## SECOND FIVE-YEAR REVIEW REPORT FOR SANFORD GASIFICATION PLANT SUPERFUND ALTERNATIVE APPROACH SITE SEMINOLE COUNTY, FLORIDA



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Prepared by

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# **Table of Contents** LIST OF ABBREVIATIONS AND ACRONYMS ......iii I. INTRODUCTION...... Site Background 1 Response Actions......4 Status of Implementation 8 Data Review 14 QUESTION B: Are the exposure assumptions, toxicity data, cleanup levels and RAOs used at the QUESTION C: Has any other information come to light that could call into question the APPENDIX B – CURRENT SITE STATUS......B-1 APPENDIX E – PRESS NOTICE ......E-1 APPENDIX F – INTERVIEW FORMS.....F-1 APPENDIX G – SITE INSPECTION CHECKLIST ......G-1 APPENDIX H – SITE INSPECTION PHOTOS......1 APPENDIX I – DATA TABLE ...... 1 APPENDIX J – DETAILED ARARS REVIEW TABLES ...... 1 APPENDIX K - SCREENING-LEVEL RISK REVIEW......1 APPENDIX L – INSTITUTIONAL CONTROLS...... 1 **Tables**

Table 6: Protectiveness Determinations/Statements from the 2014 FYR Report	13
Table 7: Status of Recommendation from the 2014 FYR Report	13
Table C-1: Site Chronology	
Table I-1: Summary of Monitoring Wells with GCTL Exceedances	I-1
Table J-1: Groundwater Cleanup Goal Comparison	J-1
Table K-1: Residential Screening-Level Risk Assessment for Surface Soil	K-2
Table K-2: Residential Screening-Level Risk Assessment for Subsurface Soil	K-2
Table K-3: Tapwater Screening-Level Risk Assessment for Naphthalene in Groundwater	K-3
Table K-4: Tapwater Screening-Level Risk Assessment for Total Xylenes in Groundwater	
Figures	
Figure 1: Site Vicinity Map	3
Figure 2: Institutional Control Map	11
Figure 3: Benzene in wells in MNA Area 4 (µg/L)	15
Figure 4: Naphthalene in wells in MNA Area 4 (µg/L)	
Figure 5: Detailed Site Map	1.4
Figure D-1: Monitoring Well NetworkFigure D-2: Expanded View of Well Locations in MNA Area 4	10

#### LIST OF ABBREVIATIONS AND ACRONYMS

ARAR Applicable or Relevant and Appropriate Requirement

BRA Baseline Risk Assessment

CERCLA Comprehensive Environmental Response, Compensation, and Liability Act

CFR Code of Federal Regulations

CIC Community Involvement Coordinator

COC Contaminant of Concern

EPA United States Environmental Protection Agency FDEP Florida Department of Environmental Protection

FPUC Florida Public Utilities Company

FS Feasibility Study FYR Five-Year Review

GCTL Groundwater Cleanup Target Level GUAZ Groundwater Use Advisory Zone

HI Hazard Index НО **Hazard Ouotient Institutional Control** IC Micrograms per Liter μg/L Milligrams per Kilogram mg/kg **MCL** Maximum Contaminant Level Monitored Natural Attenuation **MNA** NCP National Contingency Plan **NPL** National Priorities List O&M Operation and Maintenance

OU Operable Unit

PAH Polycyclic Aromatic Hydrocarbon PRP Potentially Responsible Party RAO Remedial Action Objective

RCRA Resource Conservation and Recovery Act

RGO Remedial Goal Objectives
RI Remedial Investigation
ROD Record of Decision

RPM Remedial Project Manager RSL Regional Screening Level

SAA Superfund Alternative Approach
SVOC Semi-Volatile Organic Compounds
UU/UE Unlimited Use/Unrestricted Exposure

VOC Volatile Organic Compound

#### I. INTRODUCTION

The purpose of a five-year review (FYR) is to evaluate the implementation and performance of a remedy to determine if the remedy is and will continue to be protective of human health and the environment. The methods, findings and conclusions of reviews are documented in FYR reports such as this one. In addition, FYR reports identify issues found during the review, if any, and document recommendations to address them.

The U.S. Environmental Protection Agency is preparing this FYR pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 121, consistent with the National Contingency Plan (NCP) (40 Code of Federal Regulations (CFR) Section 300.430(f)(4)(ii)), and considering EPA policy.

This is the second FYR for the Sanford Gasification Plant Superfund Alternative Approach (SAA) site (the Site). The triggering action for this statutory review is the completion date of the previous FYR. The FYR has been prepared because hazardous substances, pollutants or contaminants remain at the Site above levels that allow for unlimited use and unrestricted exposure (UU/UE). The Site consists of three operable units (OUs), which are addressed in this FYR Report. OU1 addresses soil. OU2 addresses groundwater. OU3 addresses sediment contamination.

The EPA remedial project manager (RPM) Shelby Johnston led the FYR. Participants included Kim Jones (EPA attorney), Kyle Bryant (EPA community involvement coordinator (CIC)), Kevin Koporec (EPA risk assessor), Bill Osteen (EPA hydrogeologist), Roger Sussko (Florida Department of Environmental Protection (FDEP)) and Kirby Webster from Skeo (EPA FYR support contractor). The Sanford Gasification Site potentially responsible party (PRP) Group (comprised of Atlanta Gas Light Company; city of Sanford, Florida; Florida Power Corporation; Florida Power and Light Company; and Florida Public Utilities Company) was notified of the initiation of the FYR. The review began on 7/17/2019.

#### Site Background

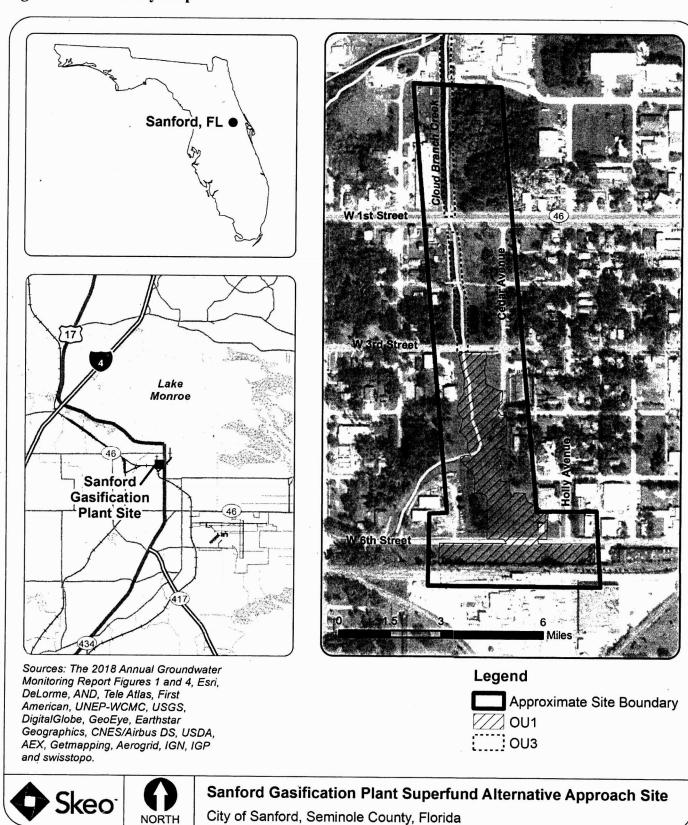
The Site is located 25 miles northeast of Orlando in Sanford, Seminole County, Florida (Figure 1). From the 1880s to about 1951, manufacturing of water gas and carbureted water gas took place at the Site. These operations included carbonization or destructive distillation of bituminous coal and coke. Operations generated waste, including tars and condensates. Waste handling practices resulted in the contamination of soil, groundwater and sediment. The Site includes the former Sanford Gas Plant facility south of 6th Street, several properties affected by the Site, and an unnamed tributary that intermittently flows to Cloud Branch Creek and northward to Lake Monroe (Figure 1). Most structures from the former Sanford Gasification Plant were removed prior to 1962. The Florida Public Utilities Company (FPUC) currently owns most of the Site. Potential future uses of the Site include commercial and mixed commercial-residential redevelopment. In 2016, a prospective purchaser acquired the parcel at 6th Street and Holly Avenue that includes the building on site. As of November 2018, commercial development plans for the parcel located immediately south of 1st Street have been discussed and development is in the permitting phase which includes light grading and an irrigation line which will be located outside of the remedy area. FDEP has been in contact with the developer to assure development is completed in accordance with the Declaration of Restrictive Covenant.

Surface water at the Site flows northward into Cloud Branch Creek, which then flows into Lake Monroe. Groundwater generally flows north toward Lake Monroe. Residences and commercial businesses border the Site. Groundwater in the area is not used as a drinking water source and no surficial aquifer system drinking water wells have been documented within 4 miles of the Site. The Floridan aquifer is the principal source of potable water in the Sanford area. The city of Sanford Utility Department provides potable water obtained from wells upgradient from the Site. Appendix A provides a list of additional site-related information resources. Appendix B provides site status information. Appendix C provides the Site's chronology of events.

# **FIVE-YEAR REVIEW SUMMARY FORM**

	SI	TE IDENTIFICATION
Site Name: Sanford	Gasification Plant	
<b>EPA ID:</b> FLD9841	69193	. :
Region: 4	State: FL	City/County: Sanford/Seminole
		SITE STATUS
NPL Status: Non-N	NPL .	
Multiple OUs? Yes	H Ye	as the Site achieved construction completion? es
		REVIEW STATUS
Lead agency: The	EPA	
Author name: Shel	by Johnston, EPA	
Author affiliation:	EPA with support fi	rom Skeo
Review period: 7/1	7/2019 - 12/10/2019	
Date of site inspect	ion: 8/13/2019	
Type of review: Sta	itutory	
Review number: 2		
Triggering action o	late: 12/10/2014	
Due date (five year.	s after triggering ac	tion date): 12/10/2019

Figure 1: Site Vicinity Map



Disclaimer: This map and any boundary lines within the map are approximate and subject to change. The map is not a survey. The map is for informational purposes only regarding the EPA's response actions at the Site.

**NORTH** 

#### II. RESPONSE ACTION SUMMARY

#### **Basis for Taking Action**

FDEP performed a preliminary site assessment in April 1990 and a site screening investigation in late 1990. The investigation concluded that the Site's soil and groundwater contamination with polycyclic aromatic hydrocarbons (PAHs), metals, and total recoverable petroleum hydrocarbons was attributable to coal tar and tar sludge from the former tar well. Several subsequent investigations by the Site's PRP Group confirmed contamination of soil, sediment and groundwater.

The EPA completed an expanded site investigation in 1997 to determine if the Site should be proposed for listing on the Superfund program's National Priorities List (NPL). Although the Site was not listed on the NPL, it is an NPL-caliber site. The Site is being addressed through the EPA's SAA, using the same process and standards for investigation and cleanup as NPL sites. In 2000, the PRP Group conducted a remedial investigation (RI) and feasibility study (FS) with the EPA's oversight.

No contaminants of concern (COCs) were identified for surface water. In January 2000, the PRP Group submitted the final baseline risk assessment (BRA). The BRA concluded that the OU3 sediments and surface water in Cloud Branch Creek did not present an unacceptable risk to human health and it identified unacceptable human health risks for exposure to surface soil and hypothetical consumption of groundwater. Table 1 provides a list of site COCs, by media.

Table 1: COCs, by Media

COC	Media
Antimony, arsenic, benzo(a)anthracene, benzo(a)pyrene, benzo(b and/or k)fluoranthene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, dibenzofuran, fluoranthene, fluorene, indeno(1,2,3-c,d)pyrene, iron, methylnaphthalene, 2-, naphthalene, phenanthrene, pyrene	Surface Soil (upper 2 feet)
Arsenic, benzo(a)anthracene, benzo(a)pyrene, benzo(b and/or k)fluoranthene, indeno(1,2,3-c,d)pyrene, iron, lead, benzene, naphthalene, ethylbenzene, total xylenes	Subsurface Soil
Benzene, naphthalene, ethylbenzene	Groundwater
Lead and PAHs (ecological risk)	Sediment
Source: 2000 OU1 Record of Decision (ROD), Tables 6, 7, 8 and 9; 2001 OU2 ROD, 7 page 21	Table 2; 2006 OU3 ROD, pdf

#### **Response Actions**

The EPA designated three OUs to address the Site's soil (OU1), groundwater (OU2) and sediment (OU3) contamination.

#### OUI (Soil)

The EPA selected the OU1 remedy for soil contamination in the Site's 2000 Record of Decision (ROD) and the 2006 ROD Amendment to solidify and stabilize the deepest soil contamination and dig up shallower soil and dispose of it at an off-site landfill. OU1 remedial action objectives (RAOs) include:

• Reduce the potential for direct exposure to COCs in surface soils at concentrations above a cancer risk of 1 x 10<sup>-6</sup> and a hazard index (HI) of 1.0, based on an unrestricted residential exposure scenario; and

• Reduce the potential for migration of COCs in OU1 soils to groundwater, surface water and sediment at concentrations that would exceed remedial goal objectives (RGOs) and applicable or relevant and appropriate requirements (ARARs) for these media.

#### The OU1 remedy consists of:

- Removal of the upper 2 feet of soil to risk-based levels and off-site disposal in a Resource Conservation and Recovery Act (RCRA) Subtitle D landfill;
- Treatment of subsurface soils impacting groundwater using in-situ stabilization/solidification, which included the injection of a treatment reagent (i.e., Portland Cement) into the subsurface soil while the soil is mixed in situ using appropriate heavy construction equipment (i.e., a large diameter auger) at an anticipated depth of 2 feet to approximately 30 feet below land surface;
- Removal of comparatively shallower soil to account for bulking and accommodate the in-situ stabilization/solidification process and off-site disposal in a RCRA Subtitle D landfill;
- A bench and pilot test, which involved mixing a variety of reagents at varying concentrations and depths with site-area soil types to select the optimal reagent and injection rate;
- Chemical oxidation to address those perimeter areas that fall under certain non-aqueous phase liquid characteristics<sup>1</sup>; and
- Institutional controls (ICs) to reduce the risk of potential exposures. Some of the ICs that will be implemented include, but are not limited to:
  - No well shall be installed without the EPA and FDEP written approval and no groundwater shall be used for any other purpose other than monitoring for contamination purposes.
  - o No excavation shall occur in any of the treated areas without written approval from the EPA and FDEP.
  - o Provide permanent access to subject property to the EPA and FDEP and their agents and/or representatives.

Table 2 shows surface soil remedial goals identified in the 2000 OU1 ROD. The surface soil cleanup is driven by benzo(a)pyrene. Surface soil is defined as the first 2 feet of soil both on and off site. Benzo(a)pyrene is the most widely spread contaminant across the Site and it delineates the outer boundary of the surface soil cleanup area. Confirmatory samples will be collected for the other COCs.

Table 2: OU1 Surface Soil Remedial Goals

COC	Surface Soil Remedial Goal (mg/kg)	Basis -
Antimony	26	HI = 1
Arsenic	2.1	HI = 1
Benzo(a)anthracene	1.4	I x 10-6
Benzo(a)pyrene	0.14	1 x 10 <sup>-6</sup>
Benzo(b and/or k)fluoranthene	1.4	1 x 10-6
Benzo(b)fluoranthene	1.4	1 x 10 <sup>-6</sup>
Benzo(k)fluoranthene	14	1 x 10 <sup>-6</sup>

<sup>&</sup>lt;sup>1</sup> While chemical oxidation was a remedy component included in the ROD, it was not implemented at the Site. This area was solidified instead.

СОС	Surface Soil Remedial Goal (mg/kg)	Basis	
Chrysene	143	1 x 10 <sup>-6</sup>	
Dibenzo(a,h)anthracene	0.14	1 x 10 <sup>-6</sup>	
Dibenzofuran	300	HI = 1	
Fluoranthene	3,000	HI = 1	
Fluorene	3,000	HI = 1	
Indeno(1,2,3-c,d)pyrene	1.4	1 x 10 <sup>-6</sup>	
Iron	23,000	HI = 1	
Methylnaphthalene, 2-	200	HI = 1	
Naphthalene	3	Protection of groundwater	
Phenanthrene	1,500	HI = 1	
Pyrene	15,000	HI = 1	
Notes: mg/kg = milligrams per kilog Source: 2000 ROD, Table 21	ram and 2006 ROD Amendment, Table	14.	

Table 3 shows subsurface soil remedial goals.

Table 3: OU1 Subsurface Soil Remedial Goals

COC	Subsurface Soil Remedial Goal <sup>a</sup> (mg/kg)
Benzene	0.05
Naphthalene	3
Ethylbenzene	12
Total xylenes	43

a. Soil remedial goals for groundwater protection.

mg/kg = milligrams per kilogram

Source: 2000 ROD, Table 21 and 2006 ROD Amendment, Table 14.

#### OU2 (Groundwater)

The EPA selected the OU2 remedy for groundwater in the 2001 ROD. The OU2 RAO is to reduce the COCs in groundwater to ARARs or health-based levels where ARARs are not available. The OU2 remedy consists of:

- Monitored natural attenuation (MNA) through 22 sampling events during the 33 years estimated for the remedy to achieve RAOs;
- Institutional controls, including the formation of a Groundwater Use Advisory Zone (GUAZ), which would include properties that may be affected by the shallow groundwater impacts at the Site. Property owners within the GUAZ will be notified by the EPA, in writing, of the potential risk associated with exposure to contaminated groundwater. The notification will include a map showing the location of contaminated groundwater plume and will advise them not to install groundwater wells near the plume. Annual cleanup updates will be sent to property owners within the GUAZ informing them of groundwater plume conditions and reminding them of the groundwater advisory; and

• The effectiveness of the remedy will be evaluated by the EPA during the FYR evaluation conducted after a remedy has been implemented. The evaluation of the remedy should determine if natural attenuation is occurring according to expectations. Monitoring frequencies may be adjusted depending on the progress of the natural attenuation remedy. Monitoring should continue until remediation goals are achieved. If a review of the effectiveness of the remedy indicates that it is not effective in remediating either the groundwater or preventing further significant expansion of groundwater contamination, the remedy could potentially be modified to include an active remedial measure.

Table 4 shows groundwater cleanup goals. No groundwater cleanup goal was calculated for total xylenes because its maximum contaminant level (MCL) value was greater than the maximum value found in sample results.

**Table 4: Groundwater COC Cleanup Goals** 

Groundwater COC	OU2 ROD Cleanup Goal (μg/L)	Bašis
Benzene	<u> </u>	Florida MCL
Naphthalene	100	Risk-based
Ethylbenzene	700	Federal MCL
Notes: μg/L = micrograms per liter Source: 2001 OU2 ROD, Table 7.		

#### OU3 (Sediment)

The EPA selected the OU3 remedy for sediment in the 2006 ROD. The ROD states that the OU3 RAOs include:

- Address sediments with elevated PAH and lead concentrations (i.e., reduce potential exposure to
  ecological receptors) in a manner consistent with the risk management objectives in the
  remediation areas including surficial Cloud Branch Creek sediments north of OU1 to the
  confluence with Mill Creek;
- Maintain consistency with city of Sanford, St. John's River Water Management District, and state of Florida long-term requirements for surface water drainage capacity in the remediation area; and
- Establish appropriate controls to address potential human exposure from reasonably anticipated future disturbances within the remediation area.

#### The OU3 remedy consists of:

- Removal of surficial sediments (a minimum of 2 feet) in Cloud Branch Creek;
- Installation of a culvert, backfilling and backfill cover;
- Long-term monitoring, including site inspections under storm events, to confirm the integrity of the remedy. Site inspections will be conducted quarterly for the first year, annually for the next four years, and once every five years thereafter for a total period of 20 years after closure; and
- Implementation of institutional controls to further ensure the integrity of the cover and mitigate the potential for human and environmental exposures to the remaining subsurface PAHs and lead. The actual institutional controls will be determined in consultation with the EPA and FDEP.

#### Status of Implementation

#### OU1

The PRP Group began the OU1 remedial design in May 2002. Remedial action activities began in September 2009. The PRP Group completed remedial action activities in September 2012. Remedial action activities included removal and off-site disposal of 26,934 tons of surface soil above direct contact standards and in-situ stabilization of 143,531 cubic yards of subsurface soils from depths of about 20 to 30 feet below ground surface. As part of the in-situ stabilization operations, a portion of Cloud Branch Creek was realigned and replaced with a reinforced concrete box culvert from near the 5th Street right-of-way to 3rd Street (Figure D-3). Stormwater management facilities including new storm sewers, surface water drainage swales and permanent wet stormwater attenuation ponds were constructed to convey stormwater to the box culvert system.

Following completion of in-situ stabilization, an evapotranspiration soil cover was constructed above the in-situ stabilization material within the in-situ stabilization treatment limits. The soil cover consists of 2 feet of clean fill including 6 inches of topsoil, 1 foot of fine-grained material (minimally compacted) and 6 inches of coarse-grained material. Groundwater modeling suggested that groundwater flowing from the east that historically discharged to Cloud Branch Creek could be impeded by the monolith, resulting in surface saturation or flooding. A groundwater relief drainage system including two relief drains was designed to alleviate the potential buildup of water. The drains are located along the southeastern edge of the monolith connected to the west stormwater attenuation pond via a storm sewer inlet beneath 6th Street and along the eastern edge of the monolith near the east stormwater attenuation pond. Both drains are connected to the stormwater system.

#### OU<sub>2</sub>

The PRP Group began the OU2 remedial design in September 2007 and completed the remedial design and began remedial action activities in September 2009. Remedial action activities included preliminary groundwater screening and installation of the groundwater monitoring network. The groundwater screening investigation took place in February 2011. A total of 18 sample locations were investigated; 12 locations around the OU1 in-situ stabilization area and six locations around the lower reaches of Cloud Branch Creek in OU3. The PRP Group installed the groundwater monitoring network in October 2011, including 27 monitoring wells in the northern and southern areas of OU2. Four MNA areas were established to monitor MNA progress (Figure D-2). In 2016, additional wells (TW-1 through 6 and MW-114) were installed to better assess MNA at MW-106R in MNA Area 4.

#### OU3

The PRP Group began the OU3 remedial design in September 2007 and completed the remedial design and began remedial action activities in September 2009. The PRP Group completed remedial action activities in September 2012. Remedial action activities included removal of 11,003 cubic yards of Cloud Branch Creek sediments to a minimum depth of 2 feet and restoration of Cloud Branch Creek with installation of a reinforced concrete box culvert or reconstruction of an open channel with a riprap engineered barrier. Remediation was separated into OU3 South and OU3 North. OU3 South restoration included new reinforced concrete box culverts constructed to convey Cloud Branch Creek beneath 3rd Street at the 2nd Street right-of-way and at 1st Street including transition into the existing box culvert beneath 1st Street. The sections of Cloud Branch Creek between the box culverts were reconstructed as open channel with an engineered barrier. OU3 North restoration included reconstruction of Cloud Branch Creek as an open channel between 1st Street and the confluence of Cloud Branch Creek and Mill Creek.

#### Institutional Control (IC) Review

In 2012, the PRP Group initiated the institutional control process. All restrictive covenants have been put in place to formalize these restrictions (Table 6, Appendix L). Current restrictive covenants limit groundwater access and withdrawal and groundwater well installation within the contaminant plume. They also prevent the modification of existing monitoring wells, disturbance of the soil stabilization area, and disturbance of the sediment remedy (Figure 2, Table 5).

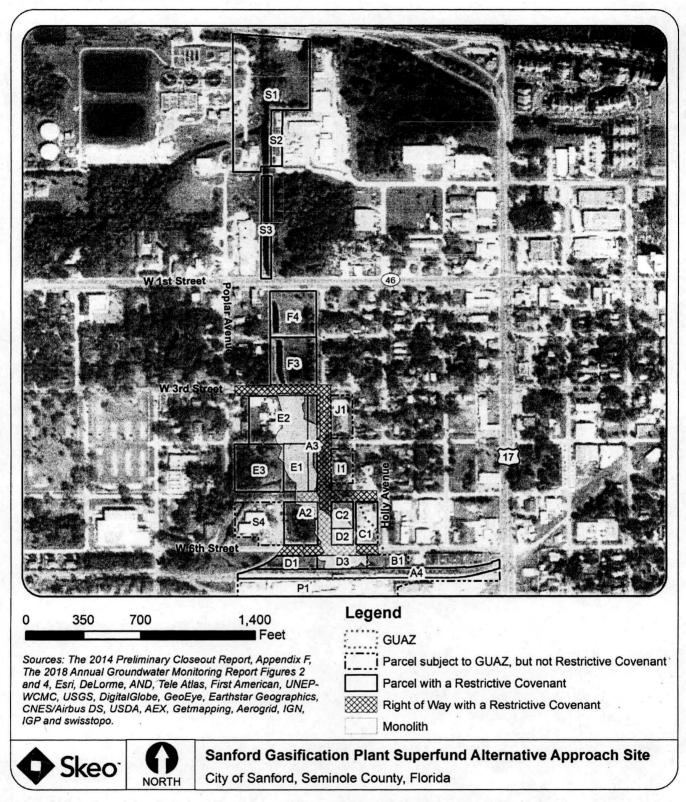
In addition, OU2 institutional controls include a GUAZ, which was established in 2012. It includes properties that might be affected by the shallow groundwater impacts at the Site. Property owners within the GUAZ are notified annually by the EPA of the potential risk. Notices were sent in February 2017, August 2018, and April 2019.

Table 5: Summary of Implemented Institutional Controls (ICs)

Media, Engineered Controls, and Areas That Do Not Support UU/UE Based on Current Conditions	ICs Needed	ICs Called for in the Decision Documents	Impacted Parcel(s)	IC Objective	Declaration of Restrictive Covenants Implemented and Date
Groundwater Soil Sediment	Yes	Yes	2519305AG07120010 (A2) 251930300028C0000 (A3) 25193030002700000 (A4) 2519305AG07110010 (C1) 2519305AG07110060 (C2) 2519305AG08120010 (D1) 2519305AG08110020 (D3) 2519305AG08120010 (E2) 2519305AG0612001A (E1) 2519305AG06120030 (E3) 2519305AG06120030 (F3) 2519305AG03120010 (F4) 25193030001800000 (S1) 251930300018A0000 (S2) 2519305140000012A (S3)	Restrict installation of groundwater wells.  Restrict activities that would affect remedy performance.	Instrument Number 2017074909; Book 8958; Pages 1397-1411 July 2017 Instrument Number 2014009341; Book 8200; Pages 916-945 January 2014 Instrument Number 2017074906; Book 8958; Pages 1344-1362 July 2017 Instrument Number 2017074910; Book 8958; Pages 1412-1459 June 2017 Instrument Number 2017074911; Book 8958; Pages 1460-1502 July 2017 Instrument Number 2017074901; Book 8958; Pages 1460-1502 July 2017 Instrument Number 2017074908; Book 8958; Pages 1379-1396 July 2017

			Right of way along 6th Street, Cedar Avenue and 5th Street		Instrument Number 2017074907; Book 8958; Pages 1363-1378 July 2017
Groundwater	Yes	Yes	2519305AG07120010 (A2) 251930300028C0000 (A3) 25193030002700000 (A4) 2519305AG08110010 (B1) 2519305AG07110010 (C1) 2519305AG07110060 (C2) 2519305AG08120010 (D1) 2519305AG08110020 (D3) 2519305AG08120010 (E1) 2519305AG0612001A (E1) 2519305AG06120030 (E3) 2519305AG06120000 (F3) 2519305AG06110060 (I1) 2519305AG05110060 (J1) 2519305AG07120020 (S4)	Restrict use of groundwater	GUAZ

Figure 2: Institutional Control Map



Disclaimer: This map and any boundary lines within the map are approximate and subject to change. The map is not a survey. The map is for informational purposes only regarding the EPA's response actions at the Site.

