 ACRES ±
AREA 5A	9,802 SQ.FT. OR 0.225 ACRES ±
AREA 6	87,014 SQ.FT. OR 1.988 ACRES ±
AREA 7	84,005 SQ.FT. OR 2.158 ACRES ±
AREA 8	14,585 SQ.FT. OR 0.335 ACRES ±
AREA 9	7,936 SQ.FT. OR 0.182 ACRES ±
AREA 10	130,825 SQ.FT. OR 3.008 ACRES ±
AREA 11	11,189 SQ.FT. OR 0.257 ACRES ±
AREA 12	10,283 SQ.FT. OR 0.236 ACRES ±
TOTAL AREA	889,932 SQ.FT. OR 20.430 ACRES ±

THE REQUIREMENTS SS 3-108, THE REAL PROPERTY ARTICLE, ANNOTATED CODE OF MARYLAND, 1988 REPLACEMENT VOLUME, (AS SUPPLEMENTED) AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT AND THE SETTING OF MARKERS, HAVE BEEN COMPLIED WITH.

[Signature] 8-21-03
 JEFFERSON D. HOBBS, SURVEYOR DATE

[Signature] 8/21/03
 JOHN O'HARA, OWNER DATE

APPROVED FOR PUBLIC WATER AND PUBLIC SEWERAGE SYSTEMS IN CONFORMANCE WITH THE MASTER PLAN FOR HOWARD COUNTY.

HOWARD COUNTY, OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPTS THIS PLAT, AND IN CONSIDERATION OF THE APPROVAL OF THIS PLAT BY THE DEPARTMENT OF PLANNING AND ZONING, ESTABLISH THE PUBLIC FOREST CONSERVATION EASEMENT SHOWN HEREON.

[Signature] 9/21/03
 HOWARD COUNTY HEALTH OFFICER DATE

APPROVED: HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

[Signature] 9/21/03
 CHIEF, DEVELOPMENT ENGINEERING DIVISION DATE

[Signature] 9/21/03
 DIRECTOR DATE

OWNER'S STATEMENT

HOWARD COUNTY, OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPTS THIS PLAT, AND IN CONSIDERATION OF THE APPROVAL OF THIS PLAT BY THE DEPARTMENT OF PLANNING AND ZONING, ESTABLISH THE PUBLIC FOREST CONSERVATION EASEMENT SHOWN HEREON.

WITNESS MY HAND THIS 21st DAY OF AUGUST, 2003

[Signature]
 JOHN O'HARA, OWNER, CHIEF, BUREAU OF ENVIRONMENTAL SERVICES

[Signature]
 WITNESS



OWNER:
 HOWARD COUNTY
 3430 COURT HOUSE DRIVE
 ELLICOTT CITY, MD. 21043

HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS
 SURVEY DIVISION
 9250 BENDIX ROAD
 COLUMBIA, MD. 21045
 (410) 313-2417

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAT OF RESUBDIVISION SHOWN HEREON IS CORRECT; THAT IT IS A RESUBDIVISION OF THE LAND CONVEYED BY GEORGE W. DARR BY DEED DATED JANUARY 13, 1944 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 180 AT FOLIO 336, AND ALSO THAT PARCEL OF GROUND CONVEYED BY KELLY AND DESHA ANN SNOWELL BY DEED DATED APRIL 23, 1995 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 3448 AT FOLIO 325, AND ALSO THAT PARCEL OF GROUND CONVEYED BY FRANK GAREY AND MELISSA L. WALLACE BY DEED DATED JANUARY 28, 1986 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 3658 AT FOLIO 412.

[Signature] 8-21-03
 JEFFERSON D. HOBBS, MARYLAND PROPERTY LINE SURVEYOR #382 DATE

RECORDED AS PLAT NO. _____ ON _____

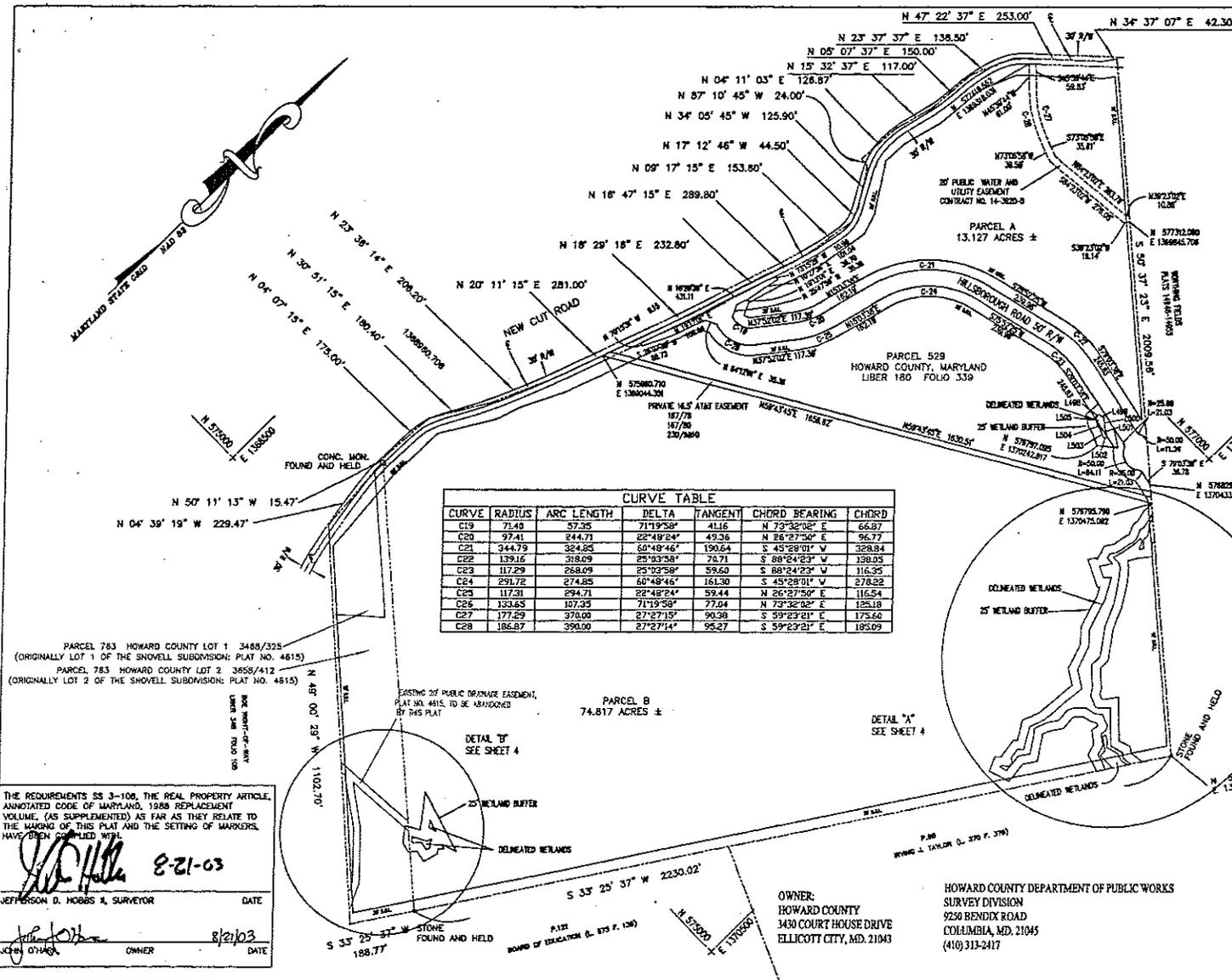
AMONG THE LAND RECORDS OF HOWARD COUNTY, MARYLAND

SUBDIVISION PLAT
NEW CUT LANDFILL: PARCELS A & B
 (A SUBDIVISION OF PARCEL 529 AND A RESUBDIVISION OF SNOWELL PROPERTY LOTS 1 AND 2)

TAX MAP 31, GRID 2, BLOCKS 1 AND 2, PARCELS 529 AND 763
 SECOND ELECTION DISTRICT, HOWARD COUNTY, MARYLAND
 EX. ZONING R-20
 SCALE: 1"=200'
 DATE: MARCH 3, 2003
 SHEET 2 OF 5

SEP 24 2003

1/16/04



- GENERAL NOTES**
- SUBJECT PROPERTY ZONED R-20 PER THE 10/18/93 COMPREHENSIVE ZONING PLAN.
 - THIS PLAT IS BASED ON A FIELD RUN BOUNDARY SURVEY PERFORMED BY BOENDER AND ASSOCIATES FOR HOWARD COUNTY ON JUNE 15, 1993.
 - COORDINATES BASED ON NAD 83 MARYLAND COORDINATE SYSTEM AS PROJECTED BY HOWARD COUNTY GEODETIC CONTROL STATIONS NO. 31A3 AND 31D4.
 - CERTAIN AREAS OF THIS PROPERTY ARE ENCUMBERED BY 12 FOREST RETENTION EASEMENTS. THE EASEMENT AGREEMENT OUTLINES THE MAINTENANCE RESPONSIBILITIES OF THE PROPERTY OWNER AND ENUMERATES THE USES PERMITTED ON THE PROPERTY.
 - THE FOREST RETENTION EASEMENTS ESTABLISHED ON THIS PROPERTY RESTRICTS FURTHER DEVELOPMENT IN THE FOREST RETENTION AREAS.
 - DENOTES AN AREA OF FOREST RETENTION EASEMENT.
 - NO CLEARING, GRADING, OR CONSTRUCTION IS PERMITTED WITHIN THE FOREST RETENTION EASEMENTS. HOWEVER, FOREST MANAGEMENT PRACTICES AS DEFINED IN THE DEED OF FOREST RETENTION EASEMENT ARE ALLOWED.
 - THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE PARCEL 529 AND RESUBDIVIDE SNOVELL PROPERTY LOTS 1 AND 2 TO CREATE NEW CUT LANDFILL PARCELS A&B, REVISE THE FOREST CONSERVATION EASEMENTS, ADD PUBLIC ROAD RIGHT-OF-WAY FOR HILLSBOROUGH ROAD, AND TO ADD VARIOUS EASEMENTS.
 - PARCELS 763, LOTS 1 AND 2 WERE ORIGINALLY LOTS 1 AND 2 OF THE SNOVELL SUBDIVISION WHICH WAS RECORDED AS PLAT NO. 4815 ON 6-11-1980 AMONG THE LAND RECORDS OF HOWARD COUNTY.
 - THE FOREST CONSERVATION OBLIGATION FOR SDP-99-109 WAS MET BY PROVIDING 20.430 ACRES OF FOREST CONSERVATION ACREAGE.
 - THE 20' DRAINAGE EASEMENT, SHOWN ON LOT 2 OF THE SNOVELL SUBDIVISION, PLAT NO. 4815, TO BE ABANDONED BY THIS PLAT.

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	DELTA	TANGENT	CHORD BEARING	CHORD
C19	71.40	57.35	71°19'58"	41.16	N 73°32'02" E	66.87
C20	97.41	244.71	22°49'24"	49.36	N 28°27'50" E	96.77
C21	344.79	324.25	60°48'46"	190.64	S 45°28'01" W	328.84
C22	139.16	218.09	25°03'58"	78.71	S 69°24'23" W	139.25
C23	117.29	268.09	25°03'58"	59.60	S 88°24'23" W	116.35
C24	291.72	274.85	60°48'46"	161.30	S 45°28'01" W	278.22
C25	117.31	294.71	22°48'24"	59.44	N 26°27'50" E	116.54
C26	134.63	107.35	71°19'58"	77.04	N 73°32'02" E	125.18
C27	177.29	376.00	27°27'15"	90.38	S 59°29'21" E	173.60
C28	186.87	390.00	27°27'14"	95.27	S 59°29'21" E	185.09

PLAT-M.D.R. NO. 16203

SEP 24 2003

STATE DEPT. OF ASSESSMENTS & TAXATION
HOWARD COUNTY
Bonnie Beatrice
 RECEIVED BY
 DATE 9/24/03 PLAT

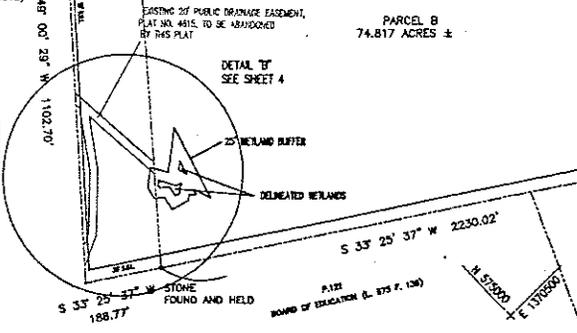
AREA TABULATION

TOTAL NUMBER OF BUILDABLE LOTS TO BE RECORDED	2
TOTAL NUMBER OF OPEN SPACE LOTS TO BE RECORDED	0
TOTAL NUMBER OF LOTS TO BE RECORDED	2
TOTAL AREA OF BUILDABLE LOTS TO BE RECORDED	87.944 ACRES +/-
TOTAL AREA OF OPEN SPACE LOTS TO BE RECORDED	0.000 ACRES +/-
TOTAL AREA OF LOTS TO BE RECORDED	87.944 ACRES +/-
TOTAL AREA OF ROADWAY TO BE RECORDED	2.037 ACRES +/-
TOTAL AREA TO BE RECORDED	89.981 ACRES +/-

THE REQUIREMENTS SS 3-108, THE REAL PROPERTY ARTICLE, ANNOTATED CODE OF MARYLAND, 1988 REPLACEMENT VOLUME, (AS SUPPLEMENTED) AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT AND THE SETTING OF MARKERS, HAVE BEEN COMPLIED WITH.