## Systems Operations/Operation and Maintenance (O&M)

The 2018 Annual Monitoring Report indicates that groundwater sampling activities are conducted in accordance with the *Groundwater Monitoring Plan Revision 1*, Quality Assurance Project Plan-Revision 1 and approved modifications provided in the May 1, 2017 Five Year Review and 2016 Annual Report and the April 27, 2018 2017 Annual Groundwater Monitoring Report. These modifications could be updated in a comprehensive monitoring plan. O&M appears to be occurring appropriately on the Site.

#### O&M objectives include:

- OU1
  - o Maintain the integrity of the evapotranspiration cover to prevent ponding of surface water on top of the in-situ stabilization monolith and/or erosion that could potentially expose in-situ stabilization treated material;
  - Maintain acceptable operation of the stormwater conveyance system that includes stormwater inlets and discharges, and the 7-foot by 7-foot box culvert system to minimize the potential for flooding;
  - o Maintain operation of the groundwater relief drain to minimize the potential for groundwater mounding and flooding; and
  - o Maintain the integrity of the access control consisting of perimeter fencing around the attenuation ponds.
- •. OU2
  - Prevent damage to the monitoring well concrete pads and well covers during routine O&M activities.
- OU3<sup>-</sup>
  - o Maintain the integrity of the engineered barrier to prevent erosion and loss of sediment to the creek;
  - o Maintain adequate vegetation along the top of the creek banks to minimize the potential for erosion of the engineered barrier;
  - o Maintain acceptable operation of the stormwater conveyance system that includes stormwater inlets and discharges, the 11-foot by 7-foot box culvert system and culvert beneath 1st Street to minimize the potential for flooding; and
  - o Maintain the integrity of the access control consisting of perimeter fencing around the compensating flood storage pond.

#### Groundwater sampling is being conducted as follows:

- Annual sampling for volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOCs);
- Metals are sampled every three years, as of 2017. They will be sampled again in 2020;
- MNA geochemical and field analytical parameters are sampled every three years, as of 2017; The next scheduled sampling event is in 2020; and
- MW-103 will be sampled for VOCs in 2020.

Decision documents for the Site estimated O&M costs for OU1, OU2 and OU3 to be about \$50,000 per year. From 2015 to 2019, approximate annual O& M costs were \$80,000. The costs for 2018 and 2019 were about \$40,000 per year due to the reduction of the monitoring frequency and analysis after 2017. Costs in 2016 were higher than normal because of the additional work conducted related to MNA Area 4. The City of Sanford conducts regular mowing and maintenance that is not captured in these estimates.

#### III. PROGRESS SINCE THE PREVIOUS REVIEW

This section includes the protectiveness determinations and statements from the previous FYR Report as well as the recommendation from the previous FYR Report and the status of that recommendation.

Table 6: Protectiveness Determinations/Statements from the 2014 FYR Report

OU#	Protectiveness Determination	Protectiveness Statement
1	Short-term Protective	The OU1 remedy currently protects human health and the environment in the short-term because contaminated surface soils were either removed and replaced with clean fill or the exposure to contaminated soil is now prevented by cover material. However, in order for the remedy to be protective in the long term, institutional controls need to be implemented to prohibit activities that could affect the protectiveness of the remedy.
2	Protective	The OU2 remedy currently protects human health and the environment because exposure to contaminated groundwater is prevented by institutional controls.
3	Short-term Protective	The OU3 remedy currently protects human health and the environment in the short-term because contaminated sediments have been removed. However, in order for the remedy to be protective in the long term, institutional controls need to be implemented to prohibit activities that could affect the protectiveness of the remedy.

Table 7: Status of Recommendation from the 2014 FYR Report

OU#	Issue	Recommendations	Current Status	Current Implementation Status Description	Completion Date (if applicable)
OU I and OU 3	Institutional controls are not implemented.	Implement institutional controls at impacted properties.	Completed	Institutional controls have been put in place for all impacted properties.	7/25/2017

#### IV. FIVE-YEAR REVIEW PROCESS

#### Community Notification, Community Involvement and Site Interviews

A public notice was made available in the *Orlando Sentinel*, on 10/29/2019 (Appendix E). It stated that the FYR was underway and invited the public to submit any comments to the EPA. The results of the review and the report will be made available at the Site's information repository, North Branch Library, located at 150 North Palmetto Avenue, Sanford, Florida 32771.

During the FYR process, interviews were conducted to document any perceived problems or successes with the remedy that has been implemented to date. The interviews are summarized below and included in Appendix F.

Tim Silar, PRP Group contractor Silar Services Inc., said that the remedy is performing well. Groundwater concentrations detected in MNA Area 4 are likely due to the adjacent historic site or an area not treated during the initial remedy. He said the city of Sanford has been doing an excellent job maintaining the Site. Reuse of a portion of the Site is in the permitting phase. The reduction in the

sampling program from the 2017 to 2018 sampling requirements has resulted in an annual cost savings of about \$30,000. Mr. Silar did not note any unexpected difficulties. He did not provide any additional comments, suggestions or recommendations regarding O&M activities and schedules.

Tomey Tuttle, Florida Power and Light, expressed that the final remedy has performed well and the City of Sanford has done a good job maintaining the site. There has been little interest by the community since the remedial work was completed. Additional monitoring points were installed in 2016 in MNA Area 4 and concentration trends are being monitored. Communication between the PRP Group and the EPA has been effective. He did not provide any comments, suggestions or recommendations regarding the management or operation of the Site's remedy.

Two nearby residents were interviewed at the time of the site inspection. Neither of them knew about the cleanup activities that had occurred on site. Neither reported any issues with the Site. Both expressed interest in learning more about activities at the Site through a mailer.

#### **Data Review**

The primary objectives for the groundwater monitoring program, as described in the groundwater monitoring reports, include:

- Assess groundwater quality with respect to meeting OU2 remedial goals and FDEP groundwater cleanup target levels (GCTLs);
- Delineate the extent of exceedances, if any, to the OU2 remedial goals and GCTLs;
- Assess and demonstrate the effectiveness of MNA at those locations where exceedances are identified. Evaluate the presence or absence of presumed manufactured gas plant residuals in groundwater identified during previous monitoring; and
- Monitor long-term groundwater quality in the in-situ stabilization treatment area.

Groundwater sampling is conducted at 25 wells annually (Figure D-2). The 2001 OU2 ROD identified benzene, naphthalene and ethylbenzene as groundwater COCs. Concentrations of ethylbenzene have not exceeded the 2001 cleanup goal during this review period, therefore ethylbenzene has met its remedial goal. Benzene and naphthalene have not yet met remedial goals and are discussed in more detail below.

GCTLs have been determined to not be ARARs because the ROD predates the promulgation of the GCTLs. Table 5 in the 2018 Groundwater Monitoring Report includes a summary of monitoring wells with exceedances of GCTLs since 2012 (Table I-1) to satisfy state requirements for MNA. GCTLs are more stringent than or equal to ROD cleanup goals for the three groundwater COCs (benzene, naphthalene and ethylbenzene). There were no exceedances of ethylbenzene during this FYR period. Sporadic exceedances of GCTLs occurred in 13 wells across the Site during this review period (shown in Figure 5). Contaminants that exceeded GCTLs during this FYR period are acenaphthene, antimony, arsenic, benzene, benzo(a)anthracene, benzo(b)fluoranthene, beryllium, isopropylbenzene, 1-methylnaphthalene, 2-methylnaphthalene, naphthalene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene and vanadium.

Four MNA areas have been established to monitor MNA progress. Generally, results during this FYR period suggest that most MNA areas are meeting remedial goals or are on track to meet goals, except for MNA Area 4 (Figure D-2), which is within the GUAZ. In 2016, additional wells were installed (TW-1 through TW-6 and MW-114) to better assess MNA at MW-106R, in MNA Area 4. Benzene and naphthalene consistently exceeded GCTLs in MNA Area 4. Figures 3 and 4 show benzene and

naphthalene concentrations in wells in MNA Area 4 during this review period. Estimated values were used at the value stated and non-detections were set to the detection limit. There are no clear trends in the data. The 2018 monitoring data from wells TW-05 and TW-06 showed exceedances of benzene and naphthalene. Previous data were non-detect for these contaminants in these wells. This area should continue to be closely monitored to determine if additional action is needed to meet remedial goals.

Groundwater monitoring wells are strategically located around the perimeter of the in-situ stabilization treatment area, and downgradient of the area. Monitoring during this FYR period indicates the in-situ stabilization treatment area continues to function as intended.

Figure 3: Benzene in wells in MNA Area 4 (µg/L)

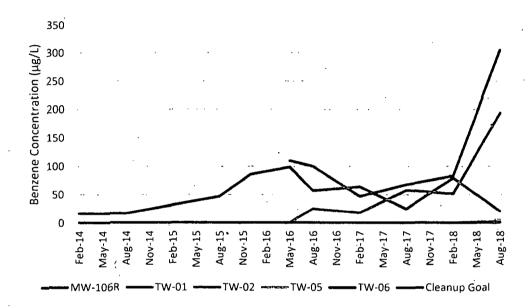


Figure 4: Naphthalene in wells in MNA Area 4 (µg/L)

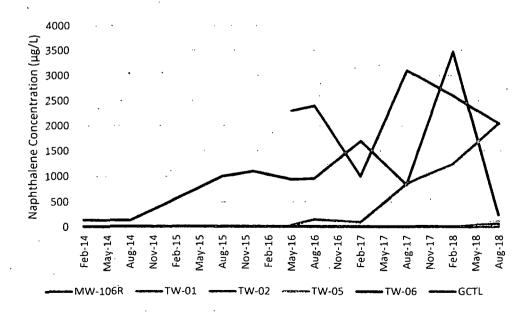
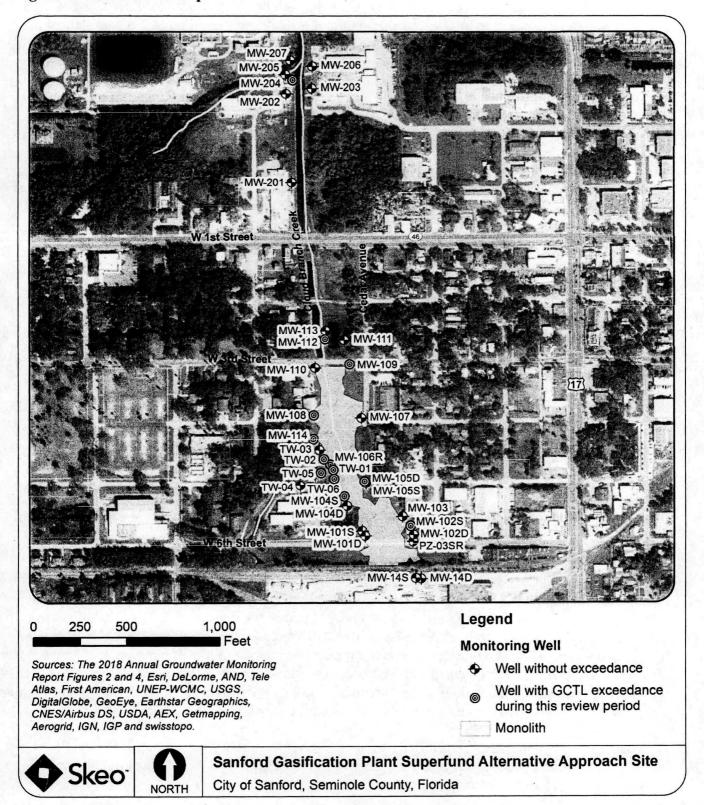


Figure 5: Detailed Site Map<sup>2</sup>



Disclaimer: This map and any boundary lines within the map are approximate and subject to change. The map is not a survey. The map is for informational purposes only regarding the EPA's response actions at the Site.

<sup>&</sup>lt;sup>2</sup> Monitoring Wells PZ-03SR, TW-04, MW-111, MW-112, MW-201, MW-202, MW-203 and MW-206 were abandoned in June 2017. Monitoring Well MW-113 is for groundwater level measurement only.

#### **Site Inspection**

The site inspection took place on 8/13/2019. Participants included Shelby Johnston and Carter Owens (EPA RPMs), Kyle Bryant (EPA CIC), Tomey Tuttle (Florida Power and Light), Christie Battenhouse (Atlanta Gas Light Company), Tim Silar (Silar Services, PRP Group contractor), and Kirby Webster, Kelly MacDonald and Dominique Ong (EPA support contractor, Skeo). The purpose of the inspection was to assess the protectiveness of the remedy. Appendix G includes the site inspection checklist. Appendix H includes site inspection photos.

Site inspection participants met at the southern end of the Site on 6th Street. Participants viewed areas south of 6th Street where surface soils were stockpiled and where in-situ stabilization occurred. The area is vegetated and maintained. Participants observed the entrance of the box culvert and the location of MNA Area 4. Water was flowing freely into the culvert; no issues were identified. Participants walked north up the Site across the surface soil removal area and the in-situ stabilization area. Most of the evapotranspiration cover was soggy/spongy, with muddy areas including some vehicle traffic indentations. The grass had been recently moved and is in good condition.

Participants observed Cloud Branch Creek. The riprap and trusses appeared to be in good condition. Cloud Branch Creek flows freely. The location where development is planned on 1st Street was also observed. FDEP has been in contact with the developer to assure development is completed in accordance with the Declaration of Restrictive Covenant. Monitoring wells were observed to be in good condition.

The document repository, North Branch Library, located at 150 North Palmetto Avenue in Sanford, Florida, contained site-related documents, but does not contain recent site-related documents. The EPA is working with the library to update the site repository.

#### V. TECHNICAL ASSESSMENT

**QUESTION A:** Is the remedy functioning as intended by the decision documents?

#### **Question A Summary:**

The OU1, OU2 and OU3 remedial actions are generally functioning as intended by the decision documents. Contaminated soil and sediment have been removed or stabilized, preventing any further exposures. Groundwater is monitored to assess contaminant concentrations and MNA. Groundwater sampling results indicate that the cleanup has generally progressed as expected, with the exception of MNA Area 4. The 2001 ROD for groundwater indicated that the cleanup was expected to take more than 30 years to complete. Based on current data, it is currently unclear whether groundwater in MNA Area 4 will meet cleanup goals in this timeframe. Ongoing sampling will provide a larger dataset with which to assess the progress toward the cleanup goals and determine whether additional action will be needed.

O&M activities have maintained the effectiveness of the remedial activities as expected. The PRP Group has monitored and maintained the Site and made repairs as needed. The O&M Plan could be updated to include a comprehensive summary of current required activities.

The RODs called for institutional controls in each OU. Institutional controls have been put in place for all impacted properties. A GUAZ is currently in place at properties that might be affected by the shallow

groundwater impacts at the Site. The EPA notifies property owners annually within the GUAZ of the potential risk associated with exposure to contaminated groundwater.

No buildings are located on site. Therefore, vapor intrusion is not a concern. FDEP has been in contact with the developer regarding the proposed redevelopment located immediately south of 1st Street to assure development is completed in accordance with the Declaration of Restricted Covenant. No groundwater contamination is located in the vicinity of this parcel, so vapor intrusion is not a concern.

**QUESTION B:** Are the exposure assumptions, toxicity data, cleanup levels and RAOs used at the time of the remedy selection still valid?

#### **Question B Summary:**

Yes, the exposure assumptions, toxicity data, cleanup levels and RAOs used at the time of remedy selection are still valid. There have been no changes in the Site's conditions that would change potential exposure pathways. The EPA has updated default exposure assumptions in 2014 such as increasing the adult bodyweight and skin surface area exposure factors and slight reductions in several child exposure factors such as skin surface area and groundwater ingestion rates. These factors result in reduced exposure doses than originally evaluated in the site risk assessments. Therefore, the risks and noncancer hazards would be lower based on current exposure factors.

Appendix J provides an ARAR review of groundwater cleanup goals. There have been no changes in federal or state ARARs. Naphthalene does not currently have a state or federal MCL. Table K-3 compares the naphthalene groundwater cleanup goal to current regional screening levels (RSLs). It shows that the groundwater cleanup goal for naphthalene exceeds the EPA's acceptable risk range and hazard quotient, however, the EPA Region 4 has demonstrated that the cleanup goal, the life-time health advisory of  $100~\mu g/L$ , remains protective for chronic exposures (Appendix K). As of 2005, naphthalene has a state groundwater cleanup target level of  $14~\mu g/L$ . The more stringent state GCTL for naphthalene is used for data comparison to provide a conservative analysis. Since the 2001 OU2 ROD, the noncancer toxicity values for total xylenes in groundwater has become more stringent such that the EPA Region 4 deems the promulgated MCL of  $10,000~\mu g/L$  as no longer health protective. Xylenes are site-related but were not identified as a COC at the time of the ROD because the concentrations were below the 1992 promulgated federal MCL. Based on the screening-level risk evaluation (Appendix K, Table K-4), total xylenes are below health protective levels in groundwater.

The surface soil cleanup goals were established for COCs based on an unrestricted residential exposure scenario. Surface soils were excavated and shipped off site. Institutional controls are in place. Subsurface soil cleanup goals were determined to prevent leaching to groundwater. To evaluate the impact of toxicity value changes on the cleanup goals, the surface and subsurface cleanup goals were compared to the EPA's RSLs for residential land use (Appendix K). The analysis indicates that the cleanup goals fall within the EPA's risk management range of 1 x 10<sup>-6</sup> to 1 x 10<sup>-4</sup>. The EPA's acceptable HI of 1.0 is exceeded for dibenzofuran and pyrene in surface soil. Only two samples locations exceeded the more stringent RSL for these two compounds and the sample locations were also remediated for benzo(a)pyrene, which has a more stringent cleanup goal. Thus, remediation of benzo(a)pyrene also addressed the remediation of dibenzofuran and pyrene (Appendix K).

The vapor intrusion pathway is not a completed exposure pathway because there are no buildings in the vicinity of groundwater monitoring wells that have contaminants that are known to volatilize.

**QUESTION C:** Has any other information come to light that could call into question the protectiveness of the remedy?

No other information has come to light that could call into question the protectiveness of the remedy.

#### VI. ISSUES/RECOMMENDATIONS

N.	Issues/Recommendations	
OU(s) without Issues/R	ecommendations Identified in the FYR:	
OU1, OU2 and OU3		

#### **OTHER FINDINGS**

Several additional recommendations were identified during the FYR. These recommendations do not affect current and/or future protectiveness.

- Update the site information repository;
- Update the O&M Plan to include a comprehensive summary of current required activities;
- Continue to monitor the evapotranspiration cover to ensure sponginess observed during the FYR site inspection is not an indicator of a future issue;
- Continue to monitor groundwater in MNA Area 4 and evaluate whether additional action is necessary; and
- Continue to work with the developer for the property immediately south of 1st Street to ensure development is completed in accordance with the Declaration of Restrictive Covenant.

#### VII. PROTECTIVENESS STATEMENT

Protectiveness Statement			
Operable Unit:	Protectiveness Determination: Protective		
Protectiveness Statement: The remedy at OU1 is protective of human health and the environment.			

Protectiveness Statement			
Operable Unit: 2	Protectiveness Determination: Protective		
Protectiveness Statement: The remedy at OU2 is protective of human health and the environment.			

#### **Protectiveness Statement**

Operable Unit:

Protectiveness Determination:

3

Protective

Protectiveness Statement:

The remedy at OU3 is protective of human health and the environment.

#### Sitewide Protectiveness Statement

Protectiveness Determination:

Protective

Protectiveness Statement:

The remedy at the Site is protective of human health and the environment.

# VIII. NEXT REVIEW

The next FYR Report for the Sanford Gasification Plant Superfund site is required five years from the completion date of this review.

#### APPENDIX A – REFERENCE LIST

2015 Annual Groundwater Monitoring Report. Sanford Gasification Plant Site. Natural Resource Technology. December 21, 2015.

2016 Annual Report. Sanford Gasification Plant Site. Natural Resource Technology. May 12, 2017.

2017 Annual Groundwater Monitoring Report. Sanford Gasification Plant Site. O'Brien & Gere Engineers, Inc. April 27, 2018.

2018 Annual Groundwater Monitoring Report. Sanford Gasification Plant Site. Silar Services Inc. April 16, 2019.

Amended Record of Decision Operable Unit One. Sanford Gasification Plant Site. Sanford, Seminole County, Florida. Prepared by United States Environmental Protection Agency Region 4. September 21, 2006.

Ready for Reuse, Sanford Mixed Use Property. EPA Region 4 Reuse Fact Sheets. April 2018.

Record of Decision Operable Unit Three. Sanford Gasification Plant Site. Sanford, Seminole County, Florida. Prepared by United State Environmental Protection Agency Region 4. September 21, 2006.

Record of Decision Operable Unit Two Summary of Remedial Alternative Selection for the Sanford Gasification Plant Site. Prepared by the United States Environmental Protection Agency. June 12, 2001.

Record of Decision. Summary of Remedial Alternative Selection for the Sanford Gasification Plant Site. Sanford, Seminole County, Florida. Prepared by the United States Environmental Protection Agency. July 5, 2000.

Regional Screening Levels (RSLs) – Generic Tables. Tables as of: November 2019. Available at: <a href="https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables">https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables</a>

Remedial Action Report OU1/OU3. Sanford Gasification Plant Site. Sanford, Florida. Natural Resource Technology Environmental Consultants. September 28, 2012.

State of Florida Manufactured Gas Plant Assessment and Remediation Status. Prepared by Florida Department of Environmental Protection Division of Waste Management Waste Clean-up Section. February 3, 2019.

# APPENDIX B – CURRENT SITE STATUS

Environmental Indicators
Current human exposures at the Site are under control.  There is currently sufficient data to confirm that current groundwater migration is under control.
Are Necessary Institutional Controls in Place?
All □ Some □ None
Has the EPA Designated the Site as Sitewide Ready for Anticipated Use?  ✓ Yes  ✓ No
Has the Site Been Put into Reuse?
⊠ Yes □ No

# APPENDIX C – SITE CHRONOLOGY

Table C-1: Site Chronology

Event	Date
Initial discovery of contamination	February 24, 1989
FDEP completed preliminary assessment	April 23, 1990
The EPA completed expanded site assessment	June 30, 1997
PRP Group and the EPA signed Administrative Order on Consent to conduct the RI/FS	April 16, 1998
PRP Group completed OU1 RI/FS	April 22, 1998
The EPA signed OU1 ROD	July 5, 2000
PRP Group completed OU2 RI/FS	January 17, 2001
The EPA signed OU2 ROD	June 12, 2001
PRP Group began OU1 remedial design	May 23, 2002
PRP Group completed OU3 RI/FS	May 3, 2006
The EPA signed OU1 ROD Amendment and OU3 ROD	September 21, 2006
PRP Group began OU2 and OU3 remedial design	September 28, 2007
PRP Group and the EPA signed Consent Decree to perform the remedial action	January 16, 2009
PRP Group completed remedial design and began remedial action for OU1, OU2 and OU3	September 24, 2009
PRP Group completed installation of OU2 groundwater monitoring network	October 22, 2011
PRP Group completed OU1 and OU3 remedial action	September 28, 2012
Restrictive covenants filed to restrict groundwater access and construction activities at the Site	July 2017
The EPA determined that the Site met the Site-wide Ready for Anticipated Use performance measure	March 1, 2018

# APPENDIX D - SITE MAPS

Figure D-1: Monitoring Well Network<sup>3</sup>

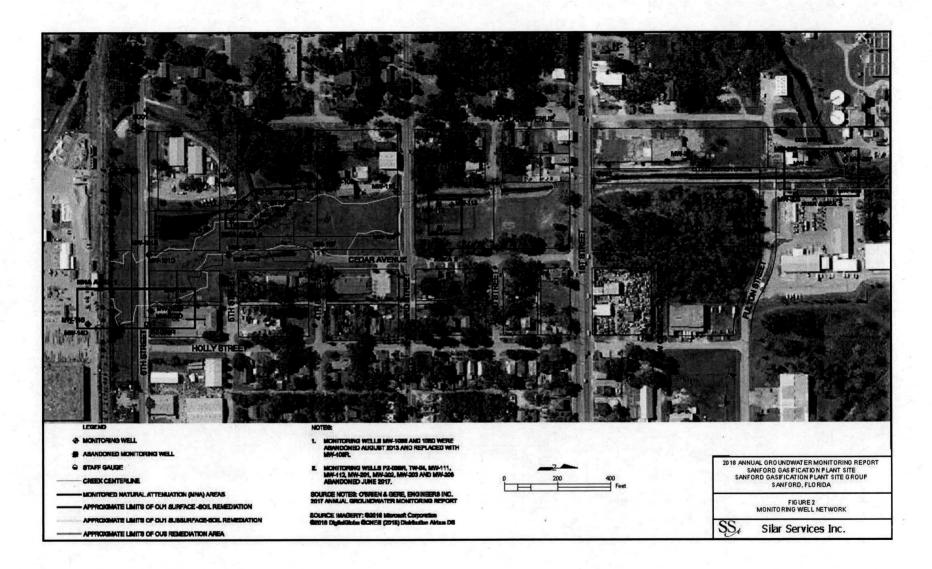
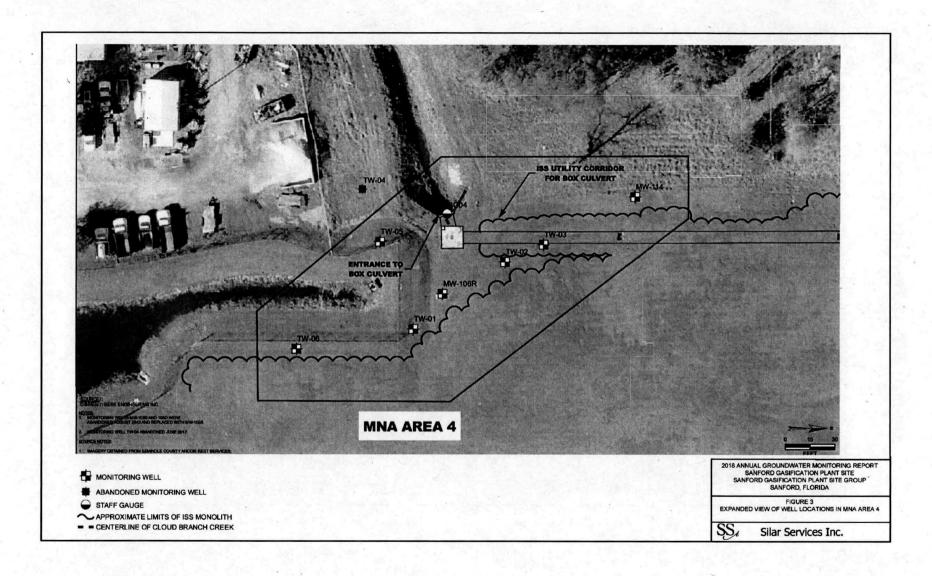


Figure D-2: Expanded View of Well Locations in MNA Area 44



 <sup>&</sup>lt;sup>3</sup> 2018 Annual Groundwater Monitoring Report. April 2019.
 <sup>4</sup> 2018 Annual Groundwater Monitoring Report. April 2019.

#### APPENDIX E – PRESS NOTICE

# Miscellaneous Legels HEUS: ENIMONES THE

JOSENEY, RECOUNT APPROUNTES THE SECOND RIVE, TEMPREVIEW FOR THE SUNFORD ASPICATION PLANT SUPERIUM. SITE SUPPORT SUPERIUM. SITE SUPPORT SUPERIUM. THE SUPPORT SUPERIUM. THE SUPPORT SUP

crotect human health and the environment.

Site Background: The 10-acre Site is located on the north and south sides of West Sight Street between Helly Avenue and Cedar Avenue. The Site includes the form of Sanford Manufactured Caspital (SMCP) for lity, an unnamed the form of Sanford Manufactured Caspital (SMCP) for lity, an unnamed the total part of Cloud Branch Creek. From the 1880s to 1951, the SMCP made water on and condensaties, which were stored in one holder tanks of the site. These contains otherated waste for soil, provind water on and condensaties, which were stored in one holder tanks of the site. These tanks of the lacked and continued to sail, provind water and sed ment on tank information. From 1920 to 1988, the SMCP also operated and continued to sail, provind water and sed ment on tank information. From 1920 to 1988, the SMCP also operated an incherator where the unnamed an incherator where the unnamed an incherator where the unnamed an incherator water from 1988 the SMCP also contains a first of the site of the stream o

PAHs.
Cleanup Actions: The EPA designated three operable units (OUS) to address the Site's soil groundwater and sediment contain nation. The EPA selected the OUI, remedy in 2000. The final soil remedy included removal and orther site disposal of the upper two feet of soil and treatment of subsurface soils through stabilitation/soildifection and institutional controls. The EPA selected the OU2 remedy to treat groundwater in 2001. The OU2 remedy included monitored natural affection and institutional controls. The EPA selected the OU3 remedy to treat sodiment in 2001. The OU3 remedy no the EPA selected the OU3 remedy to treat sodiment in 2001. The OU3 remedy not defend the removal of sediments two feet or greater in depth along the bed and banks of Cloud Branch Greek, installation of a cultert, knothern monitoring and institutional controls.

Five Year Review Schedule: The National Contineency Plan requires review of remedial actions that result in any harandous substances to lutants or contaminants remaining at the Sine above, levels that allow for unlimited use and unrestricted exposure every five wears to ensure the any romain. The second of the Five-Year Reviews for the Site will be completed by December 2010.

The EPA Invites Community Participation in the Five-Year Review Process: The EPA is conducting this Five-Year Review to evaluate the effectiveness of the Site's remedy and to ensure that the remedy remains protective of human, health and the environment, is part of the Five-Year Review process, EPA staff is available to answer any duestions about the Site. Community members who have questions about the Site. Community members who have questions about the Site or the Five-Year Review process, or who would like to participate in a community interview, are asked to contact:

Shelby Johnston. EPA Remedial Project Manager Phone: 4000 \$10-3287 Email: iotniston shelby@eca.cov

Ky le Bryant.
EPA Community Involvement:
Coordinate:
Phone: (400 542-0073 | 6000 241-1754
the light bryant by le Geoglew

Mailine Address: U.S. EPA Recion: 4. Jl. Forsyth Street, S.W., 11th Floor, Atlanta CA 3005-8040

Additional information is available at the Site's local document repository. North Branch. Library, located at 150 North Palmetto Avenue, Sanford, Fibrida \$2771, and online at www.ea. oov/superfund/sanford-oasincation.

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#### APPENDIX F - INTERVIEW FORMS

Sanford Gasification Plant Superfund Five-Year Review Interview Form

**Alternative Approach Site** 

Site Name: Sanford Gasification Plant EPA ID No.: FLD984169193

Subject Name: <u>Tim Silar</u> Affiliation: Silar Services Inc.

Time: <u>N/A</u> <u>Date:</u> <u>09/13/2019</u>

Interview Format (circle one): In Person Phone EMail Other:

Interview Category: O&M Contractor

1. What is your overall impression of the project, including cleanup, maintenance and reuse activities (as appropriate)?

The remedy for the site was appropriate and USEPA worked with the Group to revise the original ROD and selected remedy. The remedy was performed with no incidents or public complaints. The City of Sanford has been doing an excellent job maintaining the Site. Reuse of a portion of the Site is in the permitting phase.

2. What is your assessment of the current performance of the remedy in place at the Site?

The remedy is performing well, groundwater concentration detected in MNA Area 4 are likely due to the adjacent historic site or an area not treated during the initial remedy and not a failure of the remedy (e.g. dissolution for ISS monolith).

3. What are the findings from the monitoring data? What are the key trends in contaminant levels that are being documented over time at the Site?

MGP related compounds have been detected in MNA Area 4. Additional monitoring points were installed in 2016 and groundwater quality in the area and concentration trends are being monitored.

4. Is there a continuous on-site O&M presence? If so, please describe staff responsibilities and activities. Alternatively, please describe staff responsibilities and the frequency of site inspections and activities if there is not a continuous on-site O&M presence.

Yes, Silar Services Inc. is responsible for annual groundwater monitoring and O&M inspection. The City of Sanford is responsible for routine maintenance which is performed on an as-need basis.

5. Have there been any significant changes in site O&M requirements, maintenance schedules or sampling routines since start-up or in the last five years? If so, do they affect the protectiveness or effectiveness of the remedy? Please describe changes and impacts.

The O&M requirements and maintenance schedules have not changed in the last five years. The Site area has experienced numerous tropical storms and hurricanes in the last five years with no damage to the remedy. The sampling frequency and analyses were adjusted in 2017 effective in 2018. The revisions are consistent with the decision rules in the Groundwater Monitoring Plan and were approved by USEPA. These revisions do not affect the protectiveness or effectiveness of the remedy.

6. Have there been unexpected O&M difficulties or costs at the Site since start-up or in the last five years? If so, please provide details.

No, there have not been unexpected difficulties.

7. Have there been opportunities to optimize O&M activities or sampling efforts? Please describe changes and any resulting or desired cost savings or improved efficiencies.

As previously mentioned, there was a reduction in the sampling program from the 2017 to the 2018 sampling requirements. These changes resulted in an annual cost savings of approximately \$30,000.

8. Do you have any comments, suggestions or recommendations regarding O&M activities and schedules at the Site?

No, not now.

9. Do you consent to have your name included along with your responses to this questionnaire in the FYR report?

Yes.

Sanford Gasification Plant Superfund Five-Year Review Interview Form

Site

Site Name: Sanford Gasification Plant EPA ID No.: FLD984169193

Subject Name: Tomey Tuttle Affiliation: Florida Power and Light

Time: N/A Date: 09/16/2019

Interview Format (circle one): In Person Phone EMail Other:

Interview Category: Potentially Responsible Parties (PRPs)

1. What is your overall impression of the remedial activities at the Site?

The activities for the site were appropriate with good coordination between the PRPs, USEPA and FDEP. The final remedy has performed well and the City of Sanford has done a good job maintaining the site as evidenced during the inspection.

2. What have been the effects of this Site on the surrounding community, if any?

There has been little interest by the community since the work was completed. Prior to commencement of work, public outreach with USEPA informed the local communities. Since the remedy was completed the additional features have provided benefit during significant storm events and the identified areas are available for redevelopment.

3. What is your assessment of the current performance of the remedy in place at the Site?

The remedy has performed well. As indicated by periodic groundwater monitoring, MGP related compounds have been detected in MNA Area 4. Additional monitoring points were installed in 2016 and groundwater quality in the area and concentration trends are being monitored.

4. Are you aware of any complaints or inquiries regarding environmental issues or the remedial action from residents since implementation of the cleanup?

No, I am not aware of any complaints or specific inquiries at this time.

5. Do you feel well-informed regarding the Site's activities and remedial progress? If not, how might EPA convey site-related information in the future?

Yes, communication between the Group and USEPA has been effective.

6. Do you have any comments, suggestions or recommendations regarding the management or operation of the Site's remedy?

No, I do not.

7. Do you consent to have your name included along with your responses to this questionnaire in the FYR report?

Yes, I do.

Sanford Gasification Plant Superfund Five-Year Review Interview Form

**Alternative Approach Site** 

Site Name: Sanford Gasification Plant

FLD984169193 EPA ID No.:

Interviewer Name:

**Kyle Bryant** Private Resident Affiliation:

**EPA Region 4** 

Subject Name: Time: 9:00 A.M. Affiliation:

Lives adjacent to the site

Date: 8/13/2019

Interview Format (circle one): (In Person

Phone

Mail

Other:

Interview Category: Residents

1. Are you aware of the former environmental issues at the Sanford Gasification Site and what cleanup activities have occurred?

No.

2. Have there been any problems at the Site?

No.

3. What effect has this Site had on the surrounding community, if any?

They keep the grass cut. They keep it clean. There are no problems.

4. Do you feel EPA should do more to keep surrounding neighbors informed of activities at the Site?

Yes, that would be good.

5. How would you like to receive information about this site and what EPA is doing?

Flyer or on my door.

6. What media outlet do you receive your information from?

News Channel 13.

7. Where would people go for a meeting?

The church.

8. Is there anyone else that you think might be useful for us to talk to about the site (resident, community leader, or city official)?

My grandma.

9. Is there anything else that you can think of that we should be aware of, or can impact the cleanup of this site, whether positively or negatively?

Nothing.

Five-Year Review Interview Form Sanford Gasification Plant Superfund

Alternative Approach Site

**Sanford Gasification Plant** Site Name:

EPA ID No.: FLD984169193

**Interviewer Name: Subject Name:** 

Time: 9:10 A.M.

**Kyle Bryant** 

Affiliation:

**EPA Region 4** 

Private Resident

Affiliation:

Lives adjacent to the site

Date: 8/13/2019

Interview Format (circle one): (In Person

Phone

Mail

Other:

Interview Category: Residents

1. Are you aware of the former environmental issues at the Sanford Gasification Site and what cleanup activities have occurred?

No.

2. Have you experienced any problems or do you have any concerns?

No.

3. What effect has this Site had on the surrounding community, if any?

I don't really talk to my neighbors.

4. Would you like to get more information on activities at the Site?

Yes.

5. How would you like to receive information about this site and what EPA is doing?

Put it on my door or a mailing.

6. What media outlet do you receive your information from?

Watch the news – Channel 9 or sometimes Channel 35 if a storm is coming.

7. What days, time, and location would best for public or community meetings?

I've never been to any meetings.

8. Is there anyone else that you think might be useful for us to talk to about the site (resident, community leader, or city official)?

The man in 315.

9. Is there anything else that you can think of that we should be aware of, or can impact the cleanup of this site, whether positively or negatively?

No.

# APPENDIX G – SITE INSPECTION CHECKLIST

Site Name: Sanford Gasification Plant	Date of Inspection: 08/13/2019	
Location and Region: Sanford, FL 4	EPA ID: FLD984169193	
Agency, Office or Company Leading the Five-Year Review: EPA Region 4	Weather/Temperature: humid, 85 degrees	
Remedy Includes: (check all that apply)    Landfill cover/containment   Access controls   Institutional controls   Groundwater pump and treatment   Surface water collection and treatment   Other:	<ul> <li>✓ Monitored natural attenuation</li> <li>☐ Groundwater containment</li> <li>☐ Vertical barrier walls</li> </ul>	
Attachments:	☐ Site map attached	
II. INTERVIEWS	(check all that apply)	
1. O&M Site Manager  Name  Interviewed  at site at office by phone :  Problems, suggestions Report attached:		
2. O&M Staff  Tim Silar  Name  Interviewed ☐ at site ☐ at office ☒ by email Pr	Silar Services, Inc. 09/13/2019 Title Date roblems/suggestions ☐ Report attached: Yes	
	tle Date Phone No.	
Agency ContactName Tit Problems/suggestions		
Agency Contact Name Tit Problems/suggestions \[ \begin{array}{c} Report attached:	Date Phone No.	
Agency Contact Name Till Problems/suggestions Teport attached:		
Agency Contact Name Problems/suggestions Report attached:  4. Other Interviews (optional) Report attached		
	<del></del>	

			,		
	·				
	III. ON-SITE DOCUM	IENTS AND RECO	RDS VERIFIED (chec	k all that apply)	
1.	O&M Documents		•		
	☑ O&M manual	Readily available	Up to date		I/A
	As-built drawings	Readily available	Up to date	⊠ N	i/A
	☐ Maintenance logs	Readily available	Up to date	⊠ N	I/A
	Remarks:				
2.	Site-Specific Health and Sa	fety Plan	Readily available	Up to date	⊠ N/A
	Contingency plan/emerger	ncy response plan	Readily available	Up to date	⊠ N/A
	Damada.				-
,	Remarks:	Decembe	Dandily available		<b>⊠ N</b> /A
3.	O&M and OSHA Training	Kecoras	Readily available	Up to date	⊠ N/A
4.	Remarks:  Permits and Service Agreer	mants	·		
<b>-1.</b>	Air discharge permit	inents	Readily available	Up to date	⊠ N/A
	☐ Effluent discharge		Readily available	Up to date	⊠ N/A
	☐ Waste disposal, POTW		Readily available	Up to date	⊠ N/A
	Other permits:		Readily available	Up to date	⊠ N/A
	Remarks:			_ ор то <b>сато</b>	23 1 1// 1
5.	Gas Generation Records		Readily available	Up to date	⊠ N/A
	Remarks:			<b>—</b> - <b>,</b> - <b>,</b>	
6.	Settlement Monument Reco	ords	Readily available	Up to date	
	Remarks:	٠.			
7.	Groundwater Monitoring F	Records	■ Readily available	Up to date	□ N/A
	Remarks:		_ ,	<del>-</del> .	_
8.	Leachate Extraction Record	<del>.</del> ds	Readily available	Up to date	⊠ N/A
	Remarks:		_ , ,		
9.	Discharge Compliance Reco				
	Air	Readily available	Up to date	⊠ N	i/A
	☐ Water (effluent)	Readily available	Up to date	. N	I/A
•	Remarks:				
10.	Daily Access/Security Logs		Readily available	Up to date	. N/A
	Remarks:			·	
		IV. O&M C	COSTS		
1.	O&M Organization				

	State in-house	Contractor for	state						
	<u> </u>	_							
	☐ PRP in-house	☐ Contractor for		··.					
	☐ Federal facility in-house ☐ Contractor for Federal facility								
2.	O&M Cost Records								
	Readily available	Up to date							
	☐ Funding mechanism/agreement i	n place							
	Original O&M cost estimate: \$50,00	00 Breakdown attached							
	Total annual	cost by year for review period	if available:		•				
	From 2015 to 2019, approximate and about \$40,000 per year due to the red in 2016 were higher than normal but The City of Sanford conducts regula	duction of the monitoring frequecause of the additional work of	uency and an conducted rel	alysis after lated to MN	2017. Costs NA Area 4.				
3.	Unanticipated or Unusually High C	AM Costs during Review P	eriod	•					
	Describe costs and reasons:			_					
	V. ACCESS AND INSTITU	UTIONAL CONTROLS 🛛	Applicable	□ N/A					
A.	Fencing	·							
1.									
	Remarks:								
B.	Other Access Restrictions								
1.	Signs and Other Security Measures	Location s	shown on site	map [	N/A				
	Remarks:								
<b>C.</b> .	Institutional Controls (ICs)		-	_					
1.	Implementation and Enforcement								
	Site conditions imply ICs not properly	implemented	☐ Yes	No [	□ N/A				
	Site conditions imply ICs not being fu	lly enforced	☐ Yes	No [	□ N/A				
	Type of monitoring (e.g., self-reporting	g, drive by):							
	Frequency:				,				
	Responsible party/agency:								
	Contact								
	Name	Title	Date	Ph	ione no.				
	Reporting is up to date		Yes	☐ No	□N/A				
	Reports are verified by the lead agency	•	Yes	☐ No	□ N/A				
	Specific requirements in deed or decis	ion documents have been met	⊠ Yes	☐ No	□ N/A				
	Violations have been reported		☐ Yes	⊠ No	□ N/A				
	Other problems or suggestions: Re	port attached							
2.	Adequacy	e  ICs are in	adequate		] N/A				

Remarks:		
D. General		
1. Vandalism/Trespassing Remarks:	☐ Location shown on site map	No vandalism evident
2. Land Use Changes On Si		
<b> </b>	is being planned for a parcel on 1st Street	
3. Land Use Changes Off S		<del>-</del>
	····	•
	VI. GENERAL SITE CONDITION	S
A. Roads Applicable	⊠ N/A.	
1. Roads Damaged	Location shown on site map	Roads adequate N/A
Remarks:		
B. Other Site Conditions		
Remarks:	-	
VII. L	ANDFILL COVERS Applical	ble N/A
A. Landfill Surface		
1. Settlement (low spots)	Location shown on site map	Settlement not evident
Area extent:		Depth:
Remarks:	·	
2. Cracks	Location shown on site map	☐ Cracking not evident
Lengths:	Widths:	Depths:
Remarks:		
3. Erosion	Location shown on site map	□ Erosion not evident
Area extent:	•	Depth:
Remarks:	·	
4. Holes	Location shown on site map	
Area extent:		Depth:
Remarks:		
5. Vegetative Cover	☐ Grass	☐ Cover properly established
☐ No signs of stress	Trees/shrubs (indicate size and lo	ocations on a diagram)
Remarks: <u>Some areas w</u> get worse.	ere very wet and muddy. These areas shou	uld be observed to ensure it does not
6. Alternative Cover (e.g	., armored rock, concrete)	⊠ N/A
Remarks:	<u> </u>	
7. Bulges	Location shown on site map	Bulges not evident     ■ Bulges not e
Area extent:		Height:
Remarks:		

8.	Wet Areas/Water Damage	Wet areas/water damage not e	evident
	☐ Wet areas	Location shown on site map	Area extent:
	Ponding	Location shown on site map	Area extent:
	Seeps	Location shown on site map	Area extent:
	Soft subgrade	Location shown on site map	Area extent:
	Remarks: The entire area wa	s quite wet during the site inspection.	
9.	Slope Instability	Slides	☐ Location shown on site map
	No evidence of slope inst	tability	
	Area extent:		
<u> </u>	Remarks:		
B. Ber	nches	ble 🛛 N/A	
		nds of earth placed across a steep land of surface runoff and intercept and of	dfill side slope to interrupt the slope in convey the runoff to a lined channel.)
1.	Flows Bypass Bench	☐ Location shown on site map	☐ N/A or okay
	Remarks:		
2.	Bench Breached	☐ Location shown on site map	☐ N/A or okay
	Remarks:	<u> </u>	·
3.	Bench Overtopped	Location shown on site map	□ N/A or okay
	Remarks:	<u> </u>	<u></u> , , , , , , , , , , , , , , , , , ,
C. Let	tdown Channels	Applicable N/A	,
		ontrol mats, riprap, grout bags or gabic ow the runoff water collected by the be gullies.)	
1.	Settlement (Low spots)	Location shown on site map	☐ No evidence of settlement
	Area extent:		Depth:
	Remarks:		
2.	Material Degradation	Location shown on site map	☐ No evidence of degradation
	Material type:		Area extent:
	Remarks:		·
3.	Erosion	☐ Location shown on site map	☐ No evidence of erosion
	Area extent:		Depth:
	Remarks:		
4.	Undercutting	Location shown on site map	☐ No evidence of undercutting
	Area extent:		Depth:
	Remarks:		
5.	Obstructions	Type:	☐ No obstructions

				<del></del>
	Location shown on site m	ap Are	ea extent:	
	Size:			
	Remarks:			·
6.	Excessive Vegetative Grow	th Ty	pe:	
	☐ No evidence of excessive	growth		
	☐ Vegetation in channels do	es not obstruct flow		
	Location shown on site m	ap Are	ea extent:	
	Remarks:			
D. Cov	· · · · · · · · · · · · · · · · · · ·	Applicable N	/A	
1.	Gas Vents	Active	☐ Pass	ive
	Properly secured/locked	☐ Functioning	☐ Routinely sampled	Good condition
	Evidence of leakage at pe	netration	☐ Needs maintenance	□ N/A
	Remarks:			
2.	Gas Monitoring Probes			
	Properly secured/locked	☐ Functioning	Routinely sampled	Good condition
	☐ Evidence of leakage at pe	netration	☐ Needs maintenance	□ N/A
	Remarks:	·		
3.	Monitoring Wells (within sur	rface area of landfill)	)	
	☐ Properly secured/locked	☐ Functioning	☐ Routinely sampled	Good condition
	☐ Evidence of leakage at pe	netration	☐ Needs maintenance	□ N/A
	Remarks:			·
4.	Extraction Wells Leachate			
	Properly secured/locked	☐ Functioning	☐ Routinely sampled	Good condition
	☐ Evidence of leakage at pe	netration	☐ Needs maintenance	□ N/A
	Remarks:			
5.	<b>Settlement Monuments</b>	☐ Located	☐ Routinely surveyed	□ N/A
	Remarks:			·
E. Gas	Collection and Treatment	☐ Applicable	⊠ N/A	
1.	Gas Treatment Facilities			
	☐ Flaring	☐ Thermal destruc	ction	Collection for reuse
	Good condition	☐ Needs maintena	ance	
	Remarks:		·	
<b>2.</b> ,	Gas Collection Wells, Manif	olds and Piping		
	Good condition	☐ Needs maintena	ance	
	Remarks:			
3.	Gas Monitoring Facilities (e.	.g., gas monitoring o	f adjacent homes or building	ngs)

	☐ Good condition	☐ Needs maintenance	□ N/A
	Remarks:		
F. C	over Drainage Layer	Applicable N/A	
1.	Outlet Pipes Inspected	☐ Functioning	□ N/A
<u></u>	Remarks:		
2.	Outlet Rock Inspected		□ N/A
	Remarks:		
G. D	etention/Sedimentation Pond	Applicable	⊠ N/A
1.	Siltation Area	extent: Depth:	□ N/A
	Siltation not evident		
	Remarks:		
2.	Erosion Area		
	Erosion not evident		÷
	Remarks:		
3.	Outlet Works		□ N/A
Ĺ	Remarks:	·	
4.		nctioning	□ N/A
	Remarks:	·	
H. R	etaining Walls		
1.	Deformations	Location shown on site map	Deformation not evident
	Horizontal displacement:	Vertical disp	placement:
	Rotational displacement:	<del></del> .	
	Remarks:		
2.	Degradation	Location shown on site map	Degradation not evident
	Remarks:		
I. Pe	rimeter Ditches/Off-Site Disc	charge Applicable	⊠ N/A
1.	Siltation	Location shown on site map	Siltation not evident
	Area extent:		Depth:
	Remarks:		
2.	Vegetative Growth	Location shown on site map	□ N/A
	☐ Vegetation does not imp	ede flow	
	Area extent:	•	Type:
	D amanda.		
	Remarks:		
3.	Erosion	Location shown on site map	☐ Erosion not evident
3.		Location shown on site map	☐ Erosion not evident  Depth:

4.	Discharge Structure Remarks:	☐ Functioning	□ N/A
VIII.	VERTICAL BARRIE		
1.	Settlement	· · · · · · · · · · · · · · · · · · ·	Settlement not evident
	Area extent:	•	Depth:
	Remarks:		
2.	Performance Monito	ring Type of monitoring:	
•	Performance not m	onitored	
	Frequency:		Evidence of breaching
	Head differential:	_	•
	Remarks:	•	
IX. C	ROUNDWATER/SUF	RFACE WATER REMEDIES 🛛 Applicab	le N/A
A. G	roundwater Extraction	Wells, Pumps and Pipelines	pplicable 🛛 N/A
1.	Pumps, Wellhead Plu	mbing and Electrical	
	☐ Good condition	All required wells properly operating	☐ Needs maintenance ☐ N/A
	Remarks:		
2.	Extraction System Pi	pelines, Valves, Valve Boxes and Other App	urtenances
	Good condition	☐ Needs maintenance	
	Remarks:	·	
3.	Spare Parts and Equ	pment	
	Readily available	☐ Good condition ☐ Requires upgra	de Needs to be provided
	Remarks:		
B. Su	rface Water Collection	Structures, Pumps and Pipelines	pplicable N/A
1.	Collection Structures	, Pumps and Electrical	
	Good condition	☐ Needs maintenance	
	Remarks:		
2.	Surface Water Collec	tion System Pipelines, Valves, Valve Boxes	and Other Appurtenances
	☐ Good condition	☐ Needs maintenance	
	Remarks:		
3.	Spare Parts and Equ		
	Readily available	☐ Good condition ☐ Requires upgra	de Needs to be provided
	Remarks:		
C. Tı	eatment System	☐ Applicable	
1.	Treatment Train (che	ck components that apply)	
	☐ Metals removal	Oil/water separation	Bioremediation
	☐ Air stripping	☐ Carbon adsorbers	

	☐ Filters:
	Additive (e.g., chelation agent, flocculent):
	Others:
	Good condition Needs maintenance
	☐ Sampling ports properly marked and functional
	☐ Sampling/maintenance log displayed and up to date
	Equipment properly identified
	Quantity of groundwater treated annually:
	Quantity of surface water treated annually:
	Remarks:
2.	Electrical Enclosures and Panels (properly rated and functional)
	☐ N/A ☐ Good condition ☐ Needs maintenance
_	Remarks:
3.	Tanks, Vaults, Storage Vessels
	□ N/A    □ Good condition    □ Proper secondary containment    □ Needs maintenance
	Remarks:
4.	Discharge Structure and Appurtenances
	□ N/A □ Good condition □ Needs maintenance
	Remarks:
5.	Treatment Building(s)
	☐ N/A ☐ Good condition (esp. roof and doorways) ☐ Needs repair
	Chemicals and equipment properly stored
	Remarks:
6.	Monitoring Wells (pump and treatment remedy)
	☐ Properly secured/locked ☐ Functioning ☐ Routinely sampled · ☐ Good condition
	☐ All required wells located ☐ Needs maintenance ☐ N/A
	Remarks:
D. Mo	onitoring Data
1.	Monitoring Data
	☑ Is routinely submitted on time ☑ Is of acceptable quality
2.	Monitoring Data Suggests:
	☐ Contaminant concentrations are declining
	onitored Natural Attenuation
] 1.	Monitoring Wells (natural attenuation remedy)  ☑ Properly secured/locked ☑ Functioning ☑ Routinely sampled ☑ Good condition
	☐ All required wells located ☐ Needs maintenance ☐ N/A
	Remarks:
L	Itelians.

#### X. OTHER REMEDIES

If there are remedies applied at the site and not covered above, attach an inspection sheet describing the physical nature and condition of any facility associated with the remedy. An example would be soil vapor extraction.

#### XI. OVERALL OBSERVATIONS

#### A. Implementation of the Remedy

Describe issues and observations relating to whether the remedy is effective and functioning as designed. Begin with a brief statement of what the remedy is designed to accomplish (e.g., to contain contaminant plume, minimize infiltration and gas emissions).

The remedy was designed to eliminate exposure to contaminated groundwater, soil and sediments. This has been effectively accomplished with the removal of surface soils, stabilization of subsurface soils, the sediment remedy and institutional controls.