Jefferson D. Hobbs 8-21-03
 JEFFERSON D. HOBBS, SURVEYOR DATE

John O'Hara 8/21/03
 JOHN O'HARA, OWNER DATE



OWNER:
 HOWARD COUNTY
 3430 COURT HOUSE DRIVE
 ELLICOTT CITY, MD, 21043

HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS
 SURVEY DIVISION
 1230 BENDIX ROAD
 COLUMBIA, MD, 21045
 (410) 313-2417

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAT OF RESUBDIVISION SHOWN HEREON IS CORRECT; THAT IT IS A RESUBDIVISION OF THE LAND CONVEYED BY GEORGE W. CARR BY DEED DATED JANUARY 13, 1844 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 180 AT FOLIO 339, AND ALSO THAT PARCEL OF GROUND CONVEYED BY KELLY AND DEBRA ANN SNOVELL BY DEED DATED APRIL 3, 1995 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 3468 AT FOLIO 325, AND ALSO THAT PARCEL OF GROUND CONVEYED BY FRANK GAREY AND MELISSA L. WALLACE BY DEED DATED JANUARY 28, 1998 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 3659 AT FOLIO 412.

Jefferson D. Hobbs 8-21-03
 JEFFERSON D. HOBBS, MARYLAND PROPERTY LINE SURVEYOR #362 DATE

RECORDED AS PLAT NO. _____ ON _____
 AMONG THE LAND RECORDS OF HOWARD COUNTY, MARYLAND

APPROVED FOR PUBLIC WATER AND PUBLIC SEWERAGE SYSTEMS IN CONFORMANCE WITH THE MASTER PLAN FOR HOWARD COUNTY.

Donna Bernick 9/16/03
 HOWARD COUNTY HEALTH OFFICER DATE

APPROVER: HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
Chris DeMunnick 9/16/03
 CHIEF, DEVELOPMENT ENGINEERING DIVISION DATE

David M. Taylor 7/14/02
 DIRECTOR DATE

OWNER'S STATEMENT

HOWARD COUNTY, OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPTS THIS PLAT, AND IN CONSIDERATION OF THE APPROVAL OF THIS PLAT BY THE DEPARTMENT OF PLANNING AND ZONING, ESTABLISH THE PUBLIC FOREST CONSERVATION EASEMENT SHOWN HEREON.

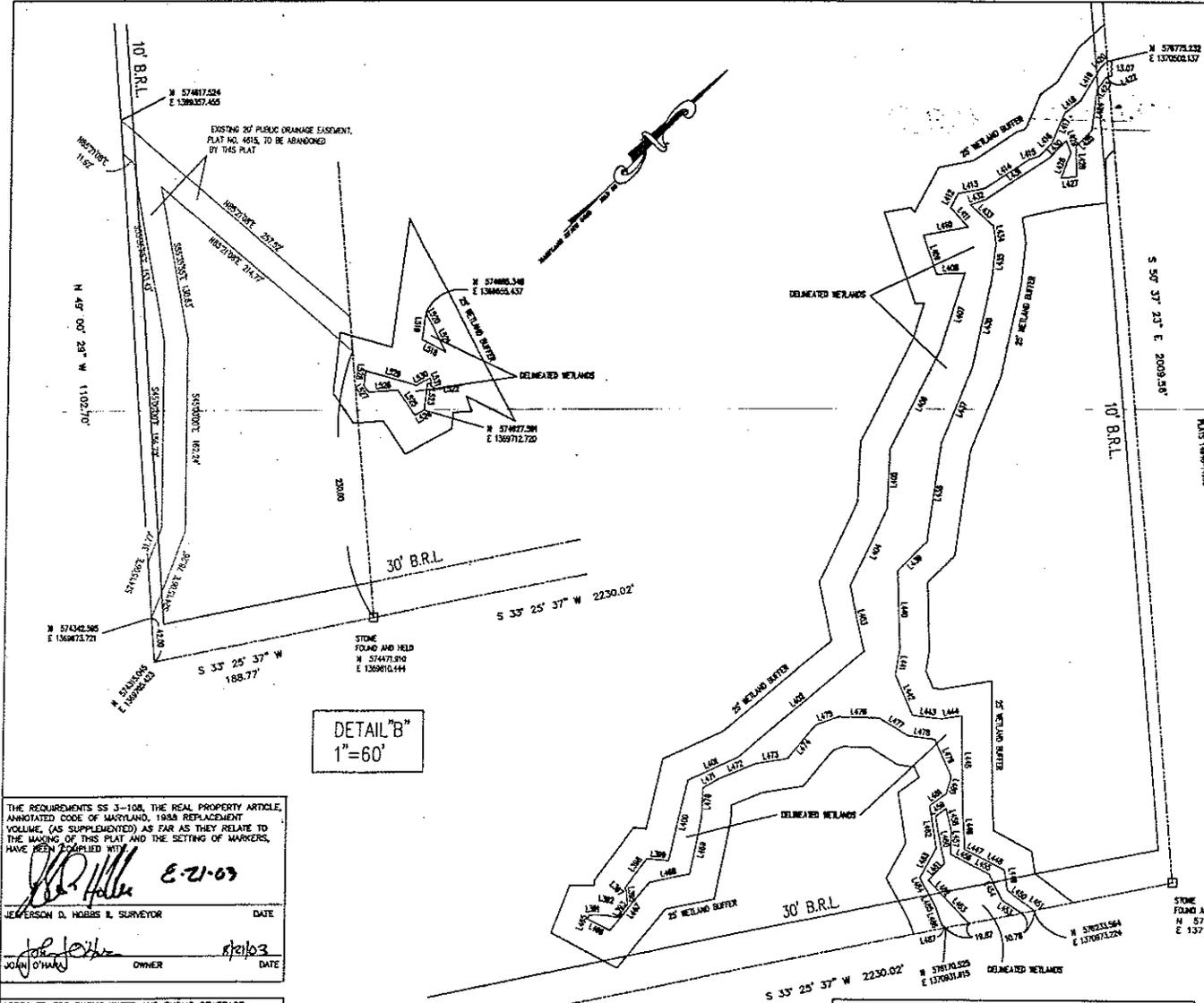
WITNESS MY HAND THIS 21ST DAY OF AUGUST, 2003

John O'Hara
 JOHN O'HARA, OWNER, CHIEF, BUREAU OF ENVIRONMENTAL SERVICES

Gelegen E. Joubert
 WITNESS



SUBDIVISION PLAT
NEW CUT LANDFILL: PARCELS A & B
 (A SUBDIVISION OF PARCEL 529 AND A RESUBDIVISION OF SNOVELL PROPERTY LOTS 1 AND 2)
 TAX MAP 31, GRID 2, BLOCKS 1 AND 2, PARCELS 529 AND 783
 SECOND ELECTION DISTRICT, HOWARD COUNTY, MARYLAND
 EX. ZONING R-20
 SCALE: 1"=200'
 DATE: MARCH 3, 2003
 SHEET 3 OF 5



- GENERAL NOTES**
- SUBJECT PROPERTY ZONED R-20 PER THE 10/18/93 COMPREHENSIVE ZONING PLAN.
 - THIS PLAT IS BASED ON A FIELD RUN BOUNDARY SURVEY PERFORMED BY BOENDER AND ASSOCIATES FOR HOWARD COUNTY ON JUNE 15, 1993.
 - COORDINATES BASED ON MD 83 MARYLAND COORDINATE SYSTEM AS PROJECTED BY HOWARD COUNTY GEODETIC CONTROL STATIONS NO. 3143 AND 3104.
 - CERTAIN AREAS OF THIS PROPERTY ARE ENCUMBERED BY 12 FOREST RETENTION EASEMENTS. THE EASEMENT AGREEMENT OUTLINES THE MAINTENANCE RESPONSIBILITIES OF THE PROPERTY OWNER AND ENUMERATES THE USES PERMITTED ON THE PROPERTY.
 - THE FOREST RETENTION EASEMENTS ESTABLISHED ON THIS PROPERTY RESTRICTS FURTHER DEVELOPMENT IN THE FOREST RETENTION AREAS.
6. DENOTES AN AREA OF FOREST RETENTION EASEMENT.
- NO CLEARING, GRADING, OR CONSTRUCTION IS PERMITTED WITHIN THE FOREST RETENTION EASEMENTS. HOWEVER, FOREST MANAGEMENT PRACTICES AS DEFINED IN THE DEED OF FOREST RETENTION EASEMENT ARE ALLOWED.
 - THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE PARCEL 529 AND RESUBDIVIDE SNOVELL PROPERTY LOTS 1 AND 2 TO CREATE NEW CUT LANDFILL PARCELS A&B, REVISE THE FOREST CONSERVATION EASEMENTS, ADD PUBLIC ROAD RIGHT-OF-WAY FOR HILLSBOROUGH ROAD, AND TO ADD VARIOUS EASEMENTS.
 - PARCELS 763, LOTS 1 AND 2 WERE ORIGINALLY LOTS 1 AND 2 OF THE SNOVELL SUBDIVISION WHICH WAS RECORDED AS PLAT NO. 4815 ON 6-11-1980 AMONG THE LAND RECORDS OF HOWARD COUNTY.
 - THE FOREST CONSERVATION OBLIGATION FOR SDP-89-109 WAS MET BY PROVIDING 20,430 ACRES OF FOREST CONSERVATION ACRAGE.
 - THE 20' DRAINAGE EASEMENT, SHOWN ON LOT 2 OF THE SNOVELL SUBDIVISION, PLAT NO. 4615, TO BE ABANDONED BY THIS PLAT.

PLAT-M.D.R. NO. 16204

DETAIL "A"
1"=60'

DETAIL "B"
1"=60'

THE REQUIREMENTS §§ 3-108, THE REAL PROPERTY ARTICLE, ANNOTATED CODE OF MARYLAND, 1988 REPLACEMENT VOLUME, (AS SUPPLEMENTED) AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT AND THE SETTING OF MARKERS, HAVE BEEN COMPLIED WITH.

Jefferson D. Hobbs 8-21-03
JEFFERSON D. HOBBS R. SURVEYOR DATE

John O'Hara 8/21/03
JOHN O'HARA OWNER DATE

APPROVED FOR PUBLIC WATER AND PUBLIC BEVERAGE SYSTEMS IN CONFORMANCE WITH THE MASTER PLAN FOR HOWARD COUNTY.

John O'Hara 8/21/03
HOWARD COUNTY HEALTH OFFICER DATE

APPROVED, HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

Paul J. Coyne 8/21/03
CHIEF, DEVELOPMENT ENGINEERING DIVISION DATE

Paul J. Coyne 8/21/03
DIRECTOR DATE

OWNER'S STATEMENT

HOWARD COUNTY, OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON, HEREBY ADOPTS THIS PLAT, AND IN CONSIDERATION OF THE APPROVAL OF THIS PLAT BY THE DEPARTMENT OF PLANNING AND ZONING, ESTABLISH THE PUBLIC FOREST CONSERVATION EASEMENT SHOWN HEREON.

WITNESS MY HAND THIS 21ST DAY OF AUGUST, 2003

John O'Hara
JOHN O'HARA, OWNER, CHIEF, BUREAU OF ENVIRONMENTAL SERVICES

Swelgen E. Jordan
WITNESS



SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAT OF RESUBDIVISION SHOWN HEREON IS CORRECT, THAT IT IS A RESUBDIVISION OF THE LAND CONVEYED BY GEORGE W. CARR BY DEED DATED JANUARY 13, 1944 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 180 AT FOLIO 335, AND ALSO THAT PARCEL OF GROUND CONVEYED BY KELLY AND DEBRA ANN SNOVELL BY DEED DATED APRIL 3, 1995 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 348 AT FOLIO 325, AND ALSO THAT PARCEL OF GROUND CONVEYED BY FRANK GAREY AND MELISSA L. WALLACE BY DEED DATED JANUARY 25, 1998 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 3658 AT FOLIO 412.