#### B. Adequacy of O&M

Describe issues and observations related to the implementation and scope of O&M procedures. In particular, discuss their relationship to the current and long-term protectiveness of the remedy. Current O&M activities adequately ensure the continued current and long-term protectiveness of the remedy.

#### C. Early Indicators of Potential Remedy Problems

Describe issues and observations such as unexpected changes in the cost or scope of O&M or a high frequency of unscheduled repairs that suggest that the protectiveness of the remedy may be compromised in the future.

Groundwater monitoring in MNA Area 4 indicates that additional activities may need to be considered, unless additional monitoring indicates chemicals are attenuating.

## D. Opportunities for Optimization

Describe possible opportunities for optimization in monitoring tasks or the operation of the remedy. No opportunities for optimization were identified.

Site inspection participants:

Shelby Johnston, Carter Owens and Kyle Bryant (EPA)

Tomey Tuttle (Florida Power and Light)

Christie Battenhouse (Atlanta Gas Light Company)

Tim Silar (Silar Services)

Kirby Webster, Kelly MacDonald and Dominique Ong (EPA support contractor Skeo)

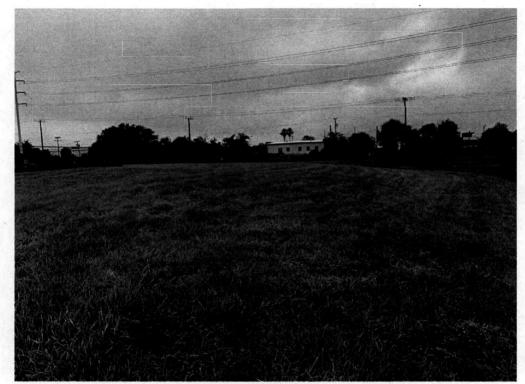
# APPENDIX H – SITE INSPECTION PHOTOS



In-situ stabilization area, facing north



Muddy/soggy areas on cover of in-situ stabilization area



In-situ stabilization area



Entrance to box culvert



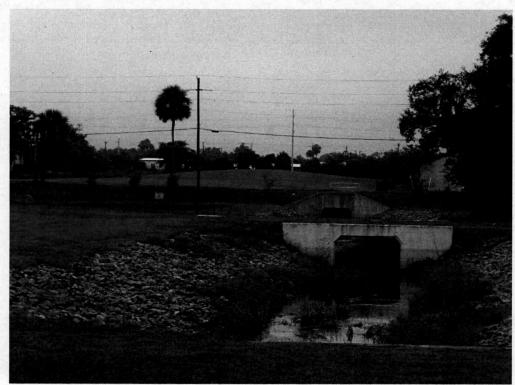
Cloud Branch Creek



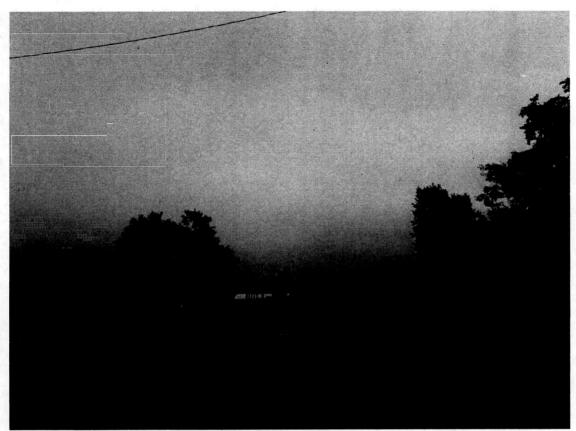
Site monitoring well



Sign advertising proposed redevelopment at the Site



Cloud Branch Creek and in-situ stabilization area, facing south



Cloud Branch Creek, facing north

## APPENDIX I – DATA TABLE

Table I-1: Summary of Monitoring Wells with GCTL Exceedances<sup>5,6</sup>

***					Samp	le Events I	Exceeded			·		
Well Locations	Compound Detected Above GCTLS	February 2014	August 2014	August 2015	December 2015	May 2016	August 2016	February 2017	August 2017	February 2018	August 2018	
MW-14S	Arsenic (GCTL 10 μg/L)	<10		<8.0			<8.0		<8.0			
MW-	Benzo(a)anthracene (GCTL 0.05 μg/L)	<0.1	0.11	<0.037, <0.037*			0.051 J					
1028	Benzo(b)fluoranthene (GCTL 0.05 μg/L)	<0.1	<0.059	<0.059, <0.059*			0.086 J	· <u>-</u> -				
MW- 102D	1,4-Dioxane (GCTL 3.2 µg/L)				·	·						
MW-103	Arsenic (GCTL 10 μg/L)	<10		9.47			<8.0		<8.0			
MW-	Arsenic (GCTL 10 μg/L)	19.90 8.0I		17.60			13.60		14.30			
104S	Antimony (GCTL 6 μg/L)	5.81 2.54		5.61			4.24		6.56			
MW- 105D	Arsenic (GCTL 10 μg/L)	<10		<8.0			10.80		<8.0			
	Benzene (GCTL 1 μg/L)	17, 15*	17, 16*	47	86, 82*	99	57	64	. 25	76, 79.6	21.1	
	Isopropylbenzene (GCTL 0.8 μg/L)	2.9, 2.3*	2.4, <1.7*	8.4	14, 13*	12	14	22	6.9	17, 30.5	3.1	
	Naphthalene (GCTL 14 μg/L)	140, 130	130, 120	1,000	1,100, 940	940	960J	1,700	840	1,800, 3,470	237	
MW-	1,2,4-Trimethylbenzene (GCTL 10 µg/L)	4.3, 3.4*	4.3, 2*	24	34, 36*	41	35	58	16	42, 64.3	. 7	
106R	1,3,5-Trimethylbenzene (GCTL 10 µg/L)	2, 1.6*	1.9, <1.4*	7.5	11, 12*	14	12	19	5.2	140, 24.5	2.5	
	Acenaphthene (GCTL 20 μg/L)	20, 20*	21, 17*	66	60, 58*	100	49 J	81	39		4.4	
	Benzo(a)anthracene (GCTL 0.05 μg/L)	<0.1, <0.1*	<b>0.069,</b> <0.037*	<0.037	<0.18, <0.18*	<0.74	<0.037					
	1-Methylnaphthalene (GCTL 28 μg/L)	13, 12	15, 11*	89	82, 78*	140	95 J	180	89		. 7.4	

<sup>&</sup>lt;sup>5</sup> 2018 Annual Groundwater Monitoring Report. April 2019.

<sup>6</sup> Most of the promulgated GCTLs for these chemicals are based on organoleptic effects rather than health and thus EPA cannot use these as ARARs. Only the GCTL for 1-methylnapthalene is risk based and this chemical was not retained as a COC based on the maximum Exposure Point Concentration calculation.

					Samp	le Events I	Exceeded				
Well Locations	Compound Detected Above GCTLS	February 2014	August 2014	August 2015	December 2015	May 2016	August 2016	February 2017	August 2017	February 2018	August 2018
	2-Methylnaphthalene (GCTL 28 μg/L)	1.4, 1.3	7.3 J, 5.3*	50	49, 46*	90	69 J	120	8.8		3.6
	Arsenic (GCTL 10 μg/L)	<10		8.25I		<8	<8			26.8	
	Beryllium (GCTL 4 μg/L)	0.471,0.571		2.24		7.21	8.57, 8.81			19.3	
	Vanadium (GCTL 6 μg/L)	9.591,8.451		45.5		130	134, 136			201	
MW-	Arsenic (GCTL 10 μg/L)	<10		<8.0			<8.0		<8.0		
108S	Beryllium (GCTL 4 μg/L)	0.741		0.561	- <u>-</u>		0.82		0.551		
1003	Vanadium (GCTL 6 μg/L)	15.5	<u>-</u>	14.2			15.4		14		
MW-109	Benzo(a)anthracene (GCTL 0.05 µg/L)	<0.1	<0.1 <b>0.063 J</b> <0.037				<0.037				
MW-110	Arsenic (GCTL 10 μg/L)	<10					<8.0		<8.0		
MW-112	Benzo(a)anthracene (GCTL 0.05 µg/L)	<0.1	<0.1 <b>0.086 I</b> <0.037				0.037, <0.037				
MW-113	Benzo(a)anthracene (GCTL 0.05 µg/L)		< 0.037 U	< 0.037 U			< 0.037 U				
MW-114	Benzene (GCTL 1 μg/L)		Well Not I	nstalled		<0.71	<0.71	2.2	2.6, 3.1*	<0.71, <b>0.45 I</b>	<0.1
	Naphthalene (GCTL 14 μg/L)	]				0.07I	0.071	8.1 J	32, 41*	2.3, 16.9	<0.5
MW-204	Isopropylbenzene (GCTL 0.8 μg/L)	<1.0	<0.67	<0.67			2.1		2	<b>0.70 I,</b> <0.50	0.79
	Naphthalene (GCTL 14 μg/L)	28	1.1	13			27		30	8.1, 7.0	12.6
MW-205	Isopropylbenzene (GCTL 0.8 μg/L)	<1.0	< 0.67	<0.67			< 0.67		< 0.67		<0.5
	Benzene (GCTL 1 μg/L)				. 1	110	100	47	68	77, 83.1	305
l	Isopropylbenzene (GCTL 0.8 μg/L)	]				16	24	12	18	23, 33.8	21.6
	Naphthalene.(GCTL 14 μg/L)		•			2,300	2,400	1,000	3,100	1,700, 2,600	2,040
	1,2,4-Trimethylbenzene (GCTL 10 µg/L)	]				66	75	36	48	62, 72.6	74.9
TW-01	1,3,5-Trimethylbenzene (GCTL 10 µg/L)	]	Well Not I	nstalled		23	23	16	17	22, 29.4	21.7
	Acenaphthene (GCTL 20 μg/L)	1			İ	180	120	81	47		54.7
	1-Methylnaphthalene (GCTL 28 μg/L)				ļ	380	300	190	170		128
	2-Methylnaphthalene (GCTL 28 μg/L)					220	190	99	100		148

			Sample Events Exceeded								
Well Locations	Compound Detected Above GCTLS	February 2014	August 2014			May 2016	August 2016	February 2017	August 2017	February 2018	August 2018
	Benzene (GCTL 1 μg/L)			.l .,		<0.71	25, 25*	18	58	46, 51.5	194
,	Isopropylbenzene (GCTL 0.8 μg/L)		•			1.8	8.0, 8.6*	6.4	16	11, 20.0	20.7
	Naphthalene (GCTL 14 μg/L)		Well Not Installed		33	150, 150	92	860	880, 1,240	2050	
	1,2,4-Trimethylbenzene (GCTL 10 µg/L)				0.74	5.5 , 5.8*.	7.8	26	18, 32.5	69	
TW-02	1,3,5-Trimethylbenzene (GCTL 10 µg/L)	] .			<0.58	3.0, 3.0*	3.3	12	58, 15.1	21.4	
,	Acenaphthene (GCTL 20 μg/L)	1			· 71	47, 44*	71	75		77.5	
	1-Methylnaphthalene (GCTL 28 μg/L)	] .			, 	8.1	44. 41*	68	210		208
	2-Methylnaphthalene (GCTL 28 µg/L)				, !	4.2	9.5, 9.4*	0.60	79		201
	Benzene (GCTL 1 μg/L)					<0.71	<0.71	<0.71	<0.71	<0.71, <0.10	5.2
TW-05	Isopropylbenzene (GCTL 0.8 µg/L)		Well Not I	nstalled	[ !	<0.67	<0.67	<0.67	<0.67	<0.67, <0.50	1.5
	Naphthalene (GCTL 14 μg/L)					0.0511	<0.035	<0.82	<1.0	<0.82, <0.50	101
	Benzene (GCTL 1 μg/L)					<0.71	<0.71	<0.71	<0.71	<0.71, <0.10	1.5
TW-06	Isopropylbenzene (GCTL 0.8 μg/L)	·	Well Not I	nstalled	<u>[</u>	<0.67	<0.67	<0.67	<0.67	<0.67, <0.50	1.3
	Naphthalene (GCTL 14 μg/L)				:	0.0741	0.17	<0.82	2.4J	<0.82, <b>2.9</b>	59.6

Notes:

Coral pink shading = analytes detected above a GCTL

#### BOLD = detected analytes

Gray shading = sampling events where wells were abandoned or not installed

Monitoring wells MW-204, and MW-205 were sampled on March 1, 2013.

Monitoring wells MW-112, MW-113, and MW-203 were sampled on September 15, 2014.

February 2018 was a resample of August 2017 VOCs only; submitted to ENCO and PACE labs for simultaneous analysis. Results reported listing ENCO first, followed by the PACE result.

<sup>-- =</sup> not analyzed

<sup>\* =</sup> duplicate analysis

### APPENDIX J – DETAILED ARARS REVIEW TABLES

The 2001 OU2 ROD identified groundwater cleanup goals consistent with Florida drinking water standards (Chapter 62-550.310 and 550.320, Florida Administrative Code) and federal drinking water standard MCLs (40 CFR 141.61 and 141.62). Table J-1 compares the 2001 cleanup goals to 2019 state and federal standards. There have been no changes in state or federal standards for benzene and ethylbenzene. The naphthalene cleanup goal was the EPA's risk-based life-time health advisory of 100  $\mu$ g/L. As of 2005, naphthalene has a state ARAR, the GCTL of 14  $\mu$ g/L. Refer to Appendix K for further evaluation of the validity of the lifetime health advisory.

Table J-1: Groundwater Cleanup Goal Comparison

Compound	2001 Cleanup Goal (μg/L)	2019 State MCLs <sup>a</sup> (µg/L)	2019 Federal Standards <sup>b</sup> (μg/L)	Change
Benzene	1	1	5	no change
Naphthalene	_100	NA	NA	no change
Ethylbenzene	700	700	700	no change

#### Notes.

Source: 2001 OU2 ROD, Table 7.

a. FDEP groundwater MCLs located at <a href="https://www.flrules.org/gateway/readRefFile.asp?refId=3006&filename=62-550.doc">https://www.flrules.org/gateway/readRefFile.asp?refId=3006&filename=62-550.doc</a>, accessed 8/19/2019.

b. National Primary Drinking Water Regulations located at <a href="https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations">https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations</a>, accessed 7/23/2019.

<sup>&</sup>lt;sup>7</sup> https://floridadep.gov/waste/district-business-support/documents/table-i-groundwater-and-surface-water-cleanup-target

## APPENDIX K – SCREENING-LEVEL RISK REVIEW

The 2000 OU1 ROD and 2006 ROD Amendment identified surface soil remedial goals. Surface soil goals were compared to residential RSLs to determine if the cleanup is protective of residential use (Table K-1). Table K-1 shows that the hazard quotient (HQ) exceeds 1 for dibenzofuran and pyrene. According to the 2006 AROD, the pre-remediation concentrations for dibenzofuran for both on-site and off-site surface soils ranged from 0.066 mg/kg to 222 mg/kg, with only two samples above the RSL of 73 mg/kg (SD-UN-03 and SD-UN-04). Similarly, the pre-remediation concentrations of pyrene ranged from 0.05 mg/kg to 2,700 mg/kg in sitewide surface soil, with the maximum concentration (located at SD-UN-03) being the only sample above the RSL of 1,800 mg/kg. Sample locations SD-UN-03 and SD-UN-04 had concentrations of benzo(a)pyrene that exceeded a more stringent cleanup level, thus remediation of benzo(a)pyrene addressed the elevated concentrations of dibenzofuran and pyrene at sample locations SD-UN-03 and SD-UN-04.

Surface soils were excavated and removed off site. Subsurface soil goals were based on groundwater protection. All subsurface groundwater goals fall within the EPA's acceptable risk range and non-cancer HQ (Table K-2).

Table K-3 shows that the groundwater cleanup goal for naphthalene exceeds the EPA's acceptable risk range and noncancer HQ of 1. However, EPA Region 4 considers the RSL a conservative value that should be used for the initial health-based screening of sites only and not as a final cleanup goal due to the stringent volatilization factor used in its derivation. According to EPA Region 4, if less stringent volatilization factor assumptions were used, the cleanup goal would be in the acceptable ranges for both cancer and noncancer endpoints (e.g., running the RSL calculator for naphthalene in tap water assuming a volatilization factor of 0.13 results in an adjusted RSL of 21  $\mu$ g/L). The EPA Office of Drinking Water continues to use a lifetime health advisory value for naphthalene of 100  $\mu$ g/L, which is recommended as protective for chronic exposures.

Since the 2001 OU2 ROD, the noncancer toxicity values for total xylenes has become more stringent such that EPA Region 4 deems the promulgated MCL of 10,000  $\mu$ g/L as no longer health protective. Xylenes are site-related but were not identified as a COC at the time of the ROD because the concentrations were below the 1992 promulgated federal MCL. The current EPA tapwater RSL for total xylenes is 190  $\mu$ /L based on the most current toxicity value for noncancer effects (Table K-4). During this FYR period, the maximum concentrations of total xylenes have been detected in the MNA Area 4 with the highest 2018 concentrations observed in TW-01 and TW-02 with concentrations of 476  $\mu$ g/L and 407  $\mu$ g/L, respectively. These concentrations exceed the tap water RSL. The tapwater RSL is based on a stringent volatilization factor of 0.5. If a more realistic volatilization factor assumption of 0.13 is used, the calculated RSL would 614  $\mu$ g/L. The 2018 concentrations in TW-01 and TW-02 are below this value and thus below a noncancer hazard quotient (HQ) of 1.0 (Table K-4).

Table K-1: Residential Screening-Level Risk Assessment for Surface Soil

coc	ROD Residential Cleanup Goal (mg/kg)	Residential RSL <sup>a</sup> (mg/kg)		Cancer Risk <sup>b</sup>	Noncancer
		1 x 10 <sup>-6</sup> Ris <sub>i</sub> k	HQ = 1.0	Cancer Risk	НQ°
Antimony	26	-	31	-	0.8
Arsenic	2.1	0.68	35	3 x 10 <sup>-6</sup>	0.06
Benzo(a)anthracene	1.4	1.1	ı	1 x 10 <sup>-6</sup>	-
Benzo(a)pyrene	0.14	0.11	18	1 x 10 <sup>-6</sup>	0.008
Benzo(b)fluoranthene	1.4	1.1	-	1 x 10 <sup>-6</sup>	-
Benzo(k)fluoranthene	14	11	-	1 x 10 <sup>-6</sup>	_
Chrysene	143	110	-	1 x 10 <sup>-6</sup>	_
Dibenzo(a,h)anthracene	0.14	0.11	-	1 x 10 <sup>-6</sup>	-
Dibenzofuran	300	_	73		4
Fluoranthene	3,000	-	2,400		1 ·
Fluorene	3,000	-	2,400		]
Indeno(1,2,3-c,d)pyrene	1.4	1.1	•	1 x 10 <sup>-6</sup>	-
Iron	23,000		55,000	-	0.4
Methylnaphthalene, 2-	200		240		0.8
Naphthalene	3	3.8	130	8 x 10 <sup>-7</sup>	0.02
Phenanthrene	1,500	-	-		
Pyrene	15,000	-	1,800	-	8

#### Notes:

- a. Current EPA RSLs, dated 2019, are available at <a href="https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables">https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables</a> (accessed 7/23/2019).
- b. The cancer risks were calculated using the following equation, based on the fact that RSLs are derived based on  $1 \times 10^{-6}$  risk: cancer risk = (cleanup level ÷ cancer-based RSL) ×  $10^{-6}$ .
- c. The noncancer HQ was calculated using the following equation: HQ = cleanup level ÷ noncancer-based RSL. HQ = hazard quotient
- = not applicable; toxicity criteria not established

**Bold** = cleanup goal equivalent to noncancer HQ above target of 1

mg/kg = milligrams per kilogram

Table K-2: Residential Screening-Level Risk Assessment for Subsurface Soil

COC  ROD  Residential  Cleanup Goal  (mg/kg)			Residential RSL <sup>a</sup> (mg/kg)		Cancer Risk <sup>b</sup>	Noncancer HQ <sup>c</sup>
		1 x 10 <sup>-6</sup> Risk	HQ=1.0			
Benzene		0.05	1.2	82	4 x 10 <sup>-8</sup>	0.0006
Naphthalene		3	3.8	130	8 x 10 <sup>-7</sup>	0.02
Ethylbenzene		12	5.8	3,400	2 x 10 <sup>-6</sup>	0.003
Total xylenes		43		580		0.07

## Notes:

- a. Current EPA RSLs, dated 2019, are available at <a href="https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables">https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables</a> (accessed 7/23/2019).
- b. The cancer risks were calculated using the following equation, based on the fact that RSLs are derived based on  $1 \times 10^{-6}$  risk: cancer risk = (cleanup level ÷ cancer-based RSL) ×  $10^{-6}$ .
- c. The noncancer HQ was calculated using the following equation:  $HQ = cleanup level \div noncancer-based RSL$ . mg/kg = milligrams per kilogram
- = not applicable; toxicity criteria not established

**Bold** = cleanup goal equivalent to noncancer HQ above target of 1

Table K-3: Tapwater Screening-Level Risk Assessment for Naphthalene in Groundwater

COC	ROD Cleanup Goal	Tapwate (μg/		Cancer Risk <sup>b</sup>	Noncancer
	(μg/L)	1 x 10 <sup>-6</sup> Risk	HQ=1.0		HQ <sup>c</sup>
Naphthalene	100	0.17	6.1	6 x 10 <sup>-4</sup>	16

#### Notes:

- a. Current EPA RSLs, dated 2019, are available at <a href="https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables">https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables</a> (accessed 8/19/2019).
- b. The cancer risks were calculated using the following equation, based on the fact that RSLs are derived based on  $1 \times 10^{-6}$  risk: cancer risk = (cleanup level cancer-based RSL)  $\times 10^{-6}$ .
- c. The noncancer HQ was calculated using the following equation: HQ = cleanup level ÷ noncancer-based RSL. μg/L = micrograms per liter
- = not applicable; toxicity criteria not established

**Bold** = cleanup goal equivalent to noncancer HQ above target of 1

Table K-4: Tapwater Screening-Level Risk Assessment for Total Xylenes in Groundwater

Contaminant	Maximum Concentration 2018 (μg/L)	Tapwater RSL <sup>a</sup> (µg/L)		Cancer Risk <sup>b</sup>	Noncancer
		1 x 10 <sup>-6</sup> Risk	HQ=1.0	}	HQ°
		Default RSL			•
Xylene	476 (TW-01)	-	190	-	3
	RSL using re	vised Volatilizat	ion Factor <sup>d</sup>		
Xylene	476 (TW-01)	-	614	-	0.8

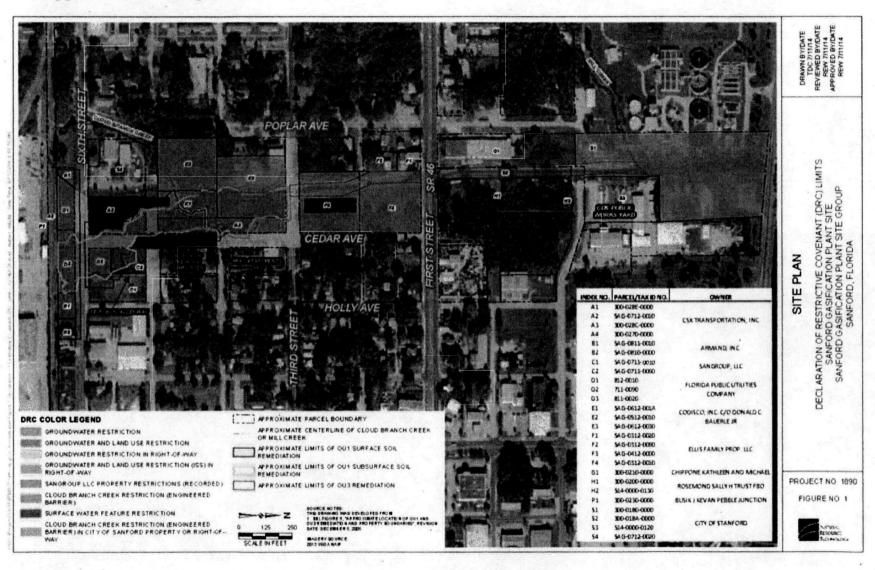
#### Notes:

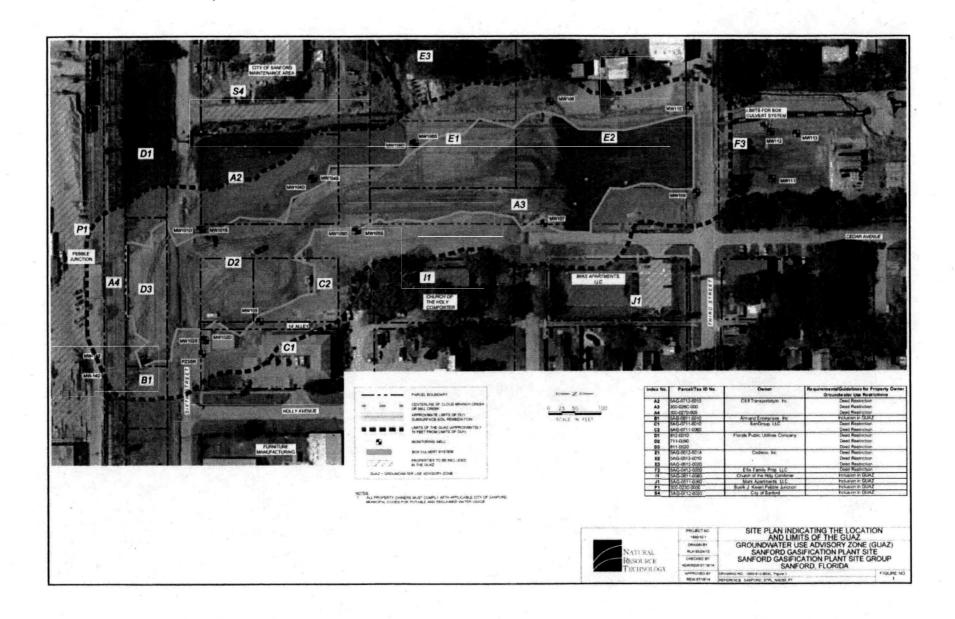
- a. Current EPA RSLs, dated 2019, are available at <a href="https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables">https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables</a> (accessed 11/22/2019)
- b. The cancer risks were calculated using the following equation, based on the fact that RSLs are derived based on  $1 \times 10^{-6}$  risk: cancer risk = (maximum in 2018 ÷ cancer-based RSL) ×  $10^{-6}$ .
- c. The noncancer HQ was calculated using the following equation: HQ = maximum in 2018 ÷ noncancer-based RSL.
- d. EPA RSL Calculator used with standard default residential exposure assumptions and a revised volatilization factor of 0.13 as recommended by the EPA Region 4 <a href="https://epa-prgs.ornl.gov/cgi-bin/chemicals/csl\_search">https://epa-prgs.ornl.gov/cgi-bin/chemicals/csl\_search</a> ug/L = micrograms per liter
- = not applicable; toxicity criteria not established

**Bold** = cleanup goal equivalent to noncancer HQ above target of 1

# APPENDIX L – INSTITUTIONAL CONTROLS

## Appendix F. Site Maps and Aerial Photo





From figure 1
pg. F1
lvdex #
A1, A2, A3, A4
This instrument prepared by, or under supervision of:

Roy E. Wittenberg, PE Principal Engineer Natural Resource Technology, Inc. 234 W. Florida Street, Fifth Floor Milwaukee, Wisconsin 53204

#### **DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants (hereinafter "Declaration") is given by CSX Transportation, Inc. ("Grantor"), having an address of 500 Water Street, Jacksonville, Florida 32202, to the State of Florida Department of Environmental Protection (hereinafter "FDEP" or "Grantee") (collectively, the "Parties"). The Parties agree as follows:

## **RECITALS**

- A. WHEREAS, Grantor is the fee simple owner of that certain real property situated in the County of Seminole, State of Florida, more particularly described in <u>Exhibit "A"</u> attached hereto and made a part hereof (hereinafter the "Property").
- B. WHEREAS, the Property subject to this restrictive covenant is within the Sanford Gasification Plant Superfund Alternative Site ("Site"), to which the U.S. Environmental Protection Agency ("EPA") has assigned Facility Identification Number FLD984169193.
- C. WHEREAS, "Hazardous Substances" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act are located in, on, and under the Property.
- D. WHEREAS, the discharge of Hazardous Substances ("Contamination") on the Property is documented in the following reports that are incorporated by reference:

Page 1 of 15

- 1. The following "Records of Decision" ("RODs") which document the EPA, Region 4 Remedial Action for the Site, and which contain certain further information in reference to Hazardous Substances on the Property:
  - (a) Amended ROD for Operable Unit 1, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/a2006040001230.pdf
  - (b) ROD for Operable Unit 2, dated June 12, 2001, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r0401588.pdf; and
  - (c) ROD for Operable Unit 3, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r2006040001227.pdf.
- 2. Consent Decree entered in the United States District Court, Middle District of Florida, Civil Action, Case No. 6:08-cv-442-Orl-22DAB dated January 15, 2009 (hereinafter "Consent Decree"), between the United States of America, Plaintiff, and Florida Power Corporation, Atlanta Gas Light Company, Florida Power & Light Company, Florida Public Utilities Company, and the City of Sanford Florida (collectively referred to herein as the "Group"), Defendants.
- E. WHEREAS, the Consent Decree is on file with the above-mentioned United States District Court.
- F. WHEREAS, the reports noted in Recital D set forth the nature and extent of the Contamination described in Recital D that is located on the Property. These reports confirm that contaminated groundwater and/or soil as defined by Chapter 62 of the Florida Administrative Code exists on the Property. Also, these reports indicate that the groundwater and/or soil Contamination extends beyond the Property boundary, and that restrictive covenants will be required for those properties as well.
- G. WHEREAS, the Consent Decree required the use of a number of remediation activities (collectively the "remedies") which were developed by FDEP and EPA and entered though the Consent Decree, including excavation, stabilization of the bed and banks of Cloud Branch Creek, and in-situ solidification (hereinafter "ISS"), which creates a stable, low-permeability, monolithic mass in the soil of affected properties, and groundwater remedy described in the applicable regulations as "monitoring for natural attenuation."
- H. WHEREAS, the Contamination on the Property has been remediated in accordance with the Consent Decree and RODs, yet Hazardous Substances remain in, on, and under the Property.
- I. WHEREAS, it is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure to the Hazardous Substances that remain on the Property, to reduce or eliminate the possibility that the applicable remedies are disturbed and to reduce or eliminate the threat of migration of any such Hazardous Substances.