Jefferson D. Hobbs 8-21-03
JEFFERSON D. HOBBS R. MARYLAND PROPERTY LINE SURVEYOR #382 DATE

RECORDED AS PLAT NO. _____ ON _____
AMONG THE LAND RECORDS OF HOWARD COUNTY, MARYLAND

SUBDIVISION PLAT
NEW CUT LANDFILL: PARCELS A & B
(A SUBDIVISION OF PARCEL 529 AND A RESUBDIVISION OF SNOVELL PROPERTY LOTS 1 AND 2)
TAX MAP 31, GRID 2, BLOCKS 1 AND 2, PARCELS 529 AND 763
SECOND ELECTION DISTRICT, HOWARD COUNTY, MARYLAND
EX. ZONING R-20
SCALE: AS SHOWN
DATE: MARCH 3, 2003
SHEET 4 OF 5

STATE DEPT. OF ASSESSMENTS & TAXATION
HOWARD COUNTY
Bonnie Best-Jee
RECEIVED BY
DATE 9/24/03 PLAT _____

SEP 24 2003
HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS
SURVEY DIVISION
9250 BENDIX ROAD
COLUMBIA, MD. 21045
(410) 313-2417

PLAT M.D.R. NO. 16205

LINE	LENGTH	BEARING
L391	16.44	S44°18'29"W
L392	12.63	S54°51'44"W
L393	13.34	S08°37'21"E
L394	0.00	N90°00'00"E
L395	12.29	S51°18'14"E
L396	0.00	N00°00'00"E
L397	1.79	S88°20'20"E
L398	31.25	S08°45'41"E
L399	18.31	S00°00'56"W
L400	69.81	S38°04'11"E
L401	46.55	S20°45'28"W
L402	138.23	S04°17'57"W
L403	57.52	S57°38'00"E
L404	71.22	S20°02'52"E
L405	50.69	S43°07'45"E
L406	93.99	S18°45'04"E
L407	67.98	S28°21'36"E
L408	23.88	N45°45'53"E
L409	34.93	S64°24'37"E
L410	38.06	S34°35'37"W
L411	22.25	S86°55'45"E
L412	13.91	S17°17'24"E
L413	22.59	S23°19'40"W
L414	44.80	S11°07'18"W
L415	8.59	S27°33'52"W
L416	13.90	S00°58'08"E

LINE	LENGTH	BEARING
L417	28.81	S22°38'23"E
L418	16.23	S07°07'21"W
L419	24.02	S14°09'07"E
L420	6.57	S02°29'04"W
L421	2.46	N09°06'25"E
L422	12.55	N08°38'28"W
L423	35.12	N08°38'49"W
L424	18.55	N00°45'02"W
L425	25.11	N46°44'17"W
L426	13.16	N39°00'30"E
L427	23.07	S24°55'00"E
L428	18.64	S25°05'17"E
L429	21.26	N00°14'33"E
L430	62.46	N01°47'16"E
L431	13.19	N29°07'46"E
L432	25.46	S08°13'14"W
L433	14.58	N53°46'20"W
L434	32.46	N39°41'18"W
L435	74.62	N33°39'29"W
L436	68.56	N23°48'02"W
L437	83.24	N37°58'00"W
L438	34.50	N00°13'09"W
L439	67.26	N47°51'42"W
L440	22.04	N36°23'39"W
L441	37.64	N69°20'36"W
L442	24.90	S01°24'11"W
L443	15.95	S56°10'00"W
L444	75.43	N46°23'07"W
L445	37.07	N49°11'02"W
L446	18.00	S78°39'43"W
L447	22.95	S72°39'43"W
L448	17.91	N54°22'14"W
L449	16.60	S82°41'05"W
L450	11.84	S79°56'53"W
L451	19.65	N77°26'21"E
L452	24.66	S72°11'54"E
L453	16.24	N72°23'32"E
L454	25.57	N75°23'33"E
L455	20.26	S44°47'46"E
L456	18.68	S59°28'49"E
L457	11.23	N06°50'29"E
L458	46.42	N56°48'27"W
L459	19.47	N02°02'15"W
L460	16.80	N89°10'58"W
L461	33.42	N69°11'03"W
L462	3.61	N27°44'58"W
L463	21.83	S72°08'46"W
L464	52.53	S05°50'56"E
L465	34.78	S33°32'05"W
L466	48.61	S33°45'00"E
L467	35.02	S43°21'00"E
L468	15.94	S10°00'06"W
L469	33.30	S23°41'00"W
L470	27.27	S35°43'18"W
L471	36.75	S05°38'02"E

LINE	LENGTH	BEARING
L472	19.87	S24°38'42"W
L473	34.62	S43°03'14"W
L474	29.02	S76°30'11"W
L475	23.29	S38°24'16"W
L476	34.02	N70°07'07"W
L477	15.10	N29°49'56"W
L478	17.20	N08°24'08"E
L479	35.95	N54°43'20"W
L480	28.81	N17°13'52"W
L481	18.99	N74°43'15"W
L482	8.73	N24°43'15"W
L483	17.25	N25°40'31"W
L484	3.40	S73°07'42"W
L485	11.64	S03°32'31"W
L486	17.34	S78°18'27"W
L487	18.96	N51°48'41"W
L488	39.39	N53°29'24"W
L489	11.33	N49°33'58"E
L490	22.58	S65°14'09"E
L491	21.26	S76°12'31"E
L492	19.15	S57°04'03"E
L493	22.29	N17°46'00"E
L494	22.30	S37°44'43"E
L495	11.97	N74°21'27"W
L496	24.79	N72°50'48"W
L497	3.39	N43°29'21"E
L498	22.87	N01°40'43"W
L499	8.56	N16°58'00"E
L500	26.08	S79°39'01"E
L501	26.01	N40°53'56"E
L502	7.03	S79°43'53"E
L503	16.15	S39°19'36"E
L504	45.54	S69°41'25"W
L505	12.54	S17°06'55"W
L506	4.31	N64°14'21"W

- GENERAL NOTES
- SUBJECT PROPERTY ZONED R-20 PER THE 10/18/93 COMPREHENSIVE ZONING PLAN.
 - THIS PLAT IS BASED ON A FIELD RUN BOUNDARY SURVEY PERFORMED BY BOENDER AND ASSOCIATES FOR HOWARD COUNTY ON JUNE 15, 1993.
 - COORDINATES BASED ON MD 83 MARYLAND COORDINATE SYSTEM AS PROJECTED BY HOWARD COUNTY GEODETIC CONTROL STATIONS NO. 31A3 AND 31D4.
 - CERTAIN AREAS OF THIS PROPERTY ARE ENCUMBERED BY 12 FOREST RETENTION EASEMENTS. THE EASEMENT AGREEMENT OUTLINES THE MAINTENANCE RESPONSIBILITIES OF THE PROPERTY OWNER AND ENUMERATES THE USES PERMITTED ON THE PROPERTY.
 - THE FOREST RETENTION EASEMENTS ESTABLISHED ON THIS PROPERTY RESTRICTS FURTHER DEVELOPMENT IN THE FOREST RETENTION AREAS.
 -  DENOTES AN AREA OF FOREST RETENTION EASEMENT.
 - NO CLEARING, GRADING, OR CONSTRUCTION IS PERMITTED WITHIN THE FOREST RETENTION EASEMENTS, HOWEVER, FOREST MANAGEMENT PRACTICES AS DEFINED IN THE DEED OF FOREST RETENTION EASEMENT ARE ALLOWED.
 - THE PURPOSE OF THIS PLAT IS TO SUBDIVIDE PARCEL 529 AND RESUBDIVIDE SNOVELL PROPERTY LOTS 1 AND 2 TO CREATE NEW CUT LANDFILL PARCELS A&B, REVISE THE FOREST CONSERVATION EASEMENTS, ADD PUBLIC ROAD RIGHT-OF-WAY FOR HILLSBOROUGH ROAD, AND TO ADD VARIOUS EASEMENTS.
 - PARCEL 763, LOTS 1 AND 2 WERE ORIGINALLY LOTS 1 AND 2 OF THE SNOVELL SUBDIVISION WHICH WAS RECORDED AS PLAT NO. 4615 ON 6-11-1980 AMONG THE LAND RECORDS OF HOWARD COUNTY.
 - THE FOREST CONSERVATION OBLIGATION FOR SDP-89-109 WAS MET BY PROVIDING 20.430 ACRES OF FOREST CONSERVATION ACREAGE.
 - THE 20' DRAINAGE EASEMENT, SHOWN ON LOT 2 OF THE SNOVELL SUBDIVISION, PLAT NO. 4615, IS TO BE ABANDONED BY THIS PLAT.

THE REQUIREMENTS SS 3-108, THE REAL PROPERTY ARTICLE, ANNOTATED CODE OF MARYLAND, 1988 REPLACEMENT VOLUME, (AS SUPPLEMENTED) AS FAR AS THEY RELATE TO THE MAKING OF THIS PLAT AND THE SETTING OF MARKERS, HAVE BEEN COMPLETED WITH.

Jefferson D. Hobbs 8-21-03

JEFFERSON D. HOBBS, SURVEYOR DATE

John O'Hara 8/21/03

JOHN O'HARA, OWNER DATE

APPROVED FOR PUBLIC WATER AND PUBLIC SEWERAGE SYSTEMS IN CONFORMANCE WITH THE MASTER PLAN FOR HOWARD COUNTY.

Raymond M. J. J. J. 9-12-03

HOWARD COUNTY HEALTH OFFICER DATE

APPROVED: HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

John O'Hara 9/10/03

CHEF, DEVELOPMENT ENGINEERING DIVISION DATE

David L. Cayer 9/4/03

DIRECTOR DATE

WITNESS MY HAND THIS 21st DAY OF AUGUST, 2003

John O'Hara

JOHN O'HARA, OWNER, CHEF, BUREAU OF ENVIRONMENTAL SERVICES

Zuleya E. J. J.

WITNESS



I HEREBY CERTIFY THAT THE PLAT OF RESUBDIVISION SHOWN HEREON IS CORRECT; THAT IT IS A RESUBDIVISION OF THE LAND CONVEYED BY GEORGE W. DARR BY DEED DATED JANUARY 13, 1944 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 180 AT FOLIO 339, AND ALSO THAT PARCEL OF GROUND CONVEYED BY KELLY AND DEBRA ANN SNOVELL BY DEED DATED APRIL 3, 1995 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 3488 AT FOLIO 325, AND ALSO THAT PARCEL OF GROUND CONVEYED BY FRANK GARY AND MELISSA L. WALLACE BY DEED DATED JANUARY 28, 1996 TO HOWARD COUNTY AND RECORDED AMONG THE LAND RECORDS OF HOWARD COUNTY IN LIBER 3658 AT FOLIO 412.

Jefferson D. Hobbs 8-21-03

JEFFERSON D. HOBBS, MARYLAND PROPERTY LINE SURVEYOR #362 DATE

SEP 24 2003

STATE DEPT. OF ASSESSMENTS & TAXATION
HOWARD COUNTY

Dominic Beutler

RECEIVED BY
DATE 9/24/03 PLAT

HOWARD COUNTY DEPARTMENT OF PUBLIC WORKS
SURVEY DIVISION
9250 BENDIX ROAD
COLUMBIA, MD. 21045
(410) 313-2417

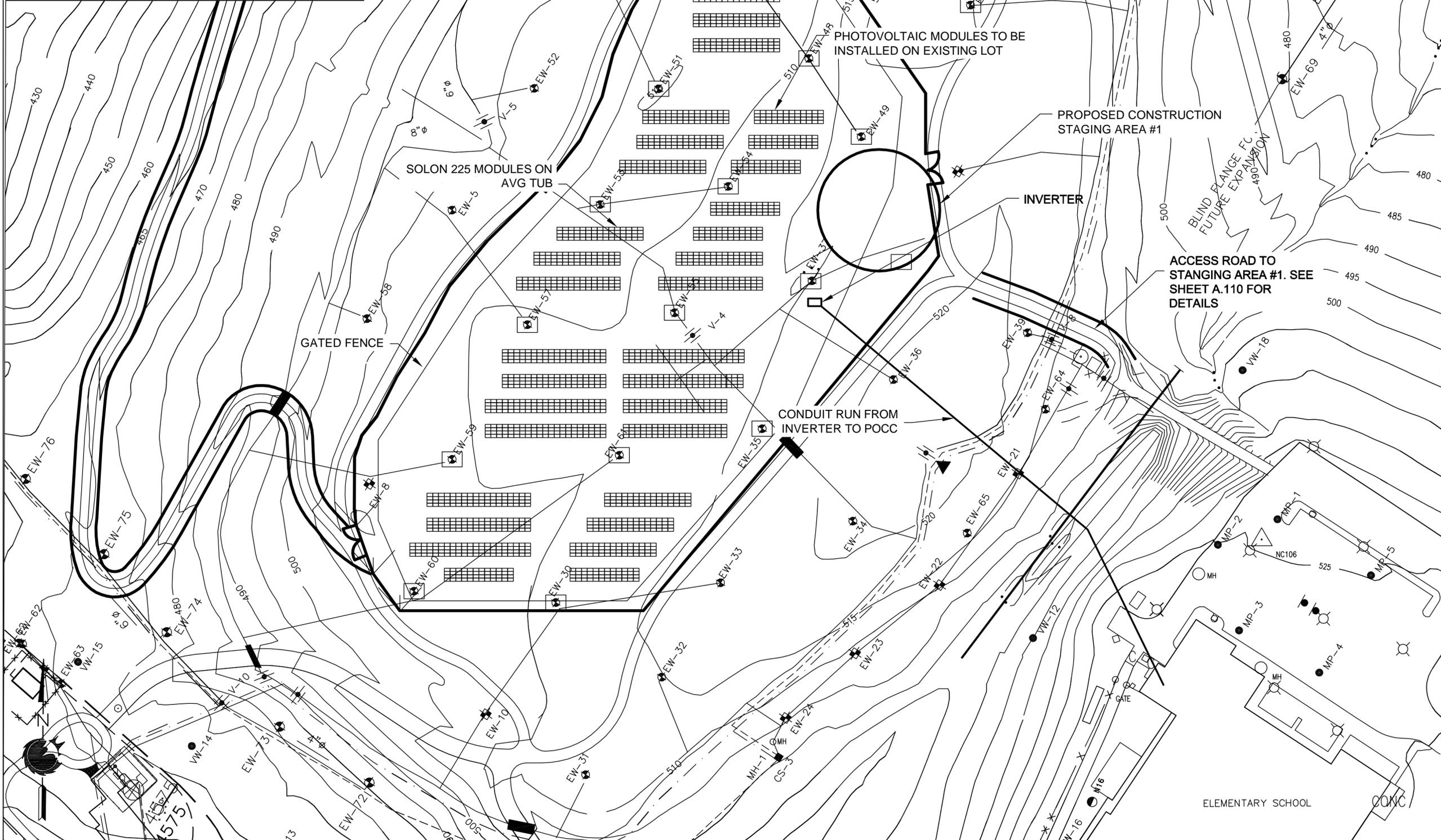
RECORDED AS PLAT NO. _____ ON _____
AMONG THE LAND RECORDS OF HOWARD COUNTY, MARYLAND

SUBDIVISION PLAT
NEW CUT LANDFILL: PARCELS A & B
(A SUBDIVISION OF PARCEL 529 AND A RESUBDIVISION OF SNOVELL PROPERTY LOTS 1 AND 2.)
TAX MAP 31, GRID 2, BLOCKS 1 AND 2, PARCELS 529 AND 763
SECOND ELECTION DISTRICT, HOWARD COUNTY, MARYLAND
EX. ZONING R-20
SCALE: 1"=200'
DATE: MARCH 3, 2003
SHEET 6 OF 5

EXHIBIT B
DESCRIPTION OF PREMISES
and
RIGHT OF ENTRY AREAS

SYSTEM DESCRIPTION

MODULE TYPE	SOLON 225
QUANTITY	2,052 MODULES TOTAL
SYSTEM SIZE (DC)	461,700 wDC
SYSTEM SIZE (AC)	375,000 wAC
TILT ANGLE	20° SOUTH
INVERTER	SATCON PVS-500
SOURCE CIRCUITS	171 STRINGS OF (12)
ORIENTATION	180°
PANEL FOOTPRINT	0.92 ACRES
SITE FOOTPRINT	5.567 ACRES



JOB NO	MD-09-0047
DATE	05/20/2010
DRAWN	JTF
REVISIONS	

SOLAR ELECTRIC SYSTEM CLIENT:
NMWDA - NEW CUT LANDFILL
 8170 HILLSBOROUGH ROAD,
 ELLICOTT CITY, MD 21043

12500 BALTIMORE AVENUE
 BELTSVILLE, MD 20705
 (443) 909-7200



(C), 2006 SUN EDISON, LLC AND ITS
 AFFILIATES, ALL RIGHTS RESERVED

SHEET NO.

A.100

SCALE

N.T.S.

THIS DRAWING IS THE PROPERTY OF SUNEDISON, LLC. THIS INFORMATION IS CONFIDENTIAL AND IS TO BE USED ONLY IN CONNECTION WITH WORK DESCRIBED BY SUNEDISON, LLC. NO PART IS TO BE DISCLOSED TO OTHERS WITHOUT WRITTEN PERMISSION FROM SUNEDISON, LLC.

PROJECT NUMBER
MD-09-0047

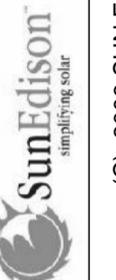
TITLE
SITE PLAN - 12 MODULE RBT



JOB NO	MD-09-0047
DATE	05/20/2010
DRAWN	JTF
REVISIONS	

SOLAR ELECTRIC SYSTEM CLIENT:
NMWDA - NEW CUT LANDFILL
 8170 HILLSBOROUGH ROAD,
 ELLICOTT CITY, MD 21043

12500 BALTIMORE AVENUE
 BELTSVILLE, MD 20705
 (443) 909-7200



(C), 2006 SUN EDISON, LLC AND ITS
 AFFILIATES, ALL RIGHTS RESERVED

SHEET NO.

A.110

SCALE

N.T.S.

THIS DRAWING IS THE PROPERTY OF SUNEDISON, LLC. THIS INFORMATION IS CONFIDENTIAL AND IS TO BE USED ONLY IN CONNECTION WITH WORK DESCRIBED BY SUNEDISON, LLC. NO PART IS TO BE DISCLOSED TO OTHERS WITHOUT WRITTEN PERMISSION FROM SUNEDISON, LLC.

PROJECT NUMBER
MD-09-0047

TITLE
SITE PLAN - 12 MODULE RBT CONTINUED

EXHIBIT C

THE COUNTY'S REQUIREMENTS AND PROCEDURES FOR ON-SITE INSPECTIONS, CONSTRUCTION AND OPERATION OF THE SYSTEM AND FACILITY

Licensee acknowledges and confirms that the Premises is part of the Land which is a capped landfill with environmental systems, including without limitation the capping and the gas extraction system of wells, well heads, pipes or headers, and a vapor trench (collectively the "Environmental System"). Licensee acknowledges and confirms that no damage can be caused to the Environmental System, and therefore Licensee shall comply fully with the requirements and procedures set forth in this Exhibit C and all additional requirements and procedures, specifications and special conditions established by the County (collectively the "Requirements and Procedures"). (All capitalized terms used in this Exhibit C that are not defined shall be ascribed the same meaning as used in the Agreement.)

A. DIGGING AND GRADING

1. Test pits for due diligence and construction purposes must be hand-dug. For construction and trenching, Licensee may dig to a depth of 24 inches. All of the conduit or pipes laid by Licensee must have 20 inches in soil cover. All test pits and trenching must be backfilled first with original soil removed.

2. All digging and trenching must be at least 10 feet away from each side of the well heads located on the Premises or the Land.

3. For racking structures and the rock ballasted tubs ("RBTs"), Licensee may excavate no more than 6 inches from the surface elevation existing on the Effective Date. Using clean fill for completing grading is permitted to comply with this requirement.

4. For all conduits that Licensee lays, there must be a 6-inch vertical separation between the conduit and the pipes, or "headers," running between the well heads.

5. For placement of a solar array, grading needs to be limited to 5,000 square feet and must comply with the 6-inch maximum grading limitation set forth above.

6. All digging and grading to be completed by Licensee must be approved by the County and notice shall be given to the County at least 24 hours prior to any digging or grading, so that the County can be present.

7. All final grading as approved by the County shall be maintained by Licensee throughout the Term of the Agreement.

B. CONSTRUCTION

1. Roads cannot be modified on the Premises or Land. If Licensee wants to build a new access road, then the placement and plans and specifications and construction of such road must be approved by the County. If Licensee is permitted to build an access road, than all costs and expenses, including without limitation the costs and expenses of maintenance, repair, replacement and/or removal thereof, shall be paid fully by Licensee.

2. Licensee shall pay for all repair, maintenance and/or replacement of the existing roads on the Land and Premises that is required as a result of Licensee's use of the existing roads. All equipment used for construction, maintenance, and operation of the Premises and the Environmental System shall be approved by the County.

3. All fences must be ballast supported. Such fences must comply with all restrictions on penetration of the soils and all restrictions on grading set forth in this Requirements and Procedures.

4. No penetration of the soils can exceed two feet in depth from the ground elevation existing as of the Effective Date.

5. Placement of the solar panel modules and arrays must be approved by the County and cannot be placed any closer than 10 feet to any side of the well heads and headers. All conduits laid by Licensee must be sealed, so as not to allow the seepage of gas into any conduit. Additional special conditions may be established for the vapor trench binding on the Board of Education's property adjacent to the Land.

6. Licensee shall participate in a site safety meeting prior to the commencement of operations and conduct a safety review for all construction personnel and invitees working at the Facility. Licensee shall promptly notify Licensor of all accidents occurring on the Premises at any time.

C. OPERATION AND MAINTENANCE

1. Grass and brush may be cut with a hand-guided power mower.
2. No pesticide can be used on the Premises or the Land except with the written consent of the County.
3. All solvents, cleaning solutions, and all other liquids, powders or cleaning or maintenance materials must be approved by the County.
4. With the County's approval, Licensee may prune or cut trees.
5. Licensee shall provide all security needed to protect and secure the Premises.

D. MICELLANEOUS

1. Licensee shall observe all safety rules and procedures established for the Facility and Premises.
2. Licensee shall maintain a daily log book, containing the site specific Health and Safety Plan and personnel and visitors log for the Facility and Premises.
3. Licensee shall have all personnel sign-in and sign-out in the daily log book.
4. Licensee shall maintain the Facility and Premises, at all times, in a safe manner and remove trash and debris on a regular basis. Licensee shall be responsible for the removal of all waste from the Facility and the Premises.
5. Licensee shall promptly notify the Licensor of all observed unsafe behavior on the Premises of the Licensee's employees, agents, contractors, invitees and guests.

E. LANDLORD'S AGENT, ACCESS AND CONSENT

1. The Department of Public Works of Howard County ("DPW") is the County's designated agent for all matters relating to the Agreement. All contacts and notices must be delivered to DPW, and all approvals must be sought from DPW.
2. DPW is responsible for monitoring the Requirements and Procedures set forth in this Exhibit C and all matters relating to the Agreement.
3. DPW may set forth additional special conditions and specifications relating to the System, the Facility, the Environmental System and the Premises, and may modify the Requirements and Procedures as required by all Applicable Law or changing conditions of the Land or Premises. In accordance with the notice provisions of Section 6.g of the Agreement, the County, DPW, and other departments, divisions and agencies of the County shall be able to enter upon the Premises at any time to access, inspect and service the Environmental System on the Premises.
4. No element or component of the Environmental System on the Premises will be blocked, modified, compromised or damaged by Licensee.
5. Wherever the County's or DPW's consent or approval is required in this Exhibit C, such consent or approval may be withheld in the sole and absolute subjective discretion of the County or DPW, and if given, must be in writing.

EXHIBIT D

THE COUNTY'S PERMITTED LIENS AND ENCUMBRANCES

[To be updated by a current title report no later than July 2, 2010]

1. Declaration of Forest Conservation Covenants and Restrictions dated October 5, 1999 and recorded among the Land Records of Howard County, Maryland in Liber 4951, folio 383 on November 29, 1999.
2. Encroachment Permit between AT&T Corp. and Howard County, Maryland and recorded among the aforesaid Land Records in Liber 5305, folio 222 on January 5, 2001.
3. All matters of record as shown on a plat titled "Subdivision Plat, New Cut Landfill; Parcels A and B (A Subdivision of Parcel 529 and a Resubdivision of Snovell Property, lots 1 and 2) recorded as Plat No. 16201 through 16205 among the aforesaid Land Records on September 24, 2003.
4. Subject to gas extraction wells
5. Subject to Gas Header

EXHIBIT E

**RECORDED AT REQUEST OF, AND
WHEN RECORDED RETURN TO:**

Northeast Maryland Waste Disposal Authority
Tower II, Suite 402
100 South Charles Street
Baltimore, MD 21210
Attn: Executive Director

MEMORANDUM OF AGREEMENT
<Site Number> / <Site Name>
APN: <APN>

This MEMORANDUM OF AGREEMENT is entered into on _____, 20____, by Howard County, Maryland, a body corporate and politic, with an address at 3430 Court House Drive Ellicott City, MD 21043 (hereinafter referred to as “**the County**”) and Northeast Maryland Waste Disposal Authority, a body politic of the State of Maryland, with an office at Tower II, Suite 402, 100 South Charles Street Baltimore, MD 21210 (hereinafter referred to as “**Licensee**”).