- J. WHEREAS, consistent with applicable Florida and federal environmental laws and regulations, with the RODs, and with the Consent Decree, the principles of "risk-based corrective action" necessitate the restrictions contained herein be maintained in perpetuity.
- K. WHEREAS, Grantor deems it desirable and in the best interest of all present and future owners of the Property that the Property be subject to the land use restrictions and an engineering control ("Engineering Control") described herein and in the RODs, that will run with the land, for the purpose of protecting human health and the environment, all of which are more particularly hereinafter set forth.
- L. WHEREAS, the FDEP affirms and approves the restrictions in this Declaration as compliant with Chapter 376, Florida Statutes, and Florida Administrative Code Rule 62-780, and EPA has affirmed and approved the restrictions in this Declaration as compliant with the Consent Decree and the RODs.
- M. WHEREAS, the Parties hereto have agreed (1) that EPA is a third party beneficiary of said restrictions and said restrictions shall be enforceable by the EPA, FDEP, and their successor agencies, and (2) to grant an irrevocable right of access over the Property to the Group, EPA, FDEP, and their agents or representatives for purposes of implementing, facilitating and monitoring the remedial action.
- N. WHEREAS, the Engineering Control applicable to the Property consists of an evapotranspiration cover. The Engineering Control will require operation, monitoring, maintenance and reporting to ensure the ongoing effectiveness of the remedial action.
- O. WHEREAS, an Operation and Maintenance ("O&M") Plan approved by the EPA requires the Group to inspect, monitor and maintain the Engineering Control.
- P. WHEREAS, FDEP has affirmed and approved the O&M Plan as equivalent to an Engineering Control Maintenance Plan ("ECMP") as that term is defined in Chapter 62-780, Florida Administrative Code.
- Q. WHEREAS, as stated in this Declaration of Restrictive Covenant, some restrictions apply to the entire Property <u>Exhibit "A"</u>, while other restrictions apply only to portions of the Property ("Portions"). The Portions and legal descriptions are shown in <u>Exhibit "B"</u>.

NOW THEREFORE, Grantor, on behalf of itself, its successors, its heirs, and assigns, in consideration of the recitals above, the terms of the Records of Decision, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, which shall touch and concern and run with the title of the Property, and does give, grant and convey to the Grantee, and its assigns, 1) an irrevocable use restriction and site access covenant of the nature and character, and for the purposes hereinafter set forth and 2), the perpetual right to enforce said

covenants and use restrictions, with respect to the Property. Grantor further agrees as follows:

- A. The foregoing recitals are true and correct and are incorporated herein by reference.
- B. Grantor hereby imposes on the Property the following restrictions:
  - Restrictions Applicable to Entire Property (Exhibit "A"). Except as
    required or permitted by the Consent Decree, or as may be required or
    permitted by the EPA or FDEP pursuant to an enforceable legal mandate
    or order protective of public health, on-site engineering controls described
    in the Consent Decree, including any underground ISS structure and the
    banks and bed of Cloud Branch Creek previously discussed and identified
    in the RODs, shall be maintained.

For purposes of this restriction, the following actions, activities and uses would be deemed to interfere with the integrity or effectiveness of the remedies prescribed by the Consent Decree:

- a. the destruction or modification of any existing or future groundwater monitoring well;
- b. the performance of any dewatering activities on the Property, except pursuant to a plan approved by FDEP's Division of Waste Management ("DWM") to address and ensure the appropriate handling, treatment and disposal of any extracted groundwater that may be contaminated.

Additional specific restrictions are outlined in Paragraphs 2 through 7. Further information regarding the remedial objectives and other considerations bearing on the restrictions can be found in the Final Construction Report, Sanford Gasification Plant Site, dated January 24, 2012, available in the public record maintained by the FDEP and available at the Seminole County Public Library.

- 2. Restrictions Applicable to the Property Outside of the Portions. Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, the installation of wells for access to or withdrawal of groundwater with a screened depth less than 50 feet below ground surface IS SPECIFICALLY PROHIBITED in the area outside of the Portions. Any wells installed outside of the Portions which are more than 50 feet below ground surface must be double-cased wells. The installation of monitoring wells must be preapproved in writing by FDEP's DWM in addition to any authorizations required by the DRWM and the WMD.
- Restrictions and Conditions Applicable to the Portions.

Page 4 of 15

- 3.1 Permanent Clean Cover on the Portions (i.e., evapotranspiration cover). The Portions shall be permanently covered by and maintained with two feet of clean and uncontaminated fill that prevents human exposure to soils that have been treated by ISS.
- 3.2 Specifically Prohibited Activities and Conditions. The following activities and conditions on the Portions ARE SPECIFICALLY PROHIBITED:
- Access to or withdrawal or use of any groundwater for consumption, irrigation or any other purpose;
- b. Drilling or construction of any wells for any purpose:
- c. Construction of any borrow pit;
- d. Construction of any building basement, sub-basement, or other subsurface structure;
- e. Excavation and removal of any of the ISS mass except as allowed under Paragraph 5; and
- f. Installation of any stormwater retention or attenuation feature.
- g. Any modification or removal of the existing stormwater ponds and facilities; and
- h. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 4. Restrictions and Conditions Applicable to Surface Water Features
  Constructed as Part of the Remedial Action. Attached as Exhibit "C",
  and incorporated by reference herein, is a Survey identifying the size and
  location of existing stormwater swales, stormwater detention or retention
  facilities, ditches, and storm sewers or culverts on the Property that were
  constructed as part of the remedial construction. Such existing
  stormwater features shall not be altered, modified or expanded. A revised
  exhibit must be recorded when any stormwater feature is altered,
  modified, expanded, or constructed. The following activities and conditions
  ARE SPECIFICALLY PROHIBITED with respect to surface water features
  constructed as part of the Remedial Action:
  - a. There shall be no construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any surface water feature or appurtenance to a surface water feature.

Page 5 of 15

- Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 5. Professional Engineer ("P.E.") Certified Allowable Soil Activities and Conditions WithIn the Portions. Notwithstanding any other conditions and restrictions specified in this Declaration, the following activities and conditions are allowed within the Portions, provided that: (1) such work is performed in full compliance with all applicable laws and (2) before commencement of such work, the work is fully described in documentation bearing a PE CERTIFICATION as defined in paragraph 6 below, and subject to approval by EPA and FDEP.
  - a. Excavation of footers for new building construction;
  - Minor earth disturbance activities at depths greater than 2 feet below land surface (such as deep fence posts, sign footers, utility installations, trenches for underdrains);
  - Excavation and removal of any of the ISS mass subject to approval by the USEPA;
  - d. Pavement construction for driveways and parking lots:
  - e. Site grading of any area greater than 500 square feet; and
  - f. Construction of swales and ditches.
- 6. For purposes of paragraph 5 above, "PE Certification" shall mean that the work to be performed is fully described and depicted in plans, drawings, and/or descriptions, which documents are certified to the State of Florida by a signature and seal of a Florida licensed Professional Engineer and containing the following statement: "I have personally reviewed the plans, drawings, and/or descriptions of the work described herein. I have familiarized myself with the purposes and objectives of the remedial measures required by the Consent Decree applicable to the Property. I hereby certify that the work described herein will not interfere with the integrity or effectiveness of any remedial measure on the Property and the work will not create any conditions that adversely affect human health or the environment."
- 7. Allowable Soil Activities and Conditions without PE Certification, Within the Portions. Unless prohibited by paragraphs 3 or 5 above, the following activities and conditions are deemed not to interfere with the integrity or effectiveness of the remedy, and are therefore allowed without any PE Certification:

Page 6 of 15

- a. Minor earth disturbing activities to a depth less than two feet below land surface, and within an area less than 500 square feet;
- b. Planting of grass or other ground covers;
- Shallow plantings for shrubs, hedges, plants, flowers (all with roots that do not exceed and are not likely to exceed two feet in depth);
   and
- d. Construction of walkways.
- 9. If Grantor observes any damage to the Engineering Control on the Property, then the Grantor should notify the EPA and the FDEP of such observations.
- C. In the remaining paragraphs, all references to "Grantor," "Grantee," "EPA," "the Group" (as defined in Recital D, above) and "FDEP" shall also mean and refer to their respective representatives, successors and assigns.
- D. trrevocable Covenant for Site Access: Grantor hereby grants to the Grantee, its agents and representatives, an irrevocable, permanent and continuing right of access to the Property at all reasonable times and with reasonable notice to the Grantor for purposes of:
  - a) Implementing any remaining response actions in the RODs;
  - b) Verifying any data or information submitted to EPA and Grantee:
  - c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
  - d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
  - e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations; and
- E. <u>Modification:</u> This Declaration shall not be modified, amended, or terminated without the written consent of FDEP or its successor agency. FDEP shall not consent to any such modification, amendment or termination without the written consent of EPA.
- F. (a) Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, its heirs, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and covenants granted herein.

- (b) Reserved Rights of EPA: Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's or authority to take response actions under CERCLA, the NCP, or other federal law.
- (c) <u>Reserved Rights of Grantse</u>: Nothing in this document shall limit or otherwise affect Grantse's rights of entry and access or authority to act under state or federal law.
- G. <u>Notice requirement</u>: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: T	IE INTEREST CONVEYED HEREBY IS SUBJECT TO A
DECLARATI	ON OF RESTRICTIVE AND AFFIRMATIVE COVENANTS,
DATED	, 200_, RECORDED IN THE PUBLIC LAND
RECORDS (	N, 20, IN BOOK, PAGE,
IN FAVOR O	, AND ENFORCEABLE BY, THE STATE OF FLORIDA
DEPARTME	IT OF ENVIRONMENTAL PROTECTION.

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

- H. <u>Administrative Jurisdiction</u>: FDEP or any successor state agency having administrative jurisdiction over the interests acquired by the State of Florida by this instrument is the Grantee. EPA is a third party beneficiary to the interests acquired by FDEP.
- I. Enforcement: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation or governmental agency that is substantially benefited by this Declaration. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. It is expressly agreed that EPA is not the recipient of a real property interest but is a third party beneficiary of the Declaration of Restrictive Covenants, and as such, has the right of enforcement. Enforcement of the terms of this instrument shall be at the discretion of the entities listed above, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.

Page 8 of 15

- J. <u>Damages</u>: Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.
- K. <u>Covenants</u>: Grantor hereby covenants to and with the Grantee, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances.
- L. <u>Notices</u>: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, referencing the Site.name and Site ID number and addressed as follows:

To Grantor:

To Grantee:

CSX Transportation, Inc. 500 Water Street
Jacksonville, FL 32202

Program Administrator, Waste Cleanup Program FDEP M.S. 4505 2600 Blair Stone Road Tallahassee, FL 32399

To EPA:

U.S. EPA, Region 4
Waste Management Division
Superfund Remedial and Technical Services Branch
Section Chief, Section D
61 Forsyth Street, SW
Atlanta, GA 30303

M. Recording In Land Records: This Declaration shall be recorded in timely fashion in the Official Records of Seminole County, Florida, with no encumbrances of record, and shall be recorded at any time Grantee may require to preserve its rights. The Group shall pay all recording costs and taxes necessary to record this document in the public records.

#### O. General provisions:

- a) <u>Controlling law</u>. The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state of Florida.
- b) <u>Liberal construction</u>: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision

Page 9 of 15

of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

- c) <u>Severability</u>: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d) <u>Entire Agreement</u>: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.
- e) <u>No Forfeiture</u>: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- f) <u>Joint Obligation</u>: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.
- g) <u>Successors</u>: The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof.
- h) <u>Captions</u>: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- i) <u>Counterparts</u>: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the State of Florida Department of Environmental Protection and its successors and assigns forever.

IN WITNESS WHEREO	F, Grantor has caused this Agreeme	nt to be signed in its name
Executed this 16th da	ny of <u>Marich</u> , 2017.	
Title/Position	tel Davis on: Recionages Fre	
Signed, sealed and deliv		,
Matthew Z. (25) Witness:	Mythen R Cangiolog. Print Name	3/16/17− Date
Roth	Dona L. Lieva	3/16/17
Witness:	Print Name	Date
instrument on behalf of and voluntary act and de	the State of Florida, duly commission to be the person to Brantor, and acknowledged the said seed of said entity, for the uses and put they are authorized to execute said in	hat executed the foregoing instrument to be the free urposes therein mentioned
Witness my hand and of	ficial seal hereto affixed the day and	year written above.
		the state of the s
	Notary Public State of Flori	in and for the
	My Commiss	ion Expires: <u>3-15-2-</u> /4
,	Commission	No. FF 178182
		REGINA A. TAYLOR-MURPHY  Notary Public - State of Florida  My Comm. Expires Mar 15: 2019  Commission & FF 178182

Page 11 of 15

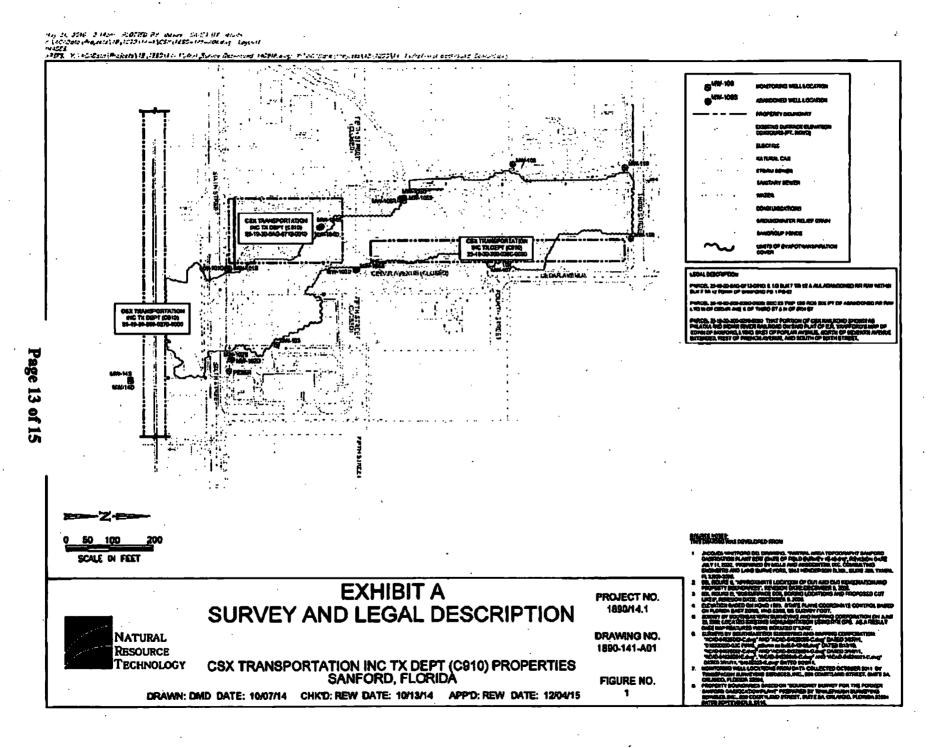
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Approved as to form by:	By:			
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Toni Sturtevant, Asst. General Counsel	F. JOSEPH ULLO, Jr., P.E., Director			
Office of General Counsel	Division of Waste Management			
	D			
	Dept. of Environmental Protection			
•	Division of Waste Management 2600 Blairstone Road			
Cinnal and deliment in	Tallahassee, FL 32399-2400			
Signed, sealed, and delivered in				
in the presence of:				
$\sim 11$	<b>A A</b>			
CIN 1	$\mathcal{M}$			
Witness Signature	Witness Signature			
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Junnifer Videns	tenniter Baker			
Printed Name	Printed Name			
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Date	Date			
•				
STATE OF FLORIDA				
COUNTY OF LEON				
	ent /			
The foregoing instrument was acknowledge	ed before me this 16 day of 100E,			
20_17_, by F. JOSEPH ULLO, who is personally	known to me.			
ALDOTAL PERSONAL FEET 215917	رسند کرکی در ( )			
E)(PIRES: Moor) 31, 2019	Judel Semmes			
Mary rat man way your	Notary Public, State of Florida at Large			
Attachments:				
Exhibit A - Legal Description/Surve	• •			
Exhibit B - Survey Map/Legal of the Portion				

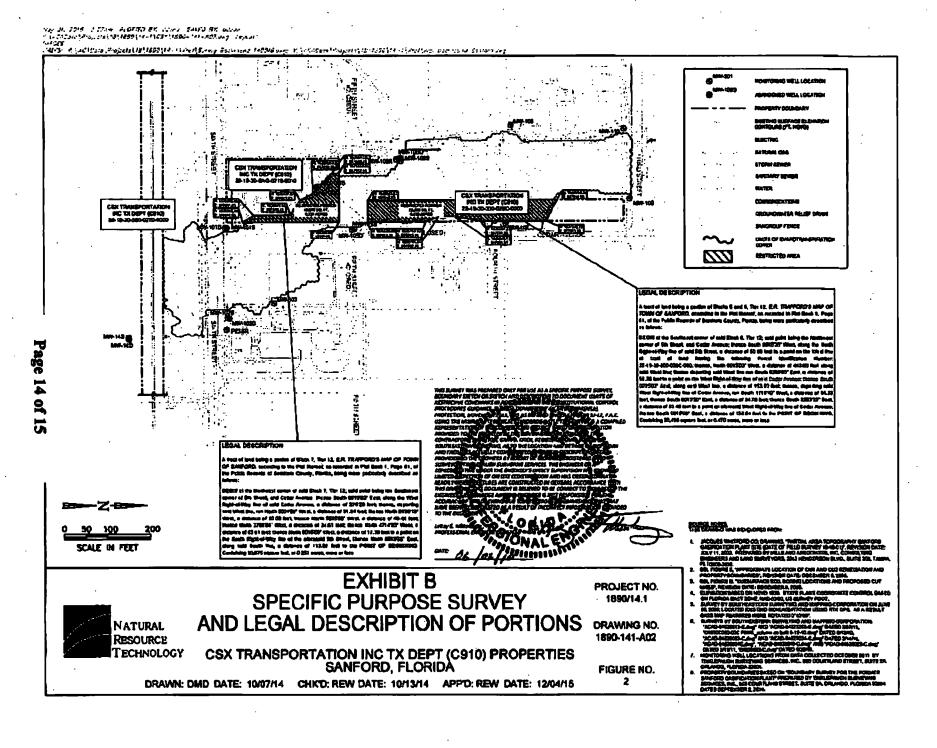
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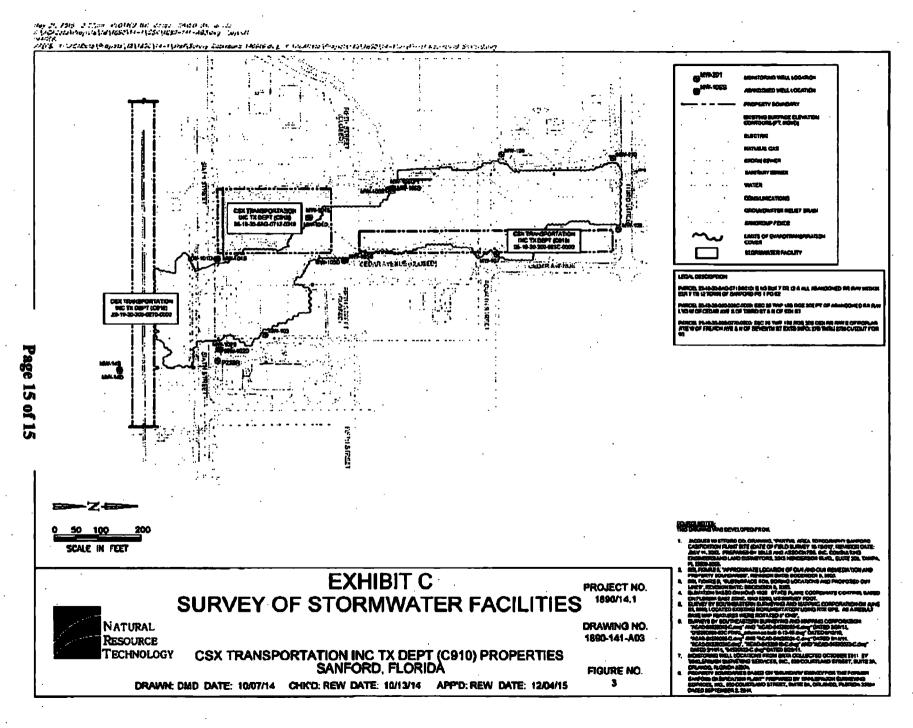
Page 12 of 15

Survey Map of the Stormwater Features

Exhibit C







MARYANNE MORSE. SEMINOLE COUNTY
CLERK OF C:RCUIT COURT & COMPTROLLER
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CLERK'S # 2014009341
RECORDED 01/27/2014 11:54:04 AM
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From Figure 1
Pg. F1
Indix# CI + C2
This instrument prepared by, or under supervision of:

George F. Gramling III, Esq. Gramling Environmental Law, P.A. 118 South Newport Avenue Tampa, FL 33606

#### **DECLARATION OF RESTRICTIVE COVENANT**

THIS DECLARATION OF RESTRICTIVE COVENANT (hereinafter "Declaration") is made this / / / day of / / / / / / / / / / / / / / / 2013, by SanGroup, LLC, a Florida limited liability corporation (hereinafter "GRANTOR") and the Florida Department of Environmental Protection (hereinafter "FDEP").

#### RECITALS

- A. GRANTOR is the fee simple owner of that certain real property situated in the County of Seminole, State of Florida, more particularly described in **Exhibit "A"** attached hereto and made a part hereof (hereinafter the "Property");
- B. The United States Environmental Protection Agency (hereinafter "EPA") Facility Identification Number for the Sanford Gasification Plant Site is FLD984169193, of which all or a portion of the Property is a part thereof. The facility name at the time of this Declaration is the Sanford Gasification Plant Superfund Alternative Site ("Site"). This Declaration addresses the discharge that was reported to the FDEP in approximately 1989-1990; FDEP performed a Preliminary Assessment of the Site in March 1990.
- C. "Hazardous Substances" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act are located in, on, and under the Property.
- D. The discharge of certain contaminants on the Property is documented in the following reports that are incorporated by reference:

- 1. The following "Records of Decision" ("RODs") which document the EPA, Region 4 Remedial Action for the Site, which contain certain further information in reference to hazardous substances on the Property:
  - (a) Amended ROD for Operable Unit 1, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/a2006040001230.pdf
  - (b) ROD for Operable Unit 2, dated June 12, 2001, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r0401586.pdf; and
  - (c) ROD for Operable Unit 3, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r2006040001227.pdf.
- 2. Consent Decree entered in the U.S. District Court, Middle District of Florida, Civil Action, Case No. 6:08-cv-442-Orl-22DAB dated January 15, 2009 (hereinafter "Consent Decree"), between the United States of America and Florida Power Corporation, Atlanta Gas Light Company, Florida Power & Light Company, Florida Public Utilities Company, and the City of Sanford Florida (collectively referred to herein as the "Group").
- E. The Consent Decree is on file with the above-mentioned U.S. District Court.
- F. The reports noted in Recital D set forth the nature and extent of the contamination described in Recital D that is located on the Property. These reports confirm that contaminated groundwater and/or soil as defined by Chapter 62 of the Florida Administrative Code exists on the Property. Also, these reports indicate that the groundwater and/or soil contamination extends beyond the Property boundary, and that restrictive covenants will be required for those properties as well.
- G. The Consent Decree requires the use of a number of remediation activities (collectively the "remedies"), including excavation, stabilization of the bed and banks of Cloud Branch Creek, and in-situ solidification (hereinafter "ISS"), which creates a stable, low-permeability, monolithic mass in the soil of affected properties, and groundwater remedy described in the applicable regulations as "monitoring for natural attenuation." FDEP has approved the remediation activities required to be implemented by the Consent Decree.
- H. Hazardous Substances on the Property have been remediated in accordance with the Consent Decree and Record of Decision. Nevertheless, Hazardous Substances remain in, on, and under the Property.
- I. Consistent with applicable Florida and federal environmental laws and regulations, with the ROD, and with the Consent Decree, the principles of "risk-based corrective action" necessitate that certain land use controls be established for the property and maintained in perpetuity through this Declaration of Restrictive Covenant. The land use controls established in this Declaration of Restrictive Covenant have been approved by the EPA and the FDEP.