1. The County and Licensee entered into a License Agreement for a Term of Years (“**Agreement**”), dated as of _____, 200____, effective upon the signing of the Agreement by both parties (“**Effective Date**”) for the purpose of Licensee undertaking certain Investigations and Tests and, upon finding the Premises (as defined in the Agreement) appropriate, for the purpose of installing, operating and maintaining a solar photovoltaic system and other related equipment on the Premises. All of the foregoing is set forth in the Agreement.

2. The term of the Agreement is for twenty (20) years commencing on the Effective Date (“**Term Commencement Date**”), and terminating on the last day of the twentieth year of the Term Commencement Date, at 12:00 a.m., with one (1) successive five (5) year option to renew, subject to the terms of the Agreement.

3. The Premises that is the subject of the Agreement is described in Exhibit A annexed hereto.

The parties have signed this Memorandum of Agreement as of the day and year first written above.

HOWARD COUNTY, MARYLAND

ATTEST:

Lonnie R. Robbins
Chief Administrative Officer

By: _____ (SEAL)
Ken Ulman
County Executive

APPROVED: DEPARTMENT OF
PUBLIC WORKS

James M. Irvin, Director

[Signatures follow on next page.]

APPROVED FOR SUFFICIENCY
OF FUNDS:

Sharon Greisz, Director
Department of Finance

APPROVED as to Form and Legal Sufficiency
This _____ day of _____, 20__

Margaret Ann Nolan
County Solicitor

WITNESS:

LICENSEE:

**NORTHEAST MARYLAND WASTE DISPOSAL
AUTHORITY**

By: EXHIBIT ONLY – DO NOT EXECUTE
Name: _____
Title: _____
Date: _____

STATE OF MARYLAND, _____ COUNTY, TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 20__, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Ken Ulman, the County Executive for Howard County, Maryland, who acknowledged the same to be the act of the County and that he executed the foregoing Agreement for the purposes therein contained by signing in my presence the name of Howard County, Maryland as County Executive.

AS WITNESS my Hand and Notarial Seal.

Notary Public

My Commission Expires: _____

STATE OF

COUNTY OF

On _____, before me, _____, Notary Public, personally appeared Northeast Maryland Waste Disposal Authority, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she signed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, signed the instrument.

WITNESS my hand and official seal.

Notary Public (SEAL)

My commission expires: _____

EXHIBIT F
GUARANTY AGREEMENT

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (this "Guaranty"), dated as of [_____, 2010], is issued and delivered by **Sun Edison LLC**, a Delaware limited liability company the "Guarantor"), for the account of **SunEdison Origination3, LLC**, a Delaware limited liability company, and its permitted successors and assigns (the "Obligor"), and for the benefit of **Howard County**, Maryland, a body corporate and politic (the "Beneficiary").

Background Statement

WHEREAS, the Beneficiary and the Northeast Maryland Waste Disposal Authority (the "Authority") entered into that certain License Agreement for a Term of Years, dated as of even date herewith (the "Agreement");

WHEREAS, the Authority assigned the Agreement to the Obligor pursuant to that certain assignment and assumption agreement dated as of even date herewith;

WHEREAS, Beneficiary required that the Guarantor deliver to the Beneficiary this Guaranty as an inducement to consent to the assignment of the Agreement to the Obligor.

Guaranty Terms and Covenants

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the Guarantor hereby covenants and agrees as follows:

1. **Guaranty.** If the Obligor defaults, at any time during the term of the Agreement, in the performance of any of the covenants and obligations of the Agreement to be performed by Obligor, then the Guarantor shall on demand perform the covenants and obligations of the Agreement on behalf of Obligor and shall on demand pay to Beneficiary all sums due to Beneficiary, including all damages and expenses that might arise from Obligor's default, as may be limited herein, (the "**Guaranteed Obligations**"); **provided, however,** that the Guarantor's aggregate liability hereunder shall not exceed Ten Million **U. S. Dollars (U.S. \$10,000,000.00)** ("**Maximum Liability Amount**").

Subject to the other terms of this Guaranty, the liability of the Guarantor under this Guaranty is limited to payments and reimbursements expressly required to be made under the Agreement, and except as specifically provided therein, the Guarantor shall not be liable for or required to pay any consequential or indirect loss (including but not limited to loss of profits), exemplary damages, punitive damages, or special damages.

This Guaranty is irrevocable, absolute and unconditional, direct, immediate and primary. This Guaranty guarantees payment and not just collection.

2. **Effect of Amendments, Renewals, Extensions, Waiver and Delay.** The Guarantor agrees that the Beneficiary and the Obligor may modify, amend and supplement the Agreement, including without limitation extend the term of years

thereof or exercising renewals provided therein, and that the Beneficiary may delay or extend the date on which any payment must be made pursuant to the Agreement or delay or extend the date on which any act or covenant must be performed by the Obligor thereunder, all without notice to or further assent by the Guarantor, who shall remain bound by this Guaranty, notwithstanding any such act by the Beneficiary or the Obligor. The Guarantor's obligations hereunder shall remain binding notwithstanding that the Beneficiary may waive one or more defaults by Obligor, extend the time for performance by Obligor, or release Tenant from the performance of its obligations under the Agreement.

3. **Waiver of Rights.** The Guarantor expressly waives (i) presentment, demand for payment (except as required in Section 6 hereunder), notice of dishonor or nonpayment, protest, notice of protest or any other notice of any other kind with respect to the Guaranteed Obligations, (ii) notice of acceptance of this Guaranty by the Beneficiary, notice of existence of any Guaranteed Obligations and notice of any action by Beneficiary in reliance hereon or in connection herewith, (iii) notice of the entry into the Agreement and notice of any amendments, supplements or modifications thereto or renewals thereof; or any waiver or consent under the Agreement, including waivers of the payment and performance of the obligations thereunder, and (iv) notice of any increase, reduction or rearrangement of Obligor's obligations under the Agreement or notice of any extension of time for the payment of any sums due and payable to Beneficiary under the Agreement

4. **Bankruptcy.** For the avoidance of doubt, this Guaranty shall remain in full force and effect notwithstanding the institution by or against Obligor of bankruptcy, reorganization, readjustment, receivership or insolvency proceedings of any nature, or the disaffirmance of the Agreement in any such proceedings or otherwise.

5. **Settlements Conditional.** If any monies paid to the Beneficiary in reduction of the indebtedness of the Obligor under the Agreement have to be repaid by the Beneficiary by virtue of any provision or enactment relating to bankruptcy, insolvency or liquidation for the time being in force, the liability of the Guarantor under this Guaranty shall be computed as if such monies had never been paid to the Beneficiary

6. **Notice.** Notwithstanding Section 3 hereunder, the Beneficiary will provide written notice to the Guarantor if the Obligor defaults under the Agreement.

7. **Primary Liability of the Guarantor.** The Guarantor agrees that the Beneficiary may enforce this Guaranty without the necessity at any time of resorting to or exhausting any other security or collateral. This is a continuing Guaranty of performance and payment and not merely of collection. The Guarantor, at Beneficiary's option, may be joined in any action or proceeding commenced

GUARANTY AGREEMENT

by Beneficiary against Obligor relating to any covenants and obligations in the Agreement, and the Guarantor hereby waives all rights to demand that Beneficiary take any action of any nature whatsoever against Obligor.

8. Term of Guaranty. This Guaranty shall remain in full force and effect until the earlier of (i) the date the Guarantor has made payments hereunder in an aggregate amount equal to the Maximum Liability Amount, (ii) such time as all the Guaranteed Obligations have been indefeasibly paid in full, and (iii) the date that is three (3) years after the termination of the Agreement for any reason. A termination under clause (iii) herein shall not release Guarantor from liability for any Guaranteed Obligations arising prior to the effective date of such termination or liability which arises under a survival period under the Agreement. If at any time any payment of any of the Guaranteed Obligations is rescinded or must be otherwise restored or returned upon the insolvency, bankruptcy or reorganization of Obligor or otherwise, Guarantor's obligations hereunder with respect to such payment shall be reinstated at such time as though such payment had not been made. Upon the satisfaction of (i), (ii) or (iii), above, this Guaranty shall have no further force or effect, notwithstanding any statute of limitation to the contrary.

9. Subrogation. Subject to the provisions of this Section 9, Guarantor shall be subrogated to all rights of Beneficiary against Obligor in respect of any amounts paid by Guarantor pursuant to this Guaranty: provided however, that Guarantor hereby waives all rights and benefit it may acquire by way of subrogation under this Guaranty, by any payment made hereunder or otherwise (including, without limitation, any statutory rights of subrogation under Section 509 of the Bankruptcy Code 11 U.S.C. & 509, or otherwise), reimbursement, exoneration, contribution, indemnification, or any right to participate in any claim or remedy of Beneficiary against Obligor or any collateral which Beneficiary now has or acquires, until all of the Guaranteed Obligations shall have been irrevocably and indefeasibly paid to Beneficiary in full. If (a) Guarantor shall perform and shall make payment to Beneficiary of all of the Guaranteed Obligations, (b) all the Guaranteed Obligations shall have been indefeasibly paid in full, and (c) Beneficiary shall have confirmed in writing to Obligor that no extensions of credit are outstanding or contracted for under the Agreement (nor is Guarantor liable under the Agreement for any extensions of credit outstanding or contracted for in favor of any other person), Beneficiary shall, at Guarantor's request, execute and deliver to Guarantor appropriate documents necessary to evidence the transfer by subrogation to Guarantor of any interest in the Guaranteed Obligations resulting from such payment of Guarantor.

10. No Waiver; Remedies. Except as to applicable statutes of limitation, no failure on the part of Beneficiary to exercise, and no delay in

exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

11. Representations and Warranties. Guarantor represents and warrants as follows:

(a) Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation and has full corporate power and authority to execute, deliver and perform this Guaranty in the State of Maryland.

(b) The execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary corporate or company action and do not contravene Guarantor's constitutional or organizational documents or any contractual restriction binding on Guarantor or its assets.

(c) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable against it by Beneficiary in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditor's rights and to general equity principles.

(d) This Guaranty shall be effective and enforceable immediately upon its execution. The effectiveness and enforceability of this Guaranty is not in any way conditioned or contingent upon any event, occurrence or happening. Both Guarantor and Beneficiary have been represented by counsel in the negotiation and preparation of this Guaranty, therefore in the event of any finding of ambiguity by a court, this Guaranty shall not be considered or deemed to have been prepared by Beneficiary and thus construed against Beneficiary.

All of the representations and warranties of Guarantor contained herein (i) shall survive the execution and delivery of this Guaranty and also the making and satisfaction of each extension of credit constituting a Guaranteed Obligation, and (ii) shall continue to be effective whenever made or deemed to be made until all indebtedness owing under this Guaranty has been indefeasibly repaid in full, notwithstanding any investigation made at any time by or on behalf of Beneficiary.

12. Governing Law. This Guaranty shall be governed by and construed in accordance with the internal laws of the State of Maryland, without giving effect to principles of conflicts of law.

13. Expenses. The Guarantor agrees to pay all reasonable out-of-pocket expenses (including the reasonable fees and expenses of the Beneficiary's counsel) relating to the enforcement of the Beneficiary's rights hereunder in the event the Guarantor disputes its obligations under this Guaranty and it is finally determined (whether through settlement, arbitration or adjudication, including the exhaustion of all permitted appeals),

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that the Beneficiary is entitled to receive payment of a portion of or all of such disputed amounts. All payments under this Section 13 shall not be included in totaling the amount paid under the Maximum Liability Amount.

14. Waiver of Jury Trial. The Guarantor and the Beneficiary, through acceptance of this Guaranty, waive all rights to trial by jury in any action, proceeding or counterclaim arising or relating to this Guaranty.

15. Entire Agreement; Amendments. This Guaranty integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all oral negotiations and prior writings in respect to the subject matter hereof. This Guaranty may only be amended or modified by an instrument in writing signed by each of the Guarantor and the Beneficiary.

16. Headings. The headings of the various Sections of this Guaranty are for convenience of reference only and shall not modify, define or limit any of the terms or provisions hereof.