- J. It is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure to any Hazardous Substances present on the Property, to reduce or eliminate the possibility that the applicable remedies are disturbed and to reduce or eliminate the threat of migration of any such Hazardous Substances.
- K. The FDEP affirms and approves the restrictions in this Declaration as compliant with Chapter 376, Florida Statutes, and Florida Administrative Code Rule 62-780.
- L. GRANTOR deems it desirable and in the best interest of all present and future owners of the Property that the Property be held subject to certain restrictions and engineering controls, all of which are more particularly hereinafter set forth.
- M. As stated in this Declaration of Restrictive Covenant, some restrictions apply to the entire Property <u>Exhibit "A"</u>, while other restrictions apply only to portions of the Property ("Portions"). The Portions and legal descriptions are shown in **Exhibit "B"**.
- N. GRANTOR is a Florida limited liability corporation whose members are Atlanta Gas Light Company, Florida Power & Light Company, and Duke Energy Florida, Inc., formerly known as Florida Power Corporation (the "Members").
- O. The Members have executed an "Action by Unanimous Written Consent of the Members in Lieu of Meeting" which incorporates a "Unanimous Written Consent of the Advisory Committee in Lieu of Meeting" and an "Affidavit of Jessica L. Bednarcik" (all attached hereto as <a href="Exhibit">Exhibit "E"</a>) authorizing Jessica L. Bednarcik, as representative of Duke Energy Florida, Inc., formerly known as Florida Power Corporation, to execute this Declaration on behalf of GRANTOR.

NOW, THEREFORE, in compliance with all applicable Florida and federal environmental laws and regulations, embodied in and enforced through the Consent Decree, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the undersigned parties, GRANTOR agrees as follows:

- 1. The foregoing recitals are true and correct and are incorporated herein by reference.
- 2. Restrictions Applicable to Entire Property (Exhibit A), including Portions. Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, all actions, activities, and uses on the Property that interfere with the integrity or effectiveness of the remedies as prescribed by the Consent Decree ARE HEREBY PROHIBITED. This prohibition includes, without limitation, the destruction or modification of any existing or future groundwater monitoring well. For any dewatering activities on the

Property, a plan approved by FDEP's Division of Waste Management (DWM) must be in place to address and ensure the appropriate handling, treatment and disposal of any extracted groundwater that may be contaminated. Attached as <a href="Exhibit">Exhibit "C"</a>, and incorporated by reference herein, is a Survey identifying the size and location of existing stormwater swales, stormwater detention or retention facilities, and ditches on the Property. Such existing stormwater features shall not be altered, modified or expanded, and there shall be no construction of new stormwater swales, stormwater detention or retention facilities or ditches on the Property without prior written approval from FDEP's DWM in addition to any authorizations required by the Division of Water Resource Management (DRWM) and the Water Management District (WMD). A revised exhibit must be recorded when any stormwater feature is altered, modified, expanded, or constructed.

- 3. Restrictions Applicable to the Property Outside of the Portions (Exhibit B). Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, the installation of wells for access to or withdrawal of groundwater with a screened depth less than 50 feet below ground surface IS SPECIFICALLY PROHIBITED in the area outside of the Portions on the Property. Any wells installed outside of the Portions which are more than 50 feet below ground surface must be double-cased wells. The installation of monitoring wells must be pre-approved in writing by FDEP's DWM in addition to any authorizations required by the DRWM and the WMD.
- 4. Restrictions and Conditions Applicable to the Portions.
  - 4.1 Permanent Clean Cover on the Portions (i.e., evapotranspiration cover). The Portions shall be permanently covered by and maintained with two feet of clean and uncontaminated fill that prevents human exposure to soils that have been treated by ISS beneath the two feet of clean and uncontaminated fill. An Engineering Control Maintenance Plan (ECMP) shall be maintained that includes the frequency of inspections and monitoring and the criteria for determining when the Engineering Control has failed. The ECMP is attached as Exhibit "D"
  - 4.2 Specifically Prohibited Activities and Conditions. The following activities and conditions on the Portions ARE SPECIFICALLY PROHIBITED:
  - a. Access to or withdrawal or use of any groundwater for consumption, irrigation or any other purpose;

- b. Drilling or construction of any wells for any purpose;
- c. Construction of any borrow pit;
- d. Construction of any building basement, sub-basement, or other subsurface structure:
- e. Excavation and removal of any of the ISS mass in a total volume greater than 100 cubic yards;
- f. Installation of any stormwater retention or attenuation features;
- g. Any modification or removal of the existing stormwater ponds and facilities:
- h. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 5. Professional Engineer ("P.E.") Certified Allowable Soil Activities and Conditions Within the Portions. Notwithstanding the conditions and restrictions in Paragraphs 2 and 4, the following activities and conditions are allowed within the Portions, provided that: (1) such work is performed in full compliance with all applicable laws and (2) before commencement of such work, the work is fully described in documentation bearing a PE CERTIFICATION, as defined in paragraph 6 below.
  - a. Excavation of footers for new building construction;
  - b. Plantings of trees or other vegetation that has or will likely have roots extending deeper than 2 feet;
  - c. Minor earth disturbance activities (such as deep fence posts, sign footers, utility installations, trenches for underdrains);
  - d. Minor excavation and removal of the ISS mass (less than 100 cubic yards);
  - e. Pavement construction for driveways and parking lots;
  - f. Site grading of any area greater than 500 square feet; and
  - g. Construction of swales and ditches.
- 6. For purposes of paragraph 5 above, "PE Certification" shall mean that the work to be performed is fully described and depicted in plans, drawings, and/or descriptions, which documents are certified to the

State of Florida by a signature and seal of a Florida licensed Professional Engineer and containing the following statement: "I have personally reviewed the plans, drawings, and/or descriptions of the work described herein. I have familiarized myself with the purposes and objectives of the remedial measures required by the Consent Decree applicable to the Property. I hereby certify that the work described herein will not interfere with the integrity or effectiveness of any remedial measure on the Property and the work will not create any conditions that adversely affect human health or the environment."

- 7. Allowable Soil Activities and Conditions without PE Certification, Within the Portions. Unless prohibited by the prohibitions of paragraphs 2, 3, 4, 5, and/or 6 above, the following activities and conditions are deemed not to interfere with the integrity or effectiveness of the remedy, and are therefore allowed without any P.E. Certification:
  - a. Minor earth disturbing activities to a depth less than two feet, and within an area less than 500 square feet;
  - b. Planting of grass or other ground covers;
  - Shallow plantings for shrubs, hedges, plants, flowers (all with roots that do not exceed and are not likely to exceed two feet in depth); and
  - d. Construction of walkways.
- 8. Further information regarding the remedial objectives and other considerations bearing on the above prohibitions and restriction can be found in the "Final Construction Report, Sanford Gasification Plant Site" dated January 24, 2012, available in the public record maintained by the Florida Department of Environmental Protection and available at the Seminole County Public Library.
- 9. In the remaining paragraphs, all references to "GRANTOR," "EPA," "the members of the Group (as defined in Recital D.2, above)" and "FDEP" shall also mean and refer to their respective representatives, successors and assigns.
- 10. For the purpose of monitoring the restrictions contained herein, or for the purpose of conducting any activity relating to the Property as necessary or appropriate under the terms of the Consent Decree or any orders or requirements issued by EPA or FDEP related thereto, the FDEP, EPA, and all members of the Group are hereby granted a right of entry upon and access to the Property at reasonable times and with reasonable notice to the GRANTOR.

- 11. It is the intention of GRANTOR that the restrictions and conditions contained in this Declaration shall touch and concern the Property, run with the land and with the Title to the Property in perpetuity, and shall apply to and be binding upon and inure to the benefit of the successors and assigns of GRANTOR, and to EPA, and to FDEP, and to the members of the Group, as to each of their respective successors and assigns, and to any and all persons or entities hereafter having any right, title, or interest in the Property or any part thereof. FDEP, EPA, and the members of the Group or their respective successors and assigns may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of FDEP, EPA, or members of the Group to exercise their rights in the event of the failure of the GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of any rights hereunder. This Declaration shall continue in perpetuity, unless otherwise modified in writing by GRANTOR, FDEP, EPA, and all members of the Group as provided in paragraph 13 hereof. This Declaration may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by these restrictions. If the GRANTOR does not or will not be able to comply with any of all of the provisions of this Declaration, the GRANTOR shall notify FDEP in writing within three (3) calendar days. Additionally, GRANTOR shall notify FDEP thirty (30) days prior to any conveyance or sale, granting or transferring the Property or portion thereof, to any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said property.
- 12. To ensure the perpetual nature of this Declaration, GRANTOR shall reference these restrictions in any subsequent lease or deed of conveyance, including the recording book and page of record of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Property, the GRANTOR agrees to notify in writing all proposed tenants of the Property of the existence and contents of this Declaration of Restrictive Covenant.
- 13. This Declaration is binding until a release of covenant is executed by the FDEP Secretary (or designee) and GRANTOR, and approved in writing by EPA and all members of the Group, and is recorded in the land records of the county in which the land is located. To receive prior approval from the FDEP to remove any requirement herein, cleanup target levels established pursuant to Florida Statutes and FDEP rules must be achieved. This Declaration may be modified in writing only. Any subsequent amendment must be executed by both GRANTOR and the FDEP and be recorded by Grantor as an amendment hereto.

- 14. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions thereof. All such other provisions shall continue unimpaired in full force and effect.
- 15. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Property in fee simple and has good right to create, establish, and impose this restrictive covenant on the use of the Property. GRANTOR also covenants and warrants that the Property is free and clear of any and all liens, mortgages, or encumbrances that could impair GRANTOR's rights to impose the restrictive covenant described in this Declaration or a joinder and consent, or subordination of such interests, as applicable, is attached hereto.

	IN WIT	NĘSS	WHEREOF,	GRANTOR	has	executed	this	instrument,	this
21	_day of _	NOVE	MBER				_20 ر	<u>ለ3</u> .	

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#### **GRANTOR**

SanGroup, LLC, a Florida limited liability company

By: Duke Energy Florida, Inc., formerly known as Florida Power Corporation, a Florida corporation, as a Member

ly: <u>—</u>

Print Name: Jessica L. Bednarcik

As its:

Representative to the Advisory Committee of SanGroup, LLC

Address:

SanGroup, LLC

299 First Avenue North St. Petersburg, FL 33701

Signed, sealed and delivered in our presence as witnesses:

Witness heaten D Hellme

Date: 11/21/2013

Print Name pristagle D. Hellma

Witness:

Date: 11/21/2013

Print Name: Oharles J. Johnston

ission Expires: <u>May</u> 5, 2018

STATE OF North Carolina COUNTY OF Mecklenburg

The foregoing instrument was acknowledge before me this <u>2</u> day of <u>November</u>, 2013, by Jessica L. Bednarcik, in her capacity as the authorized representative of Duke Energy Florida, Inc., (f/k/a Florida Power Corporation) to execute the foregoing document on behalf of SanGroup, LLC, a Florida limited liability company.

Signature of Notary Public

Print Name of Notary Public

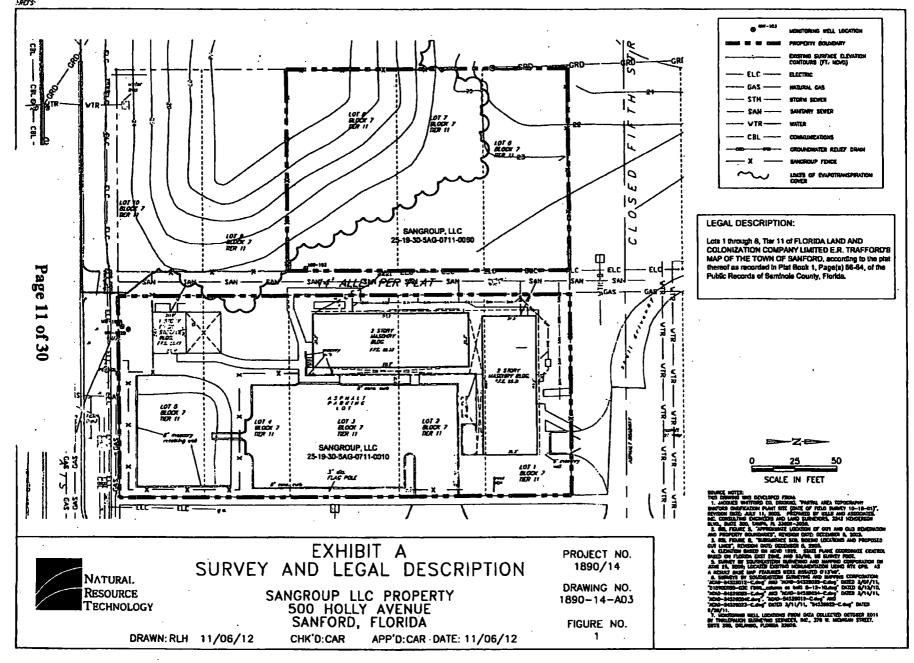
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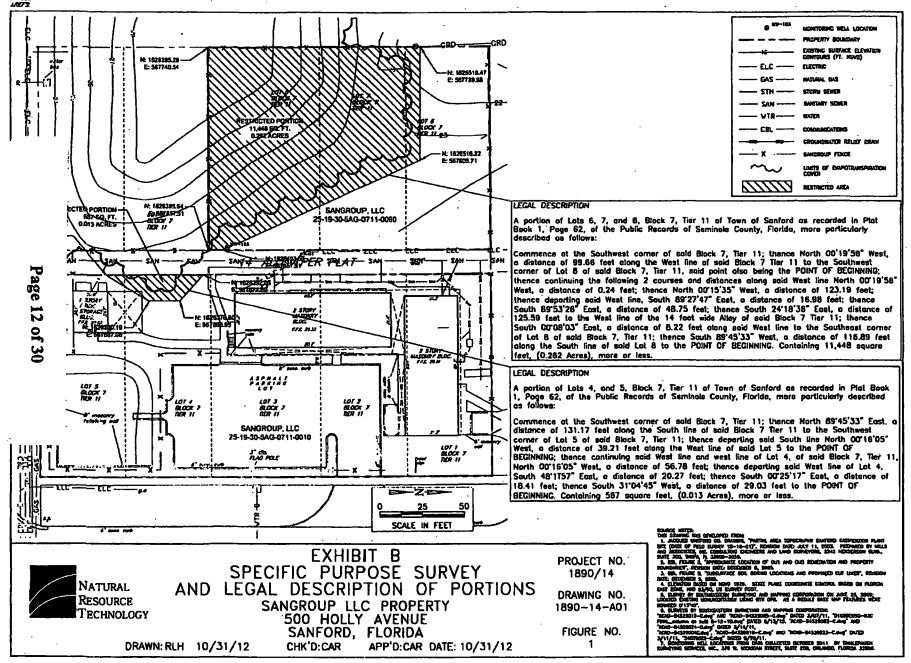
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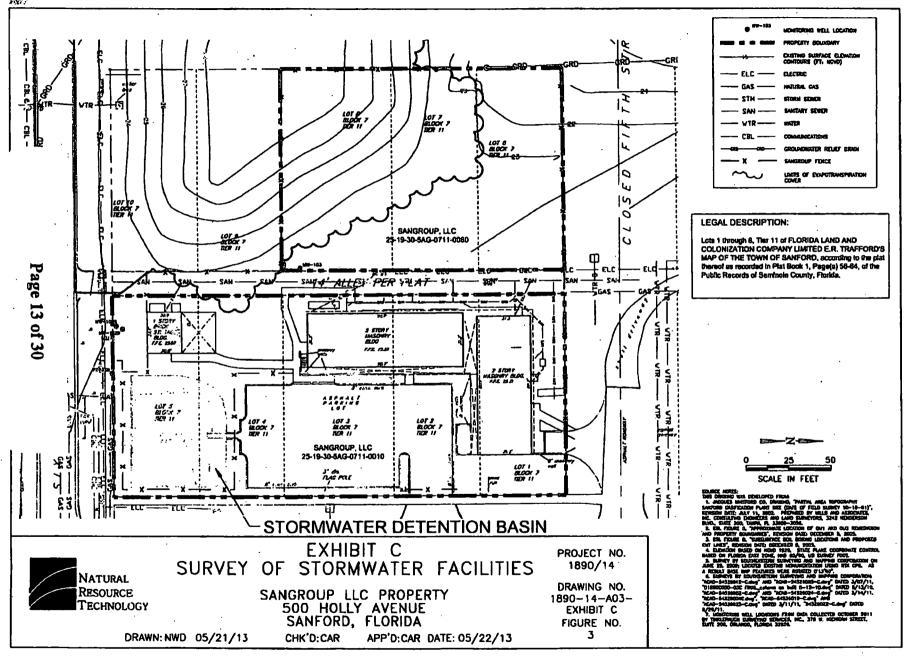
Page 9 of 30

Approved as to form by the Florida Dep Office of General Counsel, by	artment of Environmental Protection,
IN WITNESS WHEREOF, the Florida D has executed this instrument, this 10th	epartment of Environmental Protection day of <u>Janua my</u> , 20 <u>14</u>
Jeff Prather, District Director Central District 3319 Maguire Blvd. Suite 232	ENVIRONMENTAL PROTECTION
Orlando, Florida 32803-4100	
Signed, sealed and delivered in our presence as witnesses:  Witness:   ### Manual Property of Communication    Witness:   ##################################	Date: 1/10/14
Print Name: George Houseun	<u>_</u>
Witness: Christine Daniel	Date: 1/10/14
Print Name: Christine Daniel	_
STATE OF FLORIDA COUNTY OF	
The foregoing instrument was acknowle	dged before me this 10 day of
as representative for the Florida Department of personally known to me.	FEnvironmental Protection, who is
Commission Expires: 3/5/20/6	Print Name of Notary Public  Print Name of Notary Public
(AFFIX NOTARY SEAL)	Commission No. <u>159237</u>
MANIMUM MANIMU	Commission Expires: <u>3/5/2016</u>









#### EXHIBIT "D"

#### ENGINEERING CONTROL MAINTENANCE PLAN

An area of soil referred to herein as the Portions and specifically identified in Exhibit "B" has been treated by in situ stabilization/solidification ("ISS"). Engineering controls for the Portion consist of an evapotranspiration cover constructed with two or more feet of clean and uncontaminated fill, and vegetation (the "Engineering Controls"). The Engineering Controls prevent exposure of the ISS material to people or the surrounding environment and promote retention of rainwater until it is either transpired through the vegetation or evaporated from the soil surface.

#### Maintenance Plan:

- GRANTOR shall perform a visual inspection of the Engineering Controls each year on or about January 1 to verify that the Engineering Controls have not been removed or eroded below the two feet clean soil control and that the Portion remains covered in vegetation.
- GRANTOR shall maintain a record of the date, time, performing party and findings of each annual visual inspection for a period of ten (10) years from the date of the inspection.
- If GRANTOR determines the Engineering Controls have been eroded, excavated or removed such that less than two feet of clean soil remains or that the Portion is not entirely covered by vegetation, GRANTOR shall take *immediate* action to: (i) replace the missing soil and vegetation and eliminate any source of erosion and (ii) notify the Group via the City of Sanford Public Works Department.
- If GRANTOR determines that the ISS material has been exposed, GRANTOR shall take immediate action to: (i) replace the missing soil and vegetation and eliminate any source of erosion, (ii) notify the Group via the City of Sanford Public Works Department, and (iii) notify the Florida Department of Environmental Protection.

#### PROFESSIONAL ENGINEER'S CERTIFICATION

This is to certify that the Engineering Control Maintenance Plan ("ECMP") for this facility conforms to sound engineering principals and Florida Department of Environmental Protection, Division of Waste Management, Institutional Controls Procedures Guidance, Attachment 31: Engineering Controls Reporting and Monitoring Requirements 10/27/10.

In my professional judgment, the ECMP, when properly implemented, will comply with the guidance listed above.

Christopher A. Robb, PE

# SANGROUP, LLC UNANIMOUS WRITTEN CONSENT OF THE ADVISORY COMMITTEE IN LIEU OF MEETING

The undersigned, constituting the sole representatives of the Advisory Committee of SanGroup, LLC, a Florida limited liability company ("SanGroup"), without the formality of convening a meeting, do hereby consent to and adopt the following resolution. It is the intention of the undersigned that this Written Consent be executed in lieu of a meeting of the Advisory Committee.

WHEREAS, SanGroup is the owner of certain real property located at 500 Holly Avenue, Sanford, FL 32771 in Seminole County, Florida (the "Property"), which SanGroup acquired from Christian Prison Ministry, Inc. in October 2008; and

WHEREAS, the Property is located within the area known as the "Sanford Gasification Plant Site" (the "Site"), which is part of an environmental remediation being performed pursuant to the terms of a Consent Decree ("CD") entered in the United States District Court for the Middle District of Florida on January 15, 2009, between the United States of America and Atlanta Gas Light Company, Florida Power & Light Company, Florida Power Corporation, Florida Public Utilities Company, and the City of Sanford, Civil Action No. 6:08-442-Orl-22GJK; and

WHEREAS, pursuant to the terms of the CD, the Property is subject to certain engineering controls which will be protective of human health and the environment; and

WHEREAS, pursuant to the terms of the CD, the United States Environmental Protection Agency ("EPA") and the Florida Department of Environmental Protection ("FDEP") have directed SanGroup, in its capacity as "Grantor," to record certain land use restrictions on the Property which will ensure the continued and perpetual safety of human health and the environment with respect to the Property, as described in a Declaration of Restrictive Covenant ("DRC"), in substantially the form and substance shown on "Appendix E" to the CD; and

WHEREAS, the DRC attached hereto as Exhibit "A" is awaiting final approval by FDEP, and upon such approval will require a signature by a member of SanGroup as Grantor of the DRC; and

WHEREAS, pursuant to the "Operating Agreement of SanGroup, LLC" (the "Operating Agreement"), consent of the Advisory Committee is required for any "Major Action," as that term is defined in the Operating Agreement; and

WHEREAS, the Advisory Committee has determined that execution of the DRC described herein is a Major Action; and

WHEREAS, Duke Energy Florida, Inc., formerly known as Florida Power Corporation ("Duke") has appointed Jessica L. Bednarcik as its sole Representative to the Advisory Committee; and

RESOLVED, that Jessica L. Bednarcik, in her capacity as the representative of Duke Energy Florida, Inc., formerly known as Florida Power Corporation, a member of SanGroup, is authorized and directed to execute the DRC on behalf of SanGroup (as Grantor of the DRC), and to perform any other necessary actions, and to sign any other necessary papers, related to the DRC; and

FURTHER RESOLVED, that the Advisory Committee hereby approves and ratifies the DRC and the documents so executed and the action so taken by Jessica L. Bednarcik; and

FURTHER RESOLVED, that all lawful acts taken or caused to be taken by or on behalf of SanGroup by Jessica L. Bednarcik, PE, in connection with the foregoing recitals and resolutions, and all other documents and actions ancillary thereto, be, and hereby are, ratified, approved and adopted as the acts of SanGroup.

FURTHER RESOLVED, that this Unanimous Written Consent may be signed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Effective June <u>30</u>, 2013.

Jessica L. Bednarcik
Representative of Duke Energy Florida, Inc., formerly known as Florida Power Corporation

Randall LaBauve
Representative of Florida Power & Light Company

Thomas K. Maurer
Representative of the City of Sanford

Jeffrey B. Brown
Representative of Atlanta Gas Light Company

Page 16 of 30

**RESOLVED**, that Jessica L. Bednarcik, in her capacity as the representative of Duke Energy Florida, Inc., formerly known as Florida Power Corporation, a member of SanGroup, is authorized and directed to execute the DRC on behalf of SanGroup (as Grantor of the DRC), and to perform any other necessary actions, and to sign any other necessary papers, related to the DRC; and

**FURTHER RESOLVED**, that the Advisory Committee hereby approves and ratifies the DRC and the documents so executed and the action so taken by Jessica L. Bednarcik; and

FURTHER RESOLVED, that all lawful acts taken or caused to be taken by or on behalf of SanGroup by Jessica L. Bednarcik, PE, in connection with the foregoing recitals and resolutions, and all other documents and actions ancillary thereto, be, and hereby are, ratified, approved and adopted as the acts of SanGroup.

FURTHER RESOLVED, that this Unanimous Written Consent may be signed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Effective June 30, 2013.

**ADVISORY COMMITTEE REPRESENTATIVES:** 

Jessica L. Bednarcik

Representative of Duke Energy Florida, Inc., formerly known as Florida Power Corporation

Randall LaBauve

Representative of Florida Power & Light Company

Thomas K. Maurer

Representative of the City of Sanford

Jeffrey B. Brown

Representative of Atlanta Gas Light Company

Page 17 of 30

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Effective June <u>30</u>, 2013.

**ADVISORY COMMITTEE REPRESENTATIVES:** 

Jessica L. Bednarcik Representative of Duke Energy Florida, Inc., formerly known as Florida Power Corporation

Randall LaBauve

Representative of Florida Power & Light Company

Thomas K. Maurer

Representative of the City of Sanford

Jeffrey B. Brown

Representative of Atlanta Gas Light Company

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**FURTHER RESOLVED**, that all lawful acts taken or caused to be taken by or on behalf of SanGroup by Jessica L. Bednarcik, PE, in connection with the foregoing recitals and resolutions, and all other documents and actions ancillary thereto, be, and hereby are, ratified, approved and adopted as the acts of SanGroup.

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Effective June <u>30</u>, 2013.

ADVISORY COMMITTEE REPRESENTATIVES:

Jessica L. Bednarcik Representative of Duke Energy Florida, Inc., formerly known as Florida Power Corporation

Randall LaBauve
Representative of Florida Power & Light Company

Thomas K. Maurer

Representative of the City of Sanford

Jeffrey B. Brown

Representative of Atlanta Gas Light Company

Page 19 of 30

#### SANGROUP, LLC

# ACTION BY UNANIMOUS WRITTEN CONSENT OF THE MEMBERS IN LIEU OF MEETING

The undersigned, constituting all of the members of SanGroup, LLC, a Florida limited liability company ("SanGroup"), without the formality of convening a meeting, do hereby consent to and adopt the following resolutions. It is the intention of the undersigned that this Action by Unanimous Written Consent of the Members in Lieu of Meeting (the "Written Consent") be executed in lieu of a meeting of the members of SanGroup.