17. No Third-Party Beneficiary. This Guaranty is given by the Guarantor solely for the benefit of the Beneficiary, and is not to be relied upon by any other person or entity.

18. Assignment. Neither the Guarantor nor the Beneficiary may assign its rights or obligations under this Guaranty without the prior written consent of the other, which consent may not be unreasonably withheld or delayed, except that:

(i) the Guarantor may make such an assignment without such consent if (a) in conjunction with the assignment by the Obligor of all of its rights and obligations under the Agreement and the assignee's long-term senior unsecured debt has an investment grade rating by Standard and Poor's ("S&P") or Moody's Investor Services, Inc. ("Moody's"), or if the assignee does not have a long-term senior unsecured debt rating, then the rating assigned to such entity as its Corporate Credit Rating by S&P or Issuer Rating by Moody's shall be investment grade, (b) the Obligor ceases to be a person or entity controlled by, controlling or under common control with the Guarantor and the assignee's long-term senior unsecured debt has an investment grade rating by S&P or Moody's, or if the assignee does not have a long-term senior unsecured debt rating, then the rating assigned to such entity as its Corporate Credit Rating by S&P or Issuer Rating by Moody's shall be investment grade, or (c) to an entity whose long-term senior unsecured debt has an investment grade rating by S&P or Moody's, or if the assignee does not have a long-term senior unsecured debt rating, then the rating assigned to such entity as its Corporate Credit Rating by S&P or Issuer Rating by Moody's shall be investment grade; provided that the Guarantor's obligations hereunder must be expressly assumed in writing, in a form reasonably acceptable to the Beneficiary; provided further that such assumption shall be deemed to release the Guarantor from all of its obligations under this

Guaranty automatically and without further action by the Guarantor or the Beneficiary, and any purported assignment in violation of this Section 15 shall be void and without effect, and.

(ii) the Beneficiary may, upon 30 days prior written notice, make such an assignment without such consent if in conjunction with any assignment of the Agreement by the Beneficiary permitted under the Agreement.

19. Notices. Any communication, demand or notice to be given hereunder will be duly given when delivered in writing or sent by facsimile to the Guarantor or to the Beneficiary, as applicable, at its address as indicated below:

If to the Guarantor, at:
Sun Edison LLC
 12500 Baltimore Avenue
 Beltsville, MD 20705
 Attention: Treasurer
 Facsimile: (443) 909-7121
 RE: NMWDA—Howard County New Cut Landfill project

With a copy to:
Sun Edison LLC
 12500 Baltimore Avenue
 Beltsville, MD 20705
 Attention: General Counsel
 Facsimile No.: (443) 909-7121
 RE: NMWDA—Howard County New Cut Landfill project

If to the Beneficiary, at:
Howard County, Maryland
 3430 Court House Drive
 Ellicott City, MD 21043
 Attn: Director of Department of Public Works
 Facsimile No.: (410) 313-2165

With a copy to:
Howard County, Maryland
 3430 Court House Drive
 Ellicott City, MD 21043
 Attn: County Solicitor
 Facsimile No.: (410) 313-3292

With a copy to:
Northeast Maryland Waste Disposal Authority
 Tower II, Suite 402
 100 South Charles Street
 Baltimore, MD 21201-2705
 Attn: Executive Director
 Facsimile No.: (410) 333-2721

or such other address as the Guarantor or the Beneficiary shall from time to time specify. Notice shall be deemed given (a) when received, as evidenced by signed receipt, if sent by hand delivery, overnight courier or registered mail, or (b) when received, as evidenced by transmission confirmation report, if sent by facsimile and received on or before 4 pm local time of recipient,

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or (c) the next business day, as evidenced by transmission confirmation report, if sent by facsimile and received after 4 pm local time of recipient.

21. Joint and Several Liability/Successors and Assigns. If the Guaranty is signed by more than one party, their obligations shall be joint and several, and the release of one of the guarantors shall not release any other guarantor. This Guaranty shall be applicable to and binding upon the successors and assigns of Beneficiary, Obligor and Guarantor.

IN WITNESS WHEREOF, the Guarantor has executed this Guaranty as of the day and year first above written, under seal, with the intent that it be a sealed instrument with all benefits inherent thereto.

Sun Edison LLC
a Delaware Limited Liability Company

By: _____ (SEAL)
Name: _____
Title: _____ and Authorized
Signatory

EXHIBIT D

**BOARD GRANT OF ELECTRIC LINE EASEMENT
("HOST LICENSE")**

For Recorder's Use Only

GRANT OF ELECTRIC LINE AND ACCESS EASEMENT

THIS GRANT OF ELECTRIC LINE AND ACCESS EASEMENT ("Easement") is granted as of the latest date of signature hereon, by and between the Howard County Public School System ("Grantor"), and The Northeast Maryland Waste Disposal Authority, ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of certain land located in Howard County, Maryland, described more particularly in **Exhibit A** attached hereto and made a part hereof ("Grantor's Property");

WHEREAS, Grantee is in need of a perpetual right to easement areas;

WHEREAS, Grantor desires to grant to Grantee, and Grantee desires to receive from Grantor, (1) an easement ("Easement Area 1") for solar transmission, distribution and other purposes, as more fully described hereinbelow, in, upon, under, over, across and along those areas of Grantor's Property described; and (2) an easement ("Easement Area 2") for the vehicular and pedestrian access, ingress, and regress to and from that parcel of land located at 4361 New Cut Road, Ellicott City, Maryland 21043, commonly known as the New Cut Road Landfill (the "Land") for the purpose of installing, operating, maintaining, renewing, repairing, replacing and removing a solar photovoltaic system (the "System") at the Land. (Easement Area 1 and Easement Area 2 are referred to collectively herein as the "Easement Areas").

WHEREAS, Grantor provides general notice to Grantee and Grantee acknowledges that soil tests have been conducted at the intended Easement Areas, which have indicated the presence of arsenic and other heavy metals in the soil;

WHEREAS, the Maryland Department of the Environment's (MDE's) Environmental Restoration and Redevelopment Program determined, as stated in that certain letter dated March 15th 2002 addressed to the Howard County Department of Public Works (the "Letter," a true and accurate copy of which is attached hereto as **Exhibit B** and made a part hereof), that there no unacceptable human health risks from exposure to chemicals (specifically heavy metals) exist at the Easement Areas;

WHEREAS, Grantor represents and warrants to Grantee that the MDE issued the Letter in respect to, among other locations on the Grantor's property, the Easement Area;

WHEREAS, Grantor represents and warrants to Grantee and Grantee's successors and assigns that there has been no change in the Easement Areas since the issuance of the Letter that would result in a change in the determination made in the Letter.

WHEREAS, the Easement Areas are described more particularly in **Exhibit C** attached hereto and made a part hereof; and

NOW THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, Grantor hereby grants, conveys, covenants and agrees as follows:

1. Grantor does hereby give, grant and convey to Grantee, its licensees, grantees, successors and assigns, a perpetual right and easement in, over, under, upon and across (i) Easement Area 1 to, for purposes of establishing a solar power connection, (from time to time and at all times), construct, reconstruct, operate, use, maintain, repair, relocate, replace, rebuild, enlarge, renew and remove underground electrical (whether consisting of one or more circuits), transmission and distribution lines and other underground transmission, distribution, and related facilities (whether any or all of the foregoing now exist or are installed by Grantee, in its sole discretion, in the future), including, without limitation, cables, fiber optic cable, conduits, splice boxes, wires, ducts, controls, switches, relays, circuit breakers, monitoring devices, anchors, underground ground grid, manholes, conductors and related equipment, (all of the foregoing, whether now existing or installed in the future, being collectively referred to in this Easement as the "Facilities"), together with the right to cut down, trim or otherwise control the growth of all trees, bushes and other vegetation growing at, upon or over Easement Area 1 with the consent of the Grantor, which shall not be unreasonably withheld, and to clear any and all obstructions from the surface and subsurface of Easement Area 1; and (ii) Easement Area 2 to, for purposes of vehicular and pedestrian access, ingress, egress, and regress to and from the Land for the purposes of installing, operating, maintaining, renewing, repairing, replacing and removing the System and the Facilities. Grantee is hereby granted access, ingress and egress over and across Easement Area 1, Easement Area 2, and such other portions of Grantor's Property as Grantor shall reasonably designate, for purposes of enabling Grantee and other Grantee Parties (as defined below) to gain access, ingress and egress, to and from the Easement Areas, the System and said Facilities, at any and all times for any or all of the purposes specified in clause (i) and (ii) above. In exercising the rights granted hereunder, Grantee acknowledges and agrees that no Grantee Party shall cause any permanent change to the grade of the Easement Areas without the prior written consent of Grantor; provided, however, that temporary changes to the elevation of the ground of Easement Area 1 (such as digging holes or changes to the elevation of the ground of Easement Area 1 during periods within which Grantee is installing, constructing, maintaining or repairing the Facilities) shall not require any such notice to Grantor.

2. Notwithstanding anything to the contrary in Section 1 above, and without limiting Grantee's rights pursuant to Section 1, the Parties agree that Grantor may, at the Grantee's request, perform the work described in **Exhibit D**, Scope of Work, attached hereto to assist the Grantee in installing the Facilities. Additionally, throughout the Term, Grantor shall, at Grantee's reasonable request, perform all work necessary to reconstruct, operate, use, maintain, repair, relocate, replace,

rebuild, enlarge, renew or remove the Facilities located within Easement Area 1 that Grantee, in its reasonable judgment, deems necessary for the safe and efficient operation of the Facilities or the System. Grantee shall reimburse Grantor for the reasonable cost of any work Grantor performs hereunder; provided, however, that in no event will Grantee be liable for any expense related to any remediation of hazardous materials existing on the Property as of the Effective Date hereon, including, without limitation, any arsenic or other heavy metals. All work performed by Grantor pursuant to this section shall be in accordance with Grantee's specifications and subject to Grantee's supervision. Except for the uses and purposes granted herein to Grantee, Grantor expressly reserves the right to use the Easement Areas; provided, that:

(a) in no event shall any such use of the Easement Areas interfere with the Facilities or the use of the Easement Areas hereunder by Grantee or any of the other Grantee Parties (as hereinafter defined), as contemplated by this Easement; and

(b) any and all such uses of the Easement Areas shall comply with the terms and provisions of Section 3 hereof.

3. In no event shall Grantor or any of its agents, contractors, tenants, licensees, guests, invitees, employees, representatives, successors and assigns (including, without limitation, any and all successors in title to the Easement Areas) (collectively, the "Grantor Parties") gain access to, damage, disrupt or otherwise interfere with the Facilities (whether now existing or installed in the future) or the exercise of any of the rights of use described in Section 1 of this Agreement hereof by Grantee, Grantee's affiliates, or any of their agents, contractors, tenants, licensees, guests, invitees, employees, representatives, successors and assigns (collectively, the "Grantee Parties"). Without limiting the generality of the foregoing, Grantor hereby acknowledges and agrees as follows:

(a) Except as set forth in **Exhibit E (Exceptions to the Easement)**, no building, permanent structure of any kind shall be erected by (or on behalf of) any of the Grantor Parties on, in, over, under or across the Easement Areas;

(b) No changes in grade to Easement Area 1 shall be made by any of the Grantor Parties that would increase or decrease the existing ground elevation of Easement Area 1 by more than one foot without Grantee's prior written consent which consent shall not be unreasonably withheld;

(c) No ponds, ditches, water storage facilities, irrigation systems, underground pipe or other facility shall be placed by any of the Grantor Parties in, on, over, under or across the Easement Areas without Grantee's prior written consent which consent shall not be unreasonably withheld;

(d) No highly flammable or explosive materials or hazardous waste shall be stored or burned on the Easement Areas by any of the Grantor Parties, and the Grantor Parties shall strictly observe at all times all height limitations and clearances required by OSHA Standard 1910.180(j) and 1910.180(j)(5)(i). Grantee shall not transport any excavated soil materials from the Land on or through Easement Area 2. Regarding Equipment Clearances from Overhead Facilities and any amendments thereto or restatements thereof;

(e) Neither Grantor nor any of the Grantor Parties shall use or occupy, nor shall they grant or confer upon any other person or entity any right to use or occupy, the Easement Areas for any of the uses granted to Grantee by Section 1 hereof or for any use or purpose inconsistent with Grantor's use thereof; and

(f) To the best of Grantor's knowledge, there exist no easements, encumbrances, or restrictions of any kind on or related to the Easement Areas, except as otherwise set forth in **Exhibit E**.

4. Grantee will conduct an interconnection study. The need and the location of lines, cables, equipment, fixtures and buildings will be determined by the study. Grantee will adhere to the finding of the interconnection study.