WHEREAS, SanGroup is the owner of certain real property located at 500 Holly Avenue, Sanford, FL 32771 in Seminole County, Florida (the "Property"), which SanGroup acquired from Christian Prison Ministry, Inc. in October 2008; and

WHEREAS, the Property is located within the area known as the "Sanford Gasification Plant Site" (the "Site"), which is part of an environmental remediation being performed pursuant to the terms of a Consent Decree ("CD") entered in the United States District Court for the Middle District of Florida on January 15, 2009, between the United States of America and Atlanta Gas Light Company, Florida Power & Light Company, Florida Power Corporation, Florida Public Utilities Company, and the City of Sanford, Civil Action No. 6:08-442-Orl-22GJK; and

WHEREAS, pursuant to the terms of the CD, the Property is subject to certain engineering controls which will be protective of human health and the environment; and

WHEREAS, pursuant to the terms of the CD, the United States Environmental Protection Agency ("EPA") and the Florida Department of Environmental Protection ("FDEP") have directed SanGroup, in its capacity as "Grantor," to record certain land use restrictions on the Property which will ensure the continued and perpetual safety of human health and the environment with respect to the Property, as described in a Declaration of Restrictive Covenant ("DRC"), in substantially the form and substance shown on "Appendix E" to the CD; and

WHEREAS, the DRC attached hereto as <u>Exhibit "A"</u> is awaiting final approval by FDEP, and upon such approval will require a signature by a member of SanGroup as Grantor of the DRC; and

WHEREAS, pursuant to Section 5.1 of the "Operating Agreement of SanGroup, LLC" effective as of July 28, 2008 by and among SanGroup and the undersigned (the "Operating Agreement"), SanGroup is managed by its members, and all decisions and actions concerning the management, control and conduct of SanGroup's business and affairs (other than day-to-day business and affairs) require the consent of a Majority in Interest (as defined in the Operating Agreement) of the members of SanGroup;

SanGroup, LLC Unanimous Written Consent of Members in Lieu of Meeting Page 2

WHEREAS, pursuant to Section 5.3 of the Operating Agreement, consent of the Advisory Committee (comprised of the members of SanGroup and the City of Sanford) is required for any "Major Action," as that term is defined in the Operating Agreement; and

WHEREAS, the Advisory Committee has determined that execution of the DRC described herein is a Major Action; and

WHEREAS, Duke Energy Florida, Inc., formerly known as Florida Power Corporation ("Duke") has appointed Jessica L. Bednarcik as its sole Representative to the Advisory Committee; and

WHEREAS, the Advisory Committee of SanGroup approved the designation of Jessica L. Bednarcik, P.E., as a representative of Duke, as a Member of SanGroup, to execute the DRC on behalf of the members of SanGroup as Grantor; and

WHEREAS, the undersigned members have reviewed the form, terms and conditions of the DRC, and all other agreements, documents, certificates, instruments and forms in connection with the DRC.

RESOLVED, that the foregoing "Whereas" provisions are true; and

FURTHER RESOLVED, that the undersigned members authorize and designate Duke Energy Florida, Inc., formerly known as Florida Power Corporation ("Duke") (by and through Duke's representative Jessica L. Bednarcik), as a member of SanGroup, to sign and deliver the DRC and other documents, certificates, instruments and forms deemed necessary or advisable in connection with the DRC; and to perform any necessary act in connection with the foregoing matters; and

FURTHER RESOLVED, that this Action by Unanimous Written Consent be deemed conclusive authority from each member of Sangroup, and conclusive approval and ratification by each member of Sangroup, of the papers and documents so executed and the actions so taken; and

**FURTHER RESOLVED**, that the undersigned members have reviewed and approved the Unanimous Written Consent of the Advisory Committee in Lieu of Meeting (attached hereto as <u>Exhibit "B"</u>); and

FURTHER RESOLVED, that this Written Consent may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same instrument. The transmission of counterpart signature pages to this Written Consent by facsimile or as

SanGroup, LLC Unanimous Written Consent of Members in Lieu of Meeting Page 3

portable document format attachments to electronic mail shall constitute effective execution and delivery of this Written Consent and may be used in lieu of original counterpart signature pages of this Written Consent for all purposes. Signatures of the parties transmitted by facsimile or as portable document format attachments to electronic mail shall be deemed to be their original signatures for all purposes.

Effective as of June 30, 2013.

#### **MEMBERS**:

Atlanta Gas Light (	Company, a Ge	eorgia corpora	atior
Ву:	1248.1-	sou-	=
Name:_	Jeffre	7. 500	اردي
Title:	VF & Dec	the GC	_
		<i>T</i>	_

Duke Energy Florida, Inc., formerly known as Florida Power Corporation, a Florida corporation

Зу:		
Name:		
Title:	-,	•

Florida Power & Light Company, a Florida corporation

Ву:		 _	
Name:_	·	 	
Title:		 	

SanGroup, LLC Unanimous Written Consent of Members in Lieu of Meeting

portable document format attachments to electronic mail shall constitute effective execution and delivery of this Written Consent and may be used in lieu of original

counterpart signature parties transmitted by fa	ages of this Written Consent for all purposes. Signatures of the acsimile or as portable document format attachments to deemed to be their original signatures for all purposes.
Effective as of June 3	<u>O</u> , 2013.
	members:
	Atlanta Gas Light Company, a Georgia corporation
	Ву:
	Name:
	Title:
	Duke Energy Florida, Inc., formerly known as Florida Power Corporation, a Florida corporation
	By: allow
	Name: VESSICA L. BEDWALCH
•	Title: MANAGER REMEDION DECOMMISSIONIE
	Florida Power & Light Company, a Florida corporation
	Ву:
	Name:

SanGroup, LLC Unanimous Written Consent of Members in Lieu of Meeting Page 3

portable document format attachments to electronic mail shall constitute effective execution and delivery of this Written Consent and may be used in lieu of original counterpart signature pages of this Written Consent for all purposes. Signatures of the parties transmitted by facsimile or as portable document format attachments to electronic mail shall be deemed to be their original signatures for all purposes.

Effective as of June 30	_, 2013.
	MEMBERS:
	Atlanta Gas Light Company, a Georgia corporation
	Ву:
	Name:
	Title:
	Duke Energy Florida, Inc., formerly known as Florida Power Corporation, a Florida corporation
	Ву:
	Name:
	Title:

Florida Power & Light Company, a Florida corporation

Name: Rando IV R. LaBarra Title: VP Environmental Services

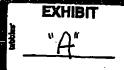
#### AFFIDAVIT OF JESSICA L. BEDNARCIK

Before me, a notary public, appeared Jessica L. Bednarcik, who after first being duly sworn, deposes and states as follows:

- 1. I have personal knowledge of the facts herein.
- I am Manager, Remediation and Decommissioning, at Duke Energy Florida, Inc. ("Duke"), formerly known as Florida Power Corporation, a Florida corporation, as a member of SanGroup, LLC, a Florida limited liability company.
  - 3. Duke is a member of SanGroup, LLC.
- SanGroup, LLC, is a limited liability company organized under the laws of the State of Florida ("SanGroup"), effective April 28, 2008. A true copy of the Articles of Organization is attached hereto as Exhibit "A" and made a part hereof.
- Pursuant to the Articles of Organization and the Operating Agreement of SanGroup, LLC. SanGroup is a member managed company. Duke, as a member of SanGroup, has authority to sign deeds, mortgages, and other instruments on behalf of SanGroup when approved by the members. The members have unanimously approved and authorized Duke to sign such instruments on behalf of SanGroup.
- I have legal authority, on behalf of Duke, to sign such deeds, mortgages, and other instruments.

STATE OF Whoch Carolina COUNTY OF Mecklen berg Sworn to, subscribed and acknowledged before me this 24 day of 3002013, by Jessica L. Beds Signature of Notary Public Lizette Kravie C Name of Notary Public (printed or stamped)

OR Produced identification Personally known Type of identification produced:





Bepartment of State

I certify the attached is a true and correct copy of Articles of Organization, as amended to date, of SANGROUP, LLC, a limited liability company, organized under the laws of the State of Florida, filed on April 28, 2008, as shown by the records of this office.

The document number of this company is L08000042043.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capitol, this the Twenty-fourth day of July, 2008

CR2EQ22 (01-07)

Kuri S. Profonding Secretary of State (((HD8000112047 3)))

#### ARTICLES OF ORGANIZATION

OF

#### SANGROUP, LLC

The undersigned executes these Articles of Organization of SanGroup, LLC to form a limited liability company pursuant to the Florida Limited Liability Company Act:

#### ARTICLE I. NAME

The name of the limited liability company is; SanGroup, LLC.

#### ARTICLE IL ADDRESS

The mailing and street address of the principal office of the limited liability company is e/o Florida Fower Corporation, 100 Central Avenue, St. Petersburg, Florida 33701.

#### ARTICLE IIL REGISTERED AGENT AND OFFICE

The street address of the initial registered office of the limited liability company is 101 K. Kennedy Blvd., Suite 3700, Tampa, Florida 33602, and the name of the limited liability company's initial registered agent at that address is John C. Connery, Jr.

Having been named to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

ARTICLE IV. MANAGEMENT OF COMPANY

John C. Connery, Jr.

The limited liability company is a member-managed limited liability company

EXECUTED: April 27, 2008

John C. Connery, Jr. Authorized Representative of Member

522201

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Division of Corporations Public Access System

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To

Division of Corporations Pax Number : (850)61

: (850)617-6383

Account Name : HILL WARD HEMDERSON

Account Number

072100000520 (B13)221-3900

Phone

(813) 221-2900

## AMND/RESTATE/CORRECT OR M/MG RESIGN

SANGROUP, LLC

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#### ARTICLES OF CORRECTION FOR SANGROUP, LLC

Pursuant to Section 608.4115 of the Florida Limited Liability Company Act, this document is being submitted to correct the Articles of Organization of SanGroup, LLC, a Florida limited liability company.

FIRST: The

The name of the limited liability company is SanGroup, L.I.C. The Articles of Organization were filed on April 28, 2008, and assigned document number.

1,08000042043.

SECOND:

The principal and mailing address of the limited liability company should be 299 First Avenue N., St. Petersburg, Florida 33701. Therefore, Article II of the Articles of Organization should be deleted in its entirety and replaced with the following:

#### "ARTICLE II, ADDRESS

The mailing and street address of the principal office of the limited liability company is c/o I'lorida Power Corporation, 299 First Avenue N., St. Petersham Florida 33701."

EXECUTED: May 1, 2008

John C. Gonnery, Jr.
Authorized Representative of the Months

3 5

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FIRST:

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SECOND:

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#### "ARTICLE II. ADDRESS

The mailing and street address of the principal office of the limited liability company is e/o florida Power Corporation, 299 First Avenue N., St. Petershare Florida 33701."

EXECUTED: May 1, 2008

John C. Connery, Ir.
Authorized Representative of the Manual

52412U

(((H080001187003)))

### GRAMLING ENVIRONMENTAL LAW, P.A.

Reply to:

118 South Newport Avenue Tampa, Florida 33606-1944 www.gramlinglaw.com George F. Gramling III george@gramlinglaw.com Telephone (813) 259-1060 Cell Phone (813) 205-1500

December 19, 2013

Via Federal Express

Toni Sturtevant, Esq.
Senior Assistant General Counsel
Department of Environmental Protection
Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard, MS 35
Tallahassee FL, MS 35, 32399-3000

Re: SanGroup, LLC - Declaration of Restrictive Covenant

Sanford Manufactured Gas Plant Site

FDEP FAC ID # COM 160171

OGC File # 13-0806

Dear Toni:

Enclosed is the Declaration of Restrictive Covenant for the SanGroup, LLC property at 500 Holly Avenue in Sanford, Florida. The DRC has been executed by Jessica L. Bednarcik on behalf of SanGroup, LLC.

Please have the DRC executed by FDEP, and return the original to us for recording in the Clerk's Office. If you have any questions or concerns, please feel free to call or email me. Thank you for your assistance.

Sincerely

Larry Kent

Encl.

cc: George Houston II, P.E. (via email, w/o enclosure)
Jessica L. Bednarcik, P.E. (via email, w/o enclosure)
Dorothy E. Watson, Esq. (via email, w/o enclosure)
E. A. Skip Kazmarek, Esq. (via email, w/o enclosure)
Peter Cocotos, Esq. (via email, w/o enclosure)
George F. Gramling III, Esq. (via email, w/o enclosure)

From Figure 1 Pg. F1 Index # D1, D2+D3

This instrument prepared by, or under supervision of:

Roy E. Wittenberg, PE
Principal Engineer
Natural Resource Technology, Inc.
234 W. Florida Street, Fifth Floor
Milwaukee, Wisconsin 53204

#### **DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants (hereinafter "Declaration") is given by Florida Public Utilities Company, a Florida corporation, ("Grantor"), having an address of 1015 6th Street NW, Winter Haven, Polk County, Florida 33881, to the State of Florida Department of Environmental Protection (hereinafter "FDEP" or "Grantee") (collectively, the "Parties"). The Parties agree as follows:

#### **RECITALS**

- A. WHEREAS, Grantor is the fee simple owner of that certain real property situated in the County of Seminole, State of Florida, more particularly described in <u>Exhibit "A"</u> attached hereto and made a part hereof (hereinafter the "Property").
- B. WHEREAS, the Property subject to this restrictive covenant is within the Sanford Gasification Plant Superfund Alternative Site ("Site"), to which the U.S. Environmental Protection Agency ("EPA") has assigned Facility Identification Number FLD984169193.
- C. WHEREAS, "Hazardous Substances" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act are located in, on, and under the Property.
- D. **WHEREAS**, the discharge of Hazardous Substances ("Contamination") on the Property is documented in the following reports that are incorporated by reference:

Page 1 of 19

- 1. The following "Records of Decision" ("RODs") which document the EPA, Region 4 Remedial Action for the Site, and which contain certain further information in reference to Hazardous Substances on the Property:
  - (a) Amended ROD for Operable Unit 1, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/a2006040001230.pdf
  - (b) ROD for Operable Unit 2, dated June 12, 2001, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r0401586.pdf; and
  - (c) ROD for Operable Unit 3, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r2006040001227.pdf.
- 2. Consent Decree entered in the United States District Court, Middle District of Florida, Civil Action, Case No. 6:08-cv-442-Orl-22DAB dated January 15, 2009 (hereinafter "Consent Decree"), between the United States of America, Plaintiff, and Florida Power Corporation, Atlanta Gas Light Company, Florida Power & Light Company, Florida Public Utilities Company, and the City of Sanford Florida (collectively referred to herein as the "Group"), Defendants.
- E. WHEREAS, the Consent Decree is on file with the above-mentioned United States District Court.
- F. WHEREAS, the reports noted in Recital D set forth the nature and extent of the Contamination described in Recital D that is located on the Property. These reports confirm that contaminated groundwater and/or soil as defined by Chapter 62 of the Florida Administrative Code exists on the Property. Also, these reports indicate that the groundwater and/or soil Contamination extends beyond the Property boundary, and that restrictive covenants will be required for those properties as well.
- G. WHEREAS, the Consent Decree required the use of a number of remediation activities (collectively the "remedies") which were developed by FDEP and EPA and entered though the Consent Decree, including excavation, stabilization of the bed and banks of Cloud Branch Creek, and in-situ solidification (hereinafter "ISS"), which creates a stable, low-permeability, monolithic mass in the soil of affected properties, and groundwater remedy described in the applicable regulations as "monitoring for natural attenuation."
- H. WHEREAS, the Contamination on the Property has been remediated in accordance with the Consent Decree and RODs, yet Hazardous Substances remain in, on, and under the Property.
- I. WHEREAS, it is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure to the Hazardous Substances that remain on the Property, to reduce or eliminate the possibility that the applicable remedies are disturbed and to reduce or eliminate the threat of migration of any such Hazardous Substances.

- J. WHEREAS, consistent with applicable Florida and federal environmental laws and regulations, with the RODs, and with the Consent Decree, the principles of "risk-based corrective action" necessitate the restrictions contained herein be maintained in perpetuity.
- K. WHEREAS, Grantor deems it desirable and in the best interest of all present and future owners of the Property that the Property be subject to the land use restrictions and an engineering control ("Engineering Control") described herein and in the RODs, that will run with the land, for the purpose of protecting human health and the environment, all of which are more particularly hereinafter set forth.
- L. WHEREAS, the FDEP affirms and approves the restrictions in this Declaration as compliant with Chapter 376, Florida Statutes, and Florida Administrative Code Rule 62-780, and EPA has affirmed and approved the restrictions in this Declaration as compliant with the Consent Decree and the RODs.
- M. WHEREAS, the Parties hereto have agreed (1) that EPA is a third-party beneficiary of said restrictions and said restrictions shall be enforceable by the EPA, FDEP, and their successor agencies, and (2) to grant an irrevocable right of access over the Property to the Group, EPA, FDEP, and their agents or representatives for purposes of implementing, facilitating and monitoring the remedial action.
- N. WHEREAS, the Engineering Control applicable to the Property consists of an evapotranspiration cover. The Engineering Control will require operation, monitoring, maintenance and reporting to ensure the ongoing effectiveness of the remedial action.
- O. WHEREAS, an Operation and Maintenance ("O&M") Plan approved by the EPA requires the Group to inspect, monitor and maintain the Engineering Control.
- P. WHEREAS, FDEP has affirmed and approved the O&M Plan as equivalent to an Engineering Control Maintenance Plan ("ECMP") as that term is defined in Chapter 62-780, Florida Administrative Code.
- Q. WHEREAS, as stated in this Declaration of Restrictive Covenant, some restrictions apply to the entire Property <u>Exhibit "A"</u>, while other restrictions apply only to portions of the Property ("Portions"). The Portions and legal descriptions are shown in <u>Exhibit "B"</u>.

NOW THEREFORE, Grantor, on behalf of itself, its successors, its heirs, and assigns, in consideration of the recitals above, the terms of the Records of Decision, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, which shall touch and concern and run with the title of the Property, and does give, grant and convey to the Grantee, and its assigns, 1) an irrevocable use restriction and site access covenant of the nature and character, and for the purposes hereinafter set forth and 2), the perpetual right to enforce said

covenants and use restrictions, with respect to the Property. Grantor further agrees as follows:

- A. The foregoing recitals are true and correct and are incorporated herein by reference.
- B. Grantor hereby imposes on the Property the following restrictions:
  - Restrictions Applicable to Entire Property (Exhibit "A"). Except as
    required or permitted by the Consent Decree, or as may be required or
    permitted by the EPA or FDEP pursuant to an enforceable legal mandate
    or order protective of public health, on-site engineering controls described
    in the Consent Decree, including any underground ISS structure and the
    banks and bed of Cloud Branch Creek previously discussed and identified
    in the RODs, shall be maintained.

For purposes of this restriction, the following actions, activities and uses would be deemed to interfere with the integrity or effectiveness of the remedies prescribed by the Consent Decree:

- a. the destruction or modification of any existing or future groundwater monitoring well;
- b. the performance of any dewatering activities on the Property except pursuant to a plan approved by FDEP's Division of Waste Management ("DWM") to address and ensure the appropriate handling, treatment and disposal of any extracted groundwater that may be contaminated

Additional specific restrictions are outlined in Paragraphs 2 through 6. Further information regarding the remedial objectives and other considerations bearing on the restrictions can be found in the Final Construction Report, Sanford Gasification Plant Site, dated January 24, 2012, available in the public record maintained by the FDEP and available at the Seminole County Public Library.

2. Restrictions Applicable to the Property Outside of the Portions.

Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, the installation of wells for access to or withdrawal of groundwater with a screened depth less than 50 feet below ground surface IS SPECIFICALLY PROHIBITED in the area outside of the Portions. Any wells installed outside of the Portions which are more than 50 feet below ground surface must be double-cased wells. The installation of monitoring wells must be preapproved in writing by FDEP's DWM in addition to any authorizations required by the Division of Water Resource Management and the Water Management District.

Page 4 of 19

- 3. Restrictions and Conditions Applicable to the Portions.
  - 3.1 Permanent Clean Cover on the Portions (i.e., evapotranspiration cover). The Portions shall be permanently covered by and maintained with two feet of clean and uncontaminated fill that prevents human exposure to soils that have been treated by ISS. The Group shall have the responsibility set forth in the Consent Decree for implementing the O&M Plan.
  - 3.2 Specifically Prohibited Activities and Conditions. The following activities and conditions on the Portions ARE SPECIFICALLY PROHIBITED:
  - a. Access to or withdrawal or use of any groundwater for consumption, irrigation or any other purpose;
  - b. Drilling or construction of any wells for any purpose;
  - c. Construction of any borrow pit;
  - d. Construction of any building basement, sub-basement, or other subsurface structure;
  - e. Excavation and removal of any of the ISS mass except as allowed under Paragraph 4; and
  - f. Installation of any stormwater retention or attenuation feature.
- 4. Professional Engineer ("P.E.") Certified Allowable Soil Activities and Conditions Within the Portions. Notwithstanding the conditions and restrictions in Paragraphs 1, 2 and 3, the following activities and conditions are allowed within the Portions, provided that: (1) such work is performed in full compliance with all applicable laws and (2) before commencement of such work, the work is fully described in documentation bearing a PE CERTIFICATION, as defined in Paragraph 6 below.
  - a. Excavation of footers for new building construction;
  - b. Minor earth disturbance activities at depths greater than 2 feet below land surface (such as deep fence posts, sign footers, utility installations, trenches for underdrains);
  - c. Minor excavation and removal of any of the ISS mass subject approval by the EPA;
  - d. Pavement construction for driveways and parking lots;
  - e. Site grading of any area greater than 500 square feet; and

Page 5 of 19

- f. Construction of swales and ditches.
- 5. For purposes of Paragraph 4 above, "PE Certification" shall mean that-the work to be performed is fully described and depicted in plans, drawings, and/or descriptions, which documents are certified to the State of Florida by a signature and seal of a Florida licensed Professional Engineer and containing the following statement: "I have personally reviewed the plans, drawings, and/or descriptions of the work described herein. I have familiarized myself with the purposes and objectives of the remedial measures required by the Consent Decree applicable to the Property. I hereby certify that the work described herein will not interfere with the integrity or effectiveness of any remedial measure on the Property and the work will not create any conditions that adversely affect human health or the environment."
- 6. Allowable Soil Activities and Conditions without PE Certification, Within the Portions. Unless prohibited by paragraphs 3 or 4 above, the following activities and conditions are deemed not to interfere with the integrity or effectiveness of the remedy, and are therefore allowed without any PE Certification:
  - a. Minor earth disturbing activities to a depth less than two feet below land surface, and within an area less than 500 square feet;
  - b. Planting of grass or other ground covers;
  - Shallow plantings for shrubs, hedges, plants, flowers (all with roots that do not exceed and are not likely to exceed two feet in depth);
     and
  - d. Construction of walkways.
- 7. If Grantor has knowledge of any damage to the Engineering Control on the Property that has not previously been disclosed to EPA and FDEP, then the Grantor should notify the EPA and the FDEP of such knowledge.
- C. In the remaining paragraphs, all references to "Grantor," "Grantee," "EPA," "the Group" (as defined in Recital D, above) and "FDEP" shall also mean and refer to their respective representatives, successors and assigns.
- D. Irrevocable Covenant for Site Access: Grantor hereby grants to the Grantee, its agents and representatives, an irrevocable, permanent and continuing right of access to the Property at all reasonable times and with reasonable notice to the Grantor for purposes of:
  - a) Implementing any remaining response actions in the RODs;

- b) Verifying any data or information submitted to EPA and Grantee;
- c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples; and
- e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations.
- E. <u>Modification:</u> This Declaration shall not be modified, amended, or terminated without the written consent of FDEP or its successor agency. FDEP shall not consent to any such modification, amendment or termination without the written consent of EPA.
- F. (a) Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, its heirs, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and covenants granted herein.
  - (b) <u>Reserved Rights of EPA</u>: Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's or authority to take response actions under CERCLA, the NCP, or other federal law.
  - (c) <u>Reserved Rights of Grantee</u>: Nothing in this document shall limit or otherwise affect Grantee's rights of entry and access or authority to act under state or federal law.
- G. <u>Notice requirement</u>: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF RESTRICTIVE AND AFFIRMATIVE COVENANTS, DATED\_\_\_\_\_, 200\_, RECORDED IN THE PUBLIC LAND RECORDS ON \_\_\_\_\_, PAGE \_\_\_\_, IN BOOK \_\_\_\_\_, PAGE \_\_\_\_, IN FAVOR OF, AND ENFORCEABLE BY, THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION.

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of

said instrument and, if it has been recorded in the public land records, its recording reference.

- H. <u>Administrative Jurisdiction</u>: FDEP or any successor state agency having administrative jurisdiction over the interests acquired by the State of Florida by this instrument is the Grantee. EPA is a third-party beneficiary to the interests acquired by FDEP.
- I. Enforcement: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation or governmental agency that is substantially benefited by this Declaration. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. It is expressly agreed that EPA is not the recipient of a real property interest but is a third-party beneficiary of the Declaration of Restrictive Covenants, and as such, has the right of enforcement. Enforcement of the terms of this instrument shall be at the discretion of the entities listed above, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.
- J. <u>Damages</u>: Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument. Grantor reserves any and all defenses that it may have to any action for damages brought by Grantee against Grantor for alleged violations of this Agreement
- K. Covenants: Grantor hereby covenants to and with the Grantee, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on <a href="Exhibit">Exhibit "C"</a> attached hereto.
- L. <u>Notices</u>: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, referencing the Site name and Site ID number and addressed as follows:

To Grantor:

To Grantee:

Florida Public Utilities Co. 1015 6th Street NW Winter Haven, FL 33881 Program Administrator, Waste Cleanup Program, FDEP M.S. 4505 2600 Blair Stone Road Tallahassee, FL 32399

Page 8 of 19

## To EPA:

U.S. EPA, Region 4
Waste Management Division
Superfund Remedial and Technical Services Branch
Section Chief, Section D
61 Forsyth Street, SW
Atlanta, GA 30303

M. Recording in Land Records: This Declaration shall be recorded in timely fashion in the Official Records of Seminole County, Florida, with no encumbrances other than those noted in Exhibit C, and shall be recorded at any time Grantee may require to preserve its rights. The Group shall pay all recording costs and taxes necessary to record this document in the public records.

## N. General provisions:

- a) <u>Controlling law</u>: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the State of Florida.
- b) <u>Liberal construction</u>: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c) <u>Severability</u>: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d) <u>Entire Agreement</u>: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.
- e) <u>No Forfeiture</u>: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- f) <u>Joint Obligation</u>: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

- g) <u>Successors</u>: The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof.
- h) <u>Captions</u>: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- i) <u>Counterparts</u>: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the State of Florida Department of Environmental Protection and its successors and assigns forever.

Executed this 12 day of April , 20 17.