5. Grantee will promptly repair or replace all damaged fences, gates, drains and ditches which may result from the actions of the Grantee or any Grantee Party during the installation of the Facilities on the Easement Areas. Grantee will promptly repair or replace any damage caused by Grantee or any person under Grantee's control to Easement Area 2 or property affixed or situated on Easement Area 2. In the event a permanent fence is cut for construction purposes, Grantee will provide a temporary fence which will promptly be replaced by a permanent fence in a workmanlike manner upon completion of construction. Upon completion of construction of the Facilities or subsequent maintenance, relocation, replacement, enlargement, removal or other activity permitted hereunder, Grantee will remove all debris and construction materials from the Easement Areas and backfill the surface of any excavated areas to its previous a level condition. In the event of any construction activity, the Grantee will use prophylactic measures (such as silt fences) to control potential stormwater runoff. Grantee shall be responsible for stormwater management compliance necessitated by Grantee's use of the Easement Areas and all costs.

6. Notwithstanding anything to the contrary in this Easement, in no event will Grantee assume any liability for or as the result of any environmental conditions existing within the Easement Areas as of the date hereon, including, without limitation the presence of arsenic and other heavy metals ("Existing Environmental Conditions"), provided that Grantee does not create a potential environmental threat by conducting its work in the Easement Areas. For the avoidance of doubt, the Grantee shall not be liable for any environmental threat caused by the Grantor, regardless of whether Grantor causes such environmental threat as a result of or while performing any work pursuant to Section 2.

7. Grantor and Grantee shall, at all times from and after the effective date of this Easement until the termination of this Easement, save and hold harmless and indemnify the other, its officers, partners, members, agents, contractors, employees, shareholders, tenants, trustees, personal representatives, successors and assigns (collectively, "Grantor Indemnified Parties" or "Grantee Indemnified Parties" as the context requires) from and against all direct damages, losses, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses), including, but not limited to, all claims for personal injuries and property damage, to the extent caused by the activities (on Grantor's Property), negligence or willful misconduct of such party, or its officers, partners, members, agents, contractors, employees, successors or assigns or the failure of such party to comply with all of the terms, conditions, undertakings and promises set

forth in this Easement. Subject to Section 6, Grantee shall indemnify the Grantor Indemnified Parties for all reasonable court costs, including attorneys' fees and expert fees, associated with litigation brought to stop, divert, or alter Grantee's use of this Easement; provided, that Grantor shall notify Grantee immediately in writing upon Grantor's discovery of any party's intention to stop, divert, or alter Grantee's use of this Easement.

8. This Easement and the terms, conditions and rights contained herein shall run with the land and shall be perpetual. This Easement may be recorded against Grantor's Property, and the terms and conditions contained herein shall be binding upon, inure to the benefit of and be enforceable by Grantor, Grantee and their respective successors and assigns (including, without limitation, any and all successors to Grantor in title to Grantor's Property). The rights of use described in Section 1 hereof shall extend to the Grantee Parties.

9. Whenever notice is required to be given pursuant to this Easement, the same shall be either personally delivered, sent by a nationally recognized overnight delivery service, postage prepaid, or sent via United States certified mail, return receipt requested, postage prepaid, and addressed to the parties at their respective addresses as follows:

If to Grantee: Northeast Maryland Waste Disposal Authority
Tower II, Suite 402
100 South Charles Street
Baltimore, MD 21201
Phone: 410.333.2730
Attention: Executive Director
RE: NMWDA-Howard County New Cut Landfill project

With a copy to:

Sun Edison LLC
12500 Baltimore Avenue
Beltsville, MD 20705
Phone: 443-909-7200
Attention: Vice President, Engineering & Construction
RE: NMWDA-Howard County New Cut Landfill project

AND

Sun Edison LLC
12500 Baltimore Avenue
Beltsville, MD 20705
Phone: 443-909-7200
Attention: General Counsel
RE: NMWDA-Howard County New Cut Landfill project

If to Grantor: Howard County Public School System
10910 Route 108
Ellicott City, MD 21042
Attention: Executive Director
RE: NMWDA-Howard County New Cut Landfill project

or at such other addresses as any party, by written notice in the manner specified above to the other party hereto, may designate from time to time. Unless otherwise specified to the contrary in this Easement, notice shall be deemed to have been given on the date the notice is received, if personally delivered, on the business day after the date the notice is properly sent, if sent by nationally recognized overnight delivery service, or four (4) business days after the notice is properly sent, if sent by United States certified mail.

10. If any term, provision or condition in this Easement shall, to any extent, be invalid or unenforceable, the remainder of this Easement (or the application of such term, provision or condition to persons or circumstances other than in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of this Easement shall be valid and enforceable to the fullest extent permitted by law.

11. The terms and provisions of this Easement shall be governed by and construed in accordance with the laws of the State of Maryland.

12. The rights granted pursuant to this Easement shall not terminate or be in any way impaired by reason of a change of the present uses of Grantor's Property or the present improvements or fixtures thereon.

13. The Grantee may freely assign or transfer this Easement or its rights with respect to the Easement, in whole or in part, and may collaterally assign, mortgage or otherwise encumber its interest in this Easement to any individual, entity or governmental authority (including any trustee or agent on behalf of such party) providing debt, equity or other financing to Grantee or its successors or assigns, in each case, without Grantor's consent, provided said assignment, mortgage, or encumbrance shall be subject to state law, as may be amended from time to time, concerning property rights of government land owners.

14. If the Grantor's Property is hereafter divided into two or more parts by separation of ownership or lease, each portion of such property shall be subject to the burdens of the rights, easements and restrictions created hereby.

15. Either party hereto (or their respective representatives, successors and assigns) may enforce this instrument by appropriate action and the prevailing party in such action shall be entitled to recover as part of its costs reasonable attorneys' fees and expenses.

16. The rule of strict construction does not apply to the grant of easement contained herein. Such grant shall be given a reasonable construction in order that the intention of the parties to confer a commercially useable right of enjoyment to Grantee with respect to such easement shall be effectuated. The parties acknowledge that the parties and their counsel have reviewed and revised this Easement and that the normal rule of construction to the effect that any ambiguities are

to be resolved against the drafting party shall not be employed in the interpretation of this Easement or any exhibits or amendments hereto.

17. This Easement may be executed by the parties in counterparts. Each such counterpart shall be deemed an original and all such counterparts, taken together, shall constitute one and the same agreement.

18. None of the terms and provisions of this Easement shall be deemed to create a partnership between or among the parties hereto in their respective businesses or otherwise, nor shall any terms or provisions of this Easement cause them to be considered joint venturers or members of any joint enterprise.

19. It is expressly agreed that no breach of this Easement shall entitle any party to cancel, rescind or otherwise terminate this Easement.

20. Each party agrees that it will execute and deliver such other documents and take such other action as may be reasonably requested by the other party to effectuate the purposes and intention of this Easement.

21. The failure of either party to enforce at any time any provision of this Easement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Easement or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Easement shall be held to constitute a waiver of any other or subsequent breach.

22. This Easement cannot be changed orally or by course of conduct, and no executory agreement, oral agreement or course of conduct shall be effective to waive, change, modify or discharge it in whole or in part unless the same is in writing and is signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

23. Grantor and Grantee agree and acknowledge that, except as expressly set forth herein, there are no intended third party beneficiaries of this Agreement, other than Grantee's financing parties, nor of any of the rights and privileges conferred herein.

24. Grantee shall be responsible for the cost of recording this Agreement.

(signature page follows)

IN WITNESS WHEREOF, the parties hereto have caused this Easement to be executed as of the day and year first above written.

GRANTOR

Howard County Public School System

By: _____
Name: _____
Title: _____

GRANTEE

The Northeast Maryland Waste Disposal
Authority

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss
COUNTY OF _____)

I, _____, a Notary Public in and for the County and State
aforesaid, DO HEREBY CERTIFY that _____ and _____, personally
known to me to be the _____ and _____, respectively, of
[_____], a/an [*state/type of organization*] and personally known to me to be the same
persons whose names are subscribed to the foregoing instrument, appeared before me this day in
person and acknowledged that as such _____ and _____,
they signed and delivered such instrument, as their free and voluntary act and deed, and as the free
and voluntary act and deed of such corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this ____ day of [_____], 2008.

Notary Public

My Commission Expires: _____

STATE OF _____)
) ss
COUNTY OF _____)

I, _____, a Notary Public in and for the County and State
aforesaid, DO HEREBY CERTIFY that _____ and _____,
personally known to me to be the _____ and _____ of
[_____], a/an [*state/type of organization*], and personally known to me to be the same
persons whose names are subscribed to the foregoing instrument, appeared before me this day in
person and acknowledged that as such _____ and _____, they
signed and delivered such instrument pursuant to authority given by the _____ of
such company, as their free and voluntary act and deed, and as the free and voluntary act and deed
of such company, for the uses and purposes therein set forth.

Given under my hand and official seal this ____ day of [_____], 2008.

Notary Public

My Commission Expires: _____

EXHIBIT A

GRANTOR'S PROPERTY

Worthington Elementary School
4570 Roundhill Road
Ellicott City, Maryland

EXHIBIT B

LETTER DATED MARCH 15TH 2002 ADDRESSED TO THE HOWARD COUNTY
DEPARTMENT OF PUBLIC WORKS FROM THE MARYLAND DEPARTMENT OF THE
ENVIRONMENT

[Letter Follows this introductory page.]

EVELYN
① NEW - WES
② NEW - MBE



MARYLAND DEPARTMENT OF THE ENVIRONMENT

2500 Broening Highway • Baltimore, Maryland 21224
(410) 631-3000 • 1-800-633-6101 • <http://www.mde.state.md.us>

Parris N. Glendening
Governor

March 15, 2002

Jane T. Nishida
Secretary

John J. O'Hara, Chief
Howard County Department of Public Works
Bureau of Environmental Services
6751 Columbia Gateway Drive, Ste 514
Columbia MD 21046

Re: Site Investigation
Worthington Elementary School
4570 Roundhill Road
Ellicott City, Maryland

Dear Mr. O'Hara:

The Maryland Department of the Environment's (MDE) Environmental Restoration and Redevelopment Program has completed a review of the Worthington Elementary School Site Investigation Reports dated October 2001 and February 5, 2002. The environmental investigations and human health risk assessment conducted by Roy F. Weston, Inc. on behalf of the Howard County Bureau of Environmental Services were prepared in compliance with Department guidelines. The basic assumptions, methods and conclusions presented in the risk analysis adequately identify and characterize potential risks from metals identified on the school property. Based on the Department's review of the data and risk analysis, we have determined that there are no unacceptable human health risks from exposure to chemicals (specifically metals) at the school. Therefore, exposure to soil on site does not present a risk to human health for those populations utilizing the school. In addition, the Department concurs with the conclusions stated in the February 2002 Report that metals concentrations in samples analyzed at the school are naturally occurring and within the range of anticipated typical concentrations of metals in soils for this area of the state.

Thank you for providing the Department the opportunity to review these reports. If Howard County officials and concerned citizens have any questions or comments, please do not hesitate to call me at 410-631-3437.

Sincerely,

Karl Kalbacher, P.G., Program Administrator
Environmental Restoration and Redevelopment Program

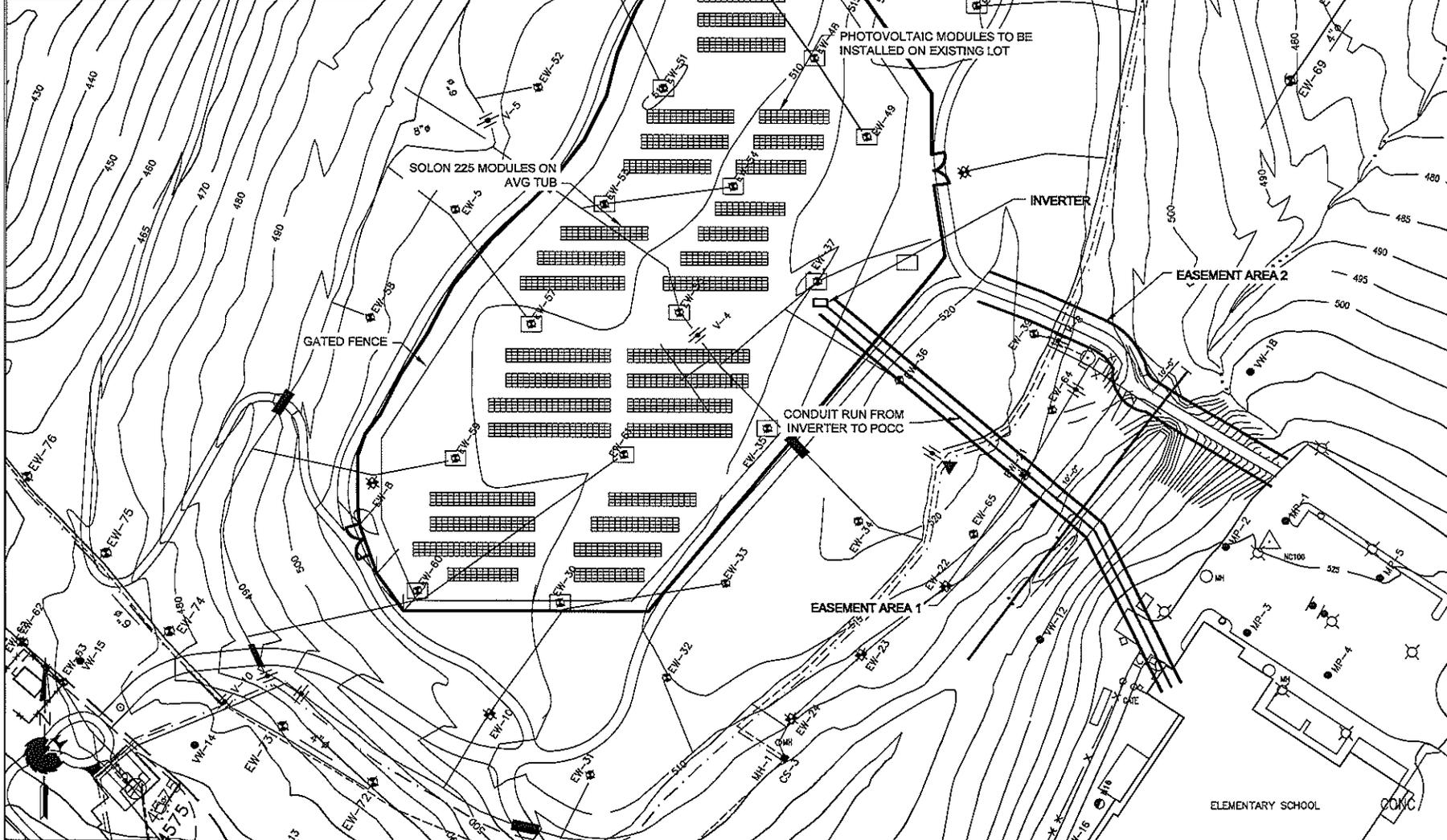
cc: The Honorable James Robcy
Councilman Christopher Merdon
Richard Collins

EXHIBIT C

EASEMENT AREA

[Drawing follows this introductory page.]

SYSTEM DESCRIPTION	
MODULE TYPE	SOLON 225
QUANTITY	2,052 MODULES TOTAL
SYSTEM SIZE (DC)	461,700 wDC
SYSTEM SIZE (AC)	375,000 wAC
TILT ANGLE	20° SOUTH
INVERTER	SATCON PVS-375
SOURCE CIRCUITS	171 STRINGS OF (12)
ORIENTATION	180°
PANEL FOOTPRINT	0.92 ACRES
SITE FOOTPRINT	6.38 ACRES



JOB NO	MD-09-0047
DATE	06/22/2010
DRAWN	JTF
REVISIONS	

SOLAR ELECTRIC SYSTEM CLIENT:
NMWDA - NEW CUT LANDFILL
8170 HILLSBOROUGH ROAD,
ELLICOTT CITY, MD 21043

12500 BALTIMORE AVENUE
 BELTSVILLE, MD 20705
 (443) 909-7200

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SHEET NO.
A.100

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PROJECT NUMBER
MD-09-0047

TITLE
SITE PLAN - 12 MODULE RBT

SCALE
 $\frac{1}{4}'' = 1'-0''$

EXHIBIT D

SCOPE OF WORK

A. General

- A. Grantor shall obtain and maintain all permits and licenses required to perform and complete its work, unless otherwise indicated.
- B. Grantee will provide the Grantor with one complete set of the Contract Requirements. The Grantor is responsible for reproduction or procurement of any additional sets required to perform the work.
- C. Grantor shall provide to Grantee all required Shop Drawings, Submittals, and all warranties required for the scope of work.
- D. Grantor shall provide Daily Work Reports during the scope of work period to the Grantee Project manager if requested for each day Grantor is working on site.
- E. Grantor shall coordinate and install all owner provided items per the Contract Requirements, as pertaining to Grantor's work, if applicable.
- F. Grantor is responsible for supplying any temporary power and additional task lighting required to perform its work.
- G. Parking is the responsibility of Grantor;
- H. Grantor shall coordinate and manage inspections by the local building department, utility field engineers, project company consultants, all as may be required, in order to obtain all final approvals.

B. Safety

- A. All of the Grantor's work shall comply with all local, State and Federal building codes, laws and regulations.
- B. Grantor shall adhere to all current safety laws including, but not limited to Local, State, and Federal OSHA regulations.
- C. Hard hats are required on this project by ALL persons, at ALL times,
- D. Grantor must keep records on site of daily and weekly safety meeting.
- E. Grantor must keep records onsite of individuals who are trained and qualified to operate equipment
- F. Grantor to have a designated site manager on site at all times while installation activities are being conducted so as to be a single point-of-contact for Grantee. Site manager will provide Grantee with a 24-hour contact person and the individual must be able to communicate in English.
- G. Grantor is responsible to provide and or install all required safety equipment, rails, protection or other devices and or equipment necessary to complete the work.

- H. Grantor is responsible for securing or necessary security to protect site access
- I. Grantor is responsible for security to protect any materials staged on the ground during non working hours.

C. Specific Scope

A. This Scope of Work includes providing all labor, material, tools, equipment and supervision to complete the installation of a 4160 volt, 800-foot-long line constructed from MV-90-rated copper wire with PVC conduit to transmit electricity from the Grantee's photovoltaic **installation at the New Cut Landfill to the Worthington Elementary School. In conducting this** scope of work, Grantor shall be responsible for only the scope of work on school property;

B. for the following;

1. Survey and site layout
2. Grantor must contact USA Utility or the appropriate company to identify all underground lines prior to digging. Any disconnections of service will be the responsibility of the Grantor.
3. Grantor is to perform all required Saw Cutting if necessary
4. Complete trenching to 24 inches below grade and associated backfilling; ensuring required compaction of backfill
5. Installing conduit
6. Any and all required surface recoating/resurfacing (asphalt, concrete, pavers, etc.) as determined by Grantor.
7. All required surface preparation as determined by Grantor.
8. All Equipment Relocation, both permanent and or temporary, necessary to allow the completion of the work.
9. Repair of any damaged work existing or new; including but not limited to asphalt paving, concrete paving, curb & gutter, or existing buildings as determined by Grantor

C. In addition the Grantor shall be responsible for the following;

1. All cranes and or lifts for offloading and material placement
2. All rigging of materials
3. Unloading, inventory, and storage of all material delivered to project site
4. All necessary protection for existing facilities,
5. Furnish all required Trash Removal and Dumpsters.
6. Maintain all areas free of waste materials, debris, and rubbish. Maintain site in a clean and orderly fashion.
7. Supply all required Rental Equipment and any required Small Tools.

D. Other Conditions

- A.** Grantee shall provide or make available to Grantor a complete set of drawings and specifications. Grantor shall supply and install all materials necessary to complete its work per the entire set of drawings and specifications.

EXHIBIT E

EXCEPTIONS TO THE EASEMENT

[To be provided at a later date.]

EXHIBIT F

EXISTING EASEMENTS, ENCUMBRANCES, AND OTHER RESTRICTIONS

[To be provided at a later date]

SCHEDULE I

ESTIMATED ANNUAL PRODUCTION

Schedule 1 – Estimated Annual Production

Year of System Term	Estimated Production (kWh)	Year of System Term	Estimated Production (kWh)
1	573,300	11	529,052
2	568,714	12	524,820
3	564,164	13	520,621
4	559,651	14	516,456
5	555,173	15	512,325
6	550,732	16	508,226
7	546,326	17	504,160
8	541,956	18	500,127
9	537,620	19	496,126
10	533,319	20	492,157

SCHEDULE II

AUTHORITY CONTRACT ADMINISTRATION FEES

The following Administrative Costs (as defined in Section 4.1 herein) are anticipated for the Authority's efforts attributable to the administration and enforcement by the Authority of its or the County's obligations under this MOU. The Authority estimates the following costs:

- Reproduction copies (not interoffice copies, but large format copies, design drawings, bound reports, pictures): \$400
- Teleconference Calls: \$400
- Expedited, Overnight or Certified Mailings: \$200

Total: \$1,000

Other Administrative Costs, **subject to County pre-approval, reasonableness, and issuance of written payment direction**, attributable to the Project may include, but are not limited to:

- reasonable accounting fees,
- reasonable legal fees,
- reasonable engineering and other professional fees, including reasonable fees of any engineer required to be retained by the Authority pursuant to the Solar Power and Services Agreement or this MOU.

These costs are unknown at this time.

With the exception of contractors and consultants that the Authority retains and pays to perform services under this MOU or any Project Agreement, the Administrative Costs shall not include: (1) the salary or fringe benefits or other compensation paid to the Authority's employees or personnel, (2) the Authority's out of pocket costs for the travel of Authority staff to the County's facilities, or (3) the costs of operating the Authority's office, such as rent, phones, internet, photocopying and other general office and overhead costs.

SCHEDULE III

SUNBURST GRANT ALLOCATION TERMS

The allocation of the SunBurst Grant payment shall be applied to a reduction of the kWh Rate for the term of the SPSA. The kWh Rate is set forth in Schedule 2 of the SPSA.

EXHIBIT B

TO

County Council Of Howard County, Maryland

2010 Legislative Session

Legislative Day No.

Bill No. ___-2010

Introduced by: The Chairperson at the request of the County Executive

AN ACT pursuant to Section 612 of the Howard County Charter, approving certain agreements for the design, permitting, construction, operation and maintenance of a certain solar photovoltaic system at the New Cut Road Landfill to provide energy to Worthington Elementary School, a management payment and possible reimbursement payment for energy from SunEdison Origination3, LLC.



June 24, 2010

The Honorable Kenneth Ulman
Howard County Executive
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043
Sent Via Certified Mail: 7009 1680 0001 3443 6031

Mr. Stephen LeGendre, Administrator
Howard County Council
George Howard Building
3430 Court House Drive
Ellicott City, MD 21043
Sent Via Certified Mail: 7009 1680 0001 3443 6048

Dear County Executive Ulman and Mr. LeGendre:

The Department of Public Works (the "Department") of the Howard County (the "County"), in the interest of supporting the County's Renewable Energy Policy and saving money for the rate payers in the County, tasked the Northeast Maryland Waste Disposal Authority (the "Authority") with procuring a ground mounted solar energy production system to be installed on the closed New Cut Road Landfill in the County. The Authority issued a Request for Proposals for a solar energy system to be installed on the Landfill (4361 New Cut Road, Ellicott City, Maryland 21043). The solar energy system may consist of the addition of solar panels, conduit runs, invertors, meters and interconnections at the Landfill. The solar system is designed to produce a significant amount of energy at the Landfill for use at the neighboring Worthington Elementary School.

Prior to the acquisition, construction, leasing or installation of a project or the material extension of an existing project of the Authority, the Authority must notify the chief executive officer of the county in which such project is to be located and the secretary or clerk of the legislative body of such county of its intention to undertake such project or extension of a project. Md.Code Ann. Nat'l Res. Art §3-920.

This letter constitutes the notice of the intention of the Authority to undertake a project, or the extension of a project, described in Section 3-920, a copy of which is attached hereto for your information.

Tower II - Suite 402, 100 S. Charles Street • Baltimore, MD 21201-2705 • (410) 333-2730, Fax (410) 333-2721
Website: www.nmwda.org / E-mail: authority@nmwda.org / Business-to-Business Recycling Website: www.mdrecycles.org

Comprehensive Waste Management Through Recycling, Reuse, Resource Recovery and Landfill

MEMBERS: Ronald E. Bowen, Anne Arundel County / David E. Scott, Baltimore City / Edward C. Adams, Baltimore County
J. Michael Evans, Carroll County / Michael G. Marschner, Frederick County / Robert B. Cooper, Harford County / James M. Irvin, Howard County
Daniel E. Locke, Montgomery County / James M. Harkins, Maryland Environmental Service / Robin B. Davidov, Executive Director

The Honorable Kenneth Ulman
Mr. Stephen LeGendre
June 24, 2010
Page 2

We have enjoyed a productive working relationship with you, the County Council and your respective staff in the past and look forward to working with you on this solar project. If you have any questions regarding this letter, please contact Mark Deluca, Deputy Director of the Department of Public Works at 410.313.4414, or give me a call.

Very truly yours,



Robin B. Davidov
Executive Director

Enclosure

HWG10309KLU.DOC