GRANTOR: President FLORIDA PUBLIC UTILITIES COMPANY

Signed, sealed and delivered in the presence of:

Witness: Print Name

Date 4/12/2017

Mitness: Print Name

Date 4/12/2017

STATE OF FLORIDA COUNTY OF AASIA

On this 135 day of 100 to 2017, before me, the undersigned, a Notary Public in and for the State of Florida, duly commissioned and sworn, personally appeared 1265 Househouse, known to be the President of Florida Public Utilities Company, Inc., the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

Zynn m m ~ E(()
Notary Public in and for the
State of Florida

My Commission Expires: <u>28/22/20</u>20

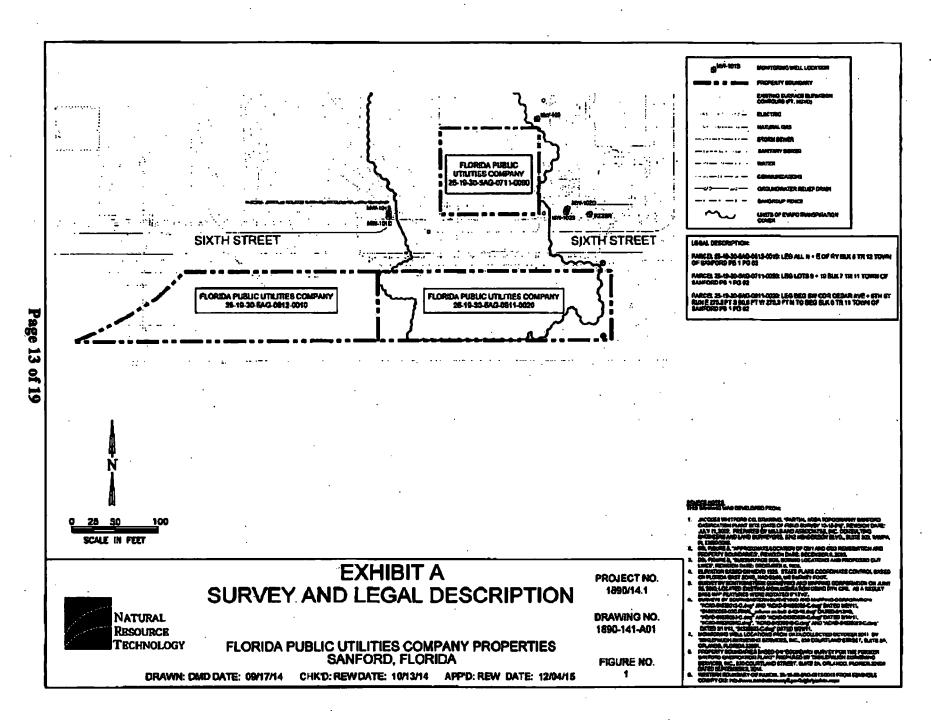


Page 11 of 19

	ENVIRONTMENTAL
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Approved as to form by:	By:
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Toni Sturtevant, Asst. General Counsel Office of General Counsel	F. JOSEPH ULLO, Jr., P.E., Director Division of Waste Management
Office of General Counsel	Division of waste Management
·	Dept. of Environmental Protection
	Division of Waste Management
	2600 Blairstone Road
Signed, sealed, and delivered in	Tallahassee, FL 32399-2400
in the presence of:	
	· M
Witness Signature	Witness Signature
•	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
Jennifer Victors	Jennier Baker
Printed Name	Printed Name
(0)16/17	6/10/17
Date	Date
•	
CTLATTE OR THE ORDER	
STATE OF FLORIDA COUNTY OF LEON	
The foregoing instrument was acknowle	edged before me this 16 day of ME
20_/7_, by F. JOSEPH ULLO, who is person	ally known to me.
A minus menungan dan dan dan dan dan dan dan dan dan d	
MY COLABOSSION & FF 215917	Sidal Terrotor
EAP PRIZE: Match 31; 2019 Boated Tire English Holley-Startus	Notary Public, State of Florida at Large
•	<u> </u>
Attac	hments:
Exhibit A - Legal Description/Surve	y of the Property
Exhibit B - Survey Map	· · · · · · · · · · · · · · · · · · ·
Exhibit C - Existing Liens and Encur	mbrances on the Property

FLORIDA DEPARTMENT OF

Page 12 of 19



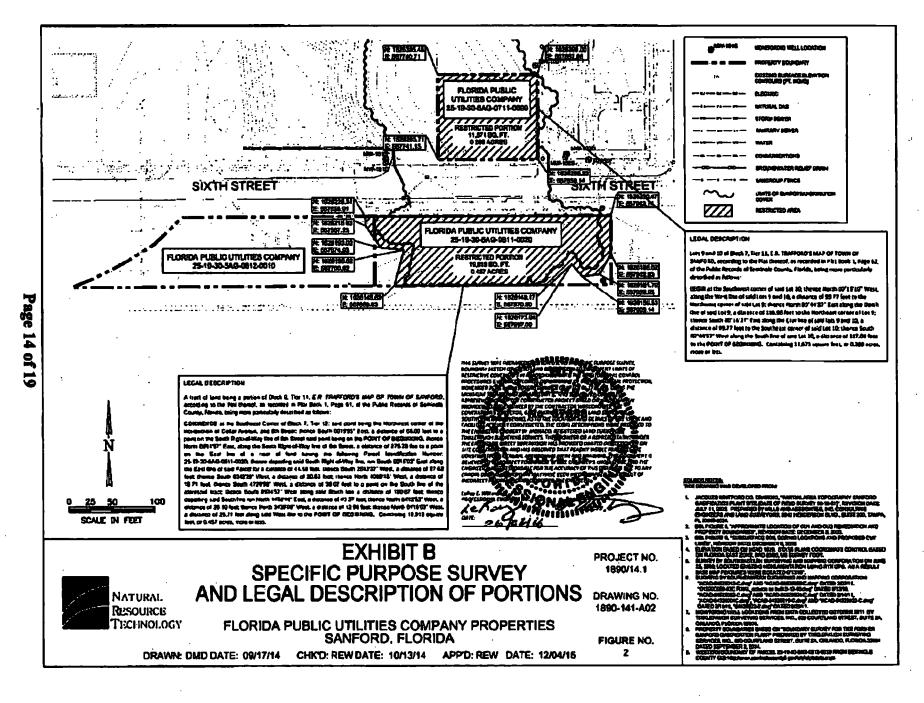


Exhibit C

Existing Liens and Encumbrances on the Property

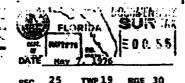
Instrument	Date	Book and Page	
Easement	ent May 24, 1976 Book 1086,		
Joinder and Release of Easement	June 3, 2016	Book 8700, Page 1021	
1			
<del> </del>			

10861312

D. Harvey

aona pag Semingle County Acid Col Florida

RIDA FOWER & P. C. BOX 1817 SAMFORD, PL 82771



In consideration of the payment to me/us by Florida Power & Light Company of \$1.00 and other good and valuable consideration which !/we have received, !/we end those holding through me/us, grant and give to Florida Power & Light Company and its successors and assigns an easement for the construction, operation and maintenence of electric utility facilities (including wires, poles, guys, cables, conduitr, transformer enclosures and appurtenent equipment) to be installed from time to time; with the right to reconstruct, improve, add to, change the size of or remove such facilities or any of them; to permit the attachment of conduits, wires or cables of any other Company or person; also, to cut, trim and keep clear all trees, brush and undergrowth or other obstructions that might endanger or interfere with said facilities, on, over, upon, under, and across my/our property described as follows;

An easement for Plorida Power & Light Company facilities:

An easement six feet (6') in width, a center line which runs from the Northeast corner a distance of sixty-eight feet (68') to a point eighteen feet (18') south of the North property line, and sixty-eight feet (68') West of the East property line of the following described property:

LOTA 9 & 10, Block 7, Tier 11, E. R. Trafford's map of the town of Canford, according to the Plat thereof as recorded in Plat Book 1, pages 56 thru 64 of the Public Records of Seminole County, Florida.

	d easement not to	CHT.	O O 3 O	2 5000	0-1 2 8
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I HEREBY CERTIFY	Y that before me, personally ap				<del></del> •
respectively,	President and			e utilities co	apany
is and who executed afficers, for the uses	iced under the Laws of the Stat the foregoing instrument, and and purposts therein meritions and doed of said corporation.	severally acknowledge	d the execution there	o ma known to be the rof to be their free as seal of said corporati	due en ipsob fores

RWO/SIO/TWO 466 ER 7

Page 16 of 19

STRUCT, NO

MARYAPINE HORSE, SEMINOLE COUNTY (LERK OF CIRCIFY 1998) & COMPTROLLER BY \$700 PDE 1021-1023 (3PDE) CLERK'S \$ 2016057654 MECORDED CO/03/2014 10:19:41 () RECORDING FEED \$27.00 RECORDED BY ERMITH

This instrument prepared by, or under supervision of:

Roy E. Wittenberg, PE
Principal Engineer
Natural Resource Technology, Inc.
234 W. Florida Street, Fifth Floor
Milwaukee, Wisconsin 53204

## JOINDER AND CONSENT OF EASEMENT HOLDER

#### **KNOW ALL MEN BY THESE PRESENTS:**

THAT FLORIDA POWER & LIGHT COMPANY, a Florida corporation whose mailing address is 700 Universe Boulevard, Juno Beach, Florida 33408 (hereinafter "Easement Holder"), hereby certifies that it is the holder of that certain Easement dated May 7, 1976, and recorded May 24, 1976, in Official Records Book 1085, at page 1312, of the Public Records of Seminole County which encumbers the property described on Exhibit "A" attached hereto and incorporated herein, owned by Florida Public Utilities Company (hereinafter "Owner"). The Easement Holder hereby joins in and consents to the granting of the Declaration of Restrictive Covenant by the Owner to the Florida Department of Environmental Protection and agrees that the Easement shall be subordinated to the foregoing Declaration of Restrictive Covenant by and between Codisco, Inc. and the Florida Department of Environmental Protection.

IN WITNESS WHEREOF, this Consent and Joinder is executed by the undersigned this 22 day of 1000, 2016.

	Florida Power & Light Company		
WITNESSES:	Ву:		
Print Name: Module M. Rosson    Compared to the Compared to th	_ Print Name:_ Title:	Alex Rubio V.P., Corp. Real Estate	
Print Name: Marta Hull	(CORP	PORATE SEAL, IF ANY)	
ATTEST:	·	Contract Con	
NAME, Position	_	S Comin	
·	Page 17 of 19		

STATE OF FLORIDA COUNTY OF	each	
2016, by	<u>Alex Rubio</u> , as ny, a Florida corporation	before me this 23 day of the corporation. who as identification.
Notary Public, State of Florida		
Michaelle M. Kahangan		
Printed Notary Name	<del></del>	
Commission No.	Notary Public State of Flori	<b>~~</b> }
	Michaile M Kahrhann My Commission PF 90 1481 Express 09/16/2019	· <b>{</b> .
My Commission Expires:	Limina	~~~~

# Exhibit "A"

(Legal Description of Owner's Property)

#### Owner's Parcel 1

All that real property North and East of Railroad (Atlantic Coast Line) in Block 8, Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Page(s) 56-64, of the Public Records of Seminole County, Florida.

#### Owner's Parcel 2

Lots 9 and 10 of Block 7, Tier 11 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Page(s) 56-64, of the Public Records of Seminole County, Florida,

#### Owner's Parcel 3

Beginning at Southwest corner of Cedar Avenue and 6th Street, run East 275.3 feet, South 80.8 feet, West 275.3 feet and North to the Beginning, being a portion of Block 8, Tier 11 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Page(s) 56-64, of the Public Records of Seminole County, Florida.

From Figure 1 pg.F-1 Indux # E1, E2 +E3

This instrument prepared by, or under supervision of:

Roy E. Wittenberg, PE Principal Engineer Natural Resource Technology, Inc. 234 W. Florida Street, Fifth Floor Milwaukee, Wisconsin 53204

## **DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants (hereinafter "Declaration") is given by Codisco, Inc. ("Grantor"), having an address of 488 W Highbanks Road, Debary, Florida 32713, to the State of Florida Department of Environmental Protection (hereinafter "FDEP" or "Grantee") (collectively, the "Parties"). The Parties agree as follows:

#### RECITALS

- A. WHEREAS, Grantor is the fee simple owner of that certain real property situated in the County of Seminole, State of Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter the "Property").
- B. WHEREAS, the Property subject to this restrictive covenant is within the Sanford Gasification Plant Superfund Alternative Site ("Site"), to which the U.S. Environmental Protection Agency ("EPA") has assigned Facility Identification Number FLD984169193.
- C. WHEREAS, "Hazardous Substances" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act are located in, on, and under the Property.
- D. WHEREAS, the discharge of Hazardous Substances ("Contamination") on the Property is documented in the following reports that are incorporated by reference:
  - 1. The following "Records of Decision" ("RODs") which document the EPA, Region 4 Remedial Action for the Site, and which contain certain further information in reference to Hazardous Substances on the Property:

Page 1 of 48

- (a) Amended ROD for Operable Unit 1, dated September 21, 2008, on file at http://www.epa.gov/superfund/sites/rods/fulitext/a2006040001230.pdf
- (b) ROD for Operable Unit 2, dated June 12, 2001, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r0401586.pdf; and
- (c) ROD for Operable Unit 3, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r2006040001227.pdf.
- 2. Consent Decree entered in the United States District Court, Middle District of Florida, Civil Action, Case No. 6:08-cv-442-Ori-22DAB dated January 15, 2009 (hereinafter "Consent Decree"), between the United States of America, Plaintiff, and Florida Power Corporation, Atlanta Gas Light Company, Florida Power & Light Company, Florida Public Utilities Company, and the City of Sanford Florida (collectively referred to herein as the "Group"), Defendants.
- E. WHEREAS, the Consent Decree is on file with the above-mentioned United States District Court.
- F. WHEREAS, the reports noted in Recital D set forth the nature and extent of the Contamination described in Recital D that is located on the Property. These reports confirm that contaminated groundwater and/or soil as defined by Chapter 62 of the Florida Administrative Code exists on the Property. Also, these reports indicate that the groundwater and/or soil Contamination extends beyond the Property boundary, and that restrictive covenants will be required for those properties as well.
- G. WHEREAS, the Consent Decree required the use of a number of remediation activities (collectively the "remedies") which were developed by FDEP and EPA and entered though the Consent Decree, including excavation, stabilization of the bed and banks of Cloud Branch Creek, and in-situ solidification (hereinafter "ISS"), which creates a stable, low-permeability, monolithic mass in the soil of affected properties, and groundwater remedy described in the applicable regulations as "monitoring for natural attenuation."
- H. WHEREAS, the Contamination on the Property has been remediated in accordance with the Consent Decree and RODs, yet Hazardous Substances remain in, on, and under the Property.
- I. WHEREAS, it is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure to the Hazardous Substances that remain on the Property, to reduce or eliminate the possibility that the applicable remedies are disturbed and to reduce or eliminate the threat of migration of any such Hazardous Substances.

- J. WHEREAS, consistent with applicable Florida and federal environmental laws and regulations, with the RODs, and with the Consent Decree, the principles of "risk-based corrective action" necessitate the restrictions contained herein be maintained in perpetuity.
- K. WHEREAS, Grantor deems it desirable and in the best interest of all present and future owners of the Property that the Property be subject to the land use restrictions and an engineering control ("Engineering Control") described herein and in the RODs, that will run with the land, for the purpose of protecting human health and the environment, all of which are more particularly hereinafter set forth.
- L. WHEREAS, the FDEP affirms and approves the restrictions in this Declaration as compliant with Chapter 376, Florida Statutes, and Florida Administrative Code Rule 62-780, and EPA has affirmed and approved the restrictions in this Declaration as compliant with the Consent Decree and the RODs.
- M. WHEREAS, the Parties hereto have agreed (1) that EPA is a third-party beneficiary of said restrictions and said restrictions shall be enforceable by the EPA, FDEP, and their successor agencies, and (2) to grant an irrevocable right of access over the Property to the Group, EPA, FDEP, and their agents or representatives for purposes of implementing, facilitating and monitoring the remedial action.
- N. WHEREAS, the Engineering Control applicable to the Property consists of an evapotranspiration cover. The Engineering Control will require operation, monitoring, maintenance and reporting to ensure the ongoing effectiveness of the remedial action.
- O. WHEREAS, an Operation and Maintenance ("O&M") Plan approved by the EPA requires the Group to inspect, monitor and maintain the Engineering Control.
- P. WHEREAS, FDEP has affirmed and approved the O&M Plan as equivalent to an Engineering Control Maintenance Plan ("ECMP") as that term is defined in Chapter 62-780, Florida Administrative Code.
- Q. WHEREAS, as stated in this Declaration of Restrictive Covenant, some restrictions apply to the entire Property <u>Exhibit "A"</u>, while other restrictions apply only to portions of the Property ("Portions"). The Portions and legal descriptions are shown in <u>Exhibit "B"</u>.

NOW THEREFORE, Grantor, on behalf of itself, its successors, its heirs, and assigns, in consideration of the recitals above, the terms of the Records of Decision, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, which shall touch and concern and run with the title of the Property, and does give, grant and convey to the Grantee, and its assigns, 1) an irrevocable use restriction and site access covenant of the nature and character, and for the purposes hereinafter set forth and 2), the perpetual right to

enforce said covenants and use restrictions, with respect to the Property. Grantor further agrees as follows:

- A. The foregoing recitals are true and correct and are incorporated herein by reference.
- B. Grantor hereby imposes on the Property the following restrictions:
  - 1. Restrictions Applicable to Entire Property (Exhibit "A"). Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, on-site engineering controls described in the Consent Decree, including any underground ISS structure and the banks and bed of Cloud Branch Creek previously discussed and identified in the RODs, shall be maintained.

For purposes of this restriction, the following actions, activities and uses would be deemed to interfere with the integrity or effectiveness of the remedles prescribed by the Consent Decree:

- a. the destruction or modification of any existing or future groundwater monitoring well;
- b. the performance of any dewatering activities on the Property, except pursuant to a plan approved by FDEP's Division of Waste Management ("DWM") to address and ensure the appropriate handling, treatment and disposal of any extracted groundwater that may be contaminated.

Additional specific restrictions are outlined in Paragraphs 2 through 8. Further information regarding the remedial objectives and other considerations bearing on the restrictions can be found in the Final Construction Report, Sanford Gasification Plant Site, dated January 24, 2012, available in the public record maintained by the FDEP and available at the Seminole County Public Library.

2. Restrictions Applicable to the Property Outside of the Portions.

Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, the installation of wells for access to or withdrawal of groundwater with a screened depth less than 50 feet below ground surface IS SPECIFICALLY PROHIBITED in the area outside of the Portions. Any wells installed outside of the Portions which are more than 50 feet below ground surface must be double-cased wells. The installation of monitoring wells must be pre-approved in writing by FDEP's DWM in addition to any authorizations required by the DRWM and the WMD.

Page 4 of 48

- 3. Restrictions and Conditions Applicable to the Portions.
  - 3.1 Permanent Clean Cover on the Portions (i.e., evapotranspiration cover). The Portions shall be permanently covered by, and maintained with, two feet of clean and uncontaminated fill that prevents human exposure to soils that have been treated by ISS.
  - 3.2 Specifically Prohibited Activities and Conditions. The following activities and conditions on the Portions ARE SPECIFICALLY PROHIBITED:
  - a. Access to or withdrawal or use of any groundwater for consumption, infigation or any other purpose;
  - b. Drilling or construction of any wells for any purpose;
  - c. Construction of any borrow pit;
  - d. Construction of any building basement, sub-basement, or other subsurface structure;
  - e. Excavation and removal of any of the ISS mass except as allowed under Paragraph 5; and
  - f. Installation of any stormwater retention or attenuation feature.
  - g. Any modification or removal of the existing stormwater ponds and facilities; and
  - h. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 4. Restrictions and Conditions Applicable to Cloud Branch Creek.
  The following activities and conditions ARE SPECIFICALLY
  PROHIBITED with respect to Cloud Branch Creek:
  - a. Construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any area of Cloud Branch Creek.
  - b. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 5. Restrictions and Conditions Applicable to Surface Water Features
  Constructed as Part of the Remedial Action. Attached as
  Exhibit "C", and incorporated by reference herein, is a Survey

Page 5 of 48

identifying the size and location of existing stormwater swales, stormwater detention or retention facilities, ditches, and storm sewers or culverts on the Property that were constructed as part of the remedial construction. Such existing stormwater features shall not be altered, modified or expanded. A revised exhibit must be recorded when any stormwater feature is altered, modified, expanded, or constructed. The following activities and conditions ARE SPECIFICALLY PROHIBITED with respect to surface water features constructed as part of the Remedial Action:

- a. There shall be no construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any surface water feature or appurtenance to a surface water feature.
- b. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 6. Professional Engineer ("P.E.") Certified Allowable Soil Activities and Conditions Within the Portions. Notwithstanding any other conditions and restrictions specified in this Declaration, the following activities and conditions are allowed within the Portions, provided that:

  (1) such work is performed in full compliance with all applicable laws and (2) before commencement of such work, the work is fully described in documentation bearing a PE CERTIFICATION as defined in paragraph 7 below, and subject to approval by EPA and FDEP.
  - a. Excavation of footers for new building construction;
  - b. Minor earth disturbance activities at depths greater than 2 feet below land surface (such as deep fence posts, sign footers, utility installations, trenches for underdrains);
  - c. Excavation and removal of any of the ISS mass subject to approval by the USEPA;
  - d. Pavement construction for driveways and parking lots:
  - e. Site grading of any area greater than 500 square feet; and
  - f. Construction of swales and ditches.
- 7. For purposes of paragraph 6 above, "PE Certification" shall mean that the work to be performed is fully described and depicted in plans, drawings, and/or descriptions, which documents are certified to the State of Florida by a signature and seal of a Florida licensed Professional Engineer and containing the following statement: "I have

Page 6 of 48

personally reviewed the plans, drawings, and/or descriptions of the work described herein. I have familiarized myself with the purposes and objectives of the remedial measures required by the Consent Decree applicable to the Property. I hereby certify that the work described herein will not interfere with the integrity or effectiveness of any remedial measure on the Property and the work will not create any conditions that adversely affect human health or the environment."

- 8. Allowable Soil Activities and Conditions without PE Certification, Within the Portions. Unless prohibited by paragraphs 3 or 6 above, the following activities and conditions are deemed not to interfere with the integrity or effectiveness of the remedy, and are therefore allowed without any P.E. Certification:
  - a. Minor earth disturbing activities to a depth less than two feet below land surface, and within an area less than 500 square feet;
  - b. Planting of grass or other ground covers:
  - Shallow plantings for shrubs, hedges, plants, flowers (all with roots that do not exceed and are not likely to exceed two feet in depth); and
  - d. Construction of walkways.
- If Grantor observes any damage to the Engineering Control on the Property, then the Grantor should notify the EPA and the FDEP of such observations.
- C. In the remaining paragraphs, all references to "Grantor," "Grantee," "EPA," "the Group" (as defined in Recital D, above) and "FDEP" shall also mean and refer to their respective representatives, successors and assigns.
- D. **Irrevocable Covenant for Site Access**: Grantor hereby grants to the Grantee, its agents and representatives, an irrevocable, permanent and continuing right of access to the Property at all reasonable times and with reasonable notice to the Grantor for purposes of:
  - a) Implementing any remaining response actions in the RODs;
  - b) Verifying any data or information submitted to EPA and Grantee;
  - c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;

- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations; and
- E. <u>Modification:</u> This Declaration shall not be modified, amended, or terminated without the written consent of FDEP or its successor agency. FDEP shall not consent to any such modification, amendment or termination without the written consent of EPA.
- F. (a) Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, its heirs, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and covenants granted herein.
  - (b) <u>Reserved Rights of EPA</u>: Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's or authority to take response actions under CERCLA, the NCP, or other federal law.
  - (c) <u>Reserved Rights of Grantee</u>: Nothing in this document shall limit or otherwise affect Grantee's rights of entry and access or authority to act under state or federal law.
- G. <u>Notice requirement</u>: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

H. <u>Administrative Jurisdiction</u>: FDEP or any successor state agency having administrative jurisdiction over the interests acquired by the State of Florida by

Page 8 of 48

this instrument is the Grantee. EPA is a third party beneficiary to the interests acquired by FDEP.

- Instrument: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation or governmental agency that is substantially benefited by this Declaration. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. It is expressly agreed that EPA is not the recipient of a real property interest but is a third party beneficiary of the Declaration of Restrictive Covenants, and as such, has the right of enforcement. Enforcement of the terms of this instrument shall be at the discretion of the entities listed above, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.
- J. <u>Damages</u>: Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.
- K. Covenants: Grantor hereby covenants to and with the Grantee, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on Exhibit D attached hereto.
- L. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, referencing the Site name and Site ID number and addressed as follows:

To Grantor:

To Grantee:

Codisco, Inc.
Donald C. Bauerle, President
448 West Highbanks Road
Debary, Florida 32713

Program Administrator, Waste Cleanup Program FDEP M.S. 4505 2600 Blair Stone Road Tallahassee, FL 32399

To EPA:

U.S. EPA, Region 4
Waste Management Division

Page 9 of 48

Superfund Remedial and Technical Services Branch Section Chief, Section D 61 Forsyth Street, SW Atlanta, GA 30303

M. Recording in Land Records: This Declaration shall be recorded in timely fashion in the Official Records of Seminole County, Florida, with no encumbrances other than those noted in Exhibit D, and shall be recorded at any time Grantee may require to preserve its rights. The Group shall pay all recording costs and taxes necessary to record this document in the public records.

# N. General provisions:

- a) <u>Controlling law:</u> The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state of Florida.
- b) <u>Liberal construction</u>: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c) <u>Severability</u>: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d) <u>Entire Agreement</u>: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.
- e) <u>No Forfeiture</u>: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- f) <u>Joint Obligation</u>: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.
- g) <u>Successors</u>: The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal

Page 10 of 48

representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entitles named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof.

- h) <u>Captions</u>: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- i) <u>Counterparts</u>: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the State of Florida Department of Environmental Protection and its successors and assigns forever.

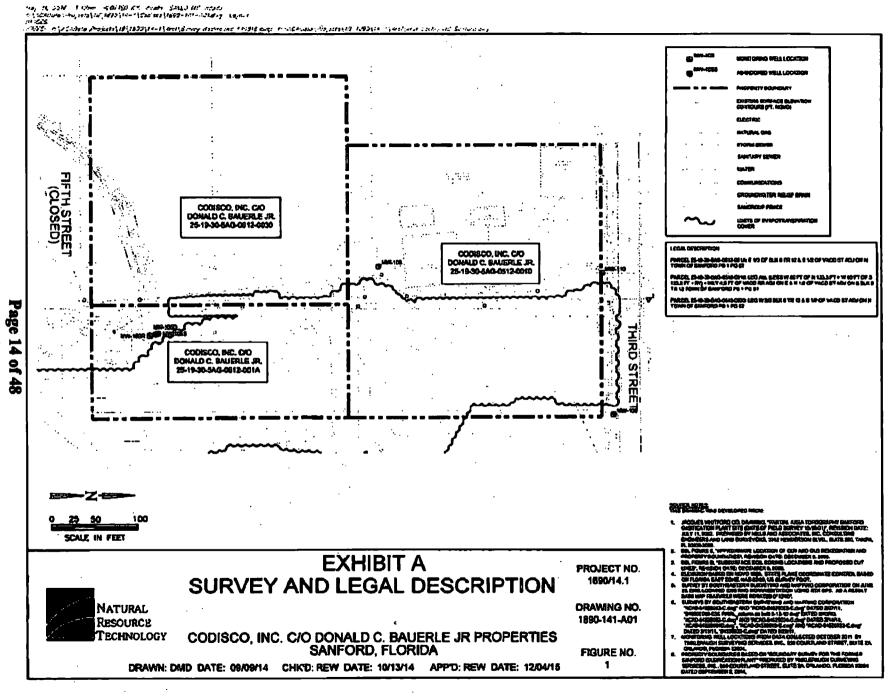
IN WITNESS WHEREOF, Grantor has caused this Agreement to be signed in its name.
Executed this 30 Kday of March, 20/7
GRANTOR: Codisco, Inc.  By: Donald C. Bauer H.  Name: Donald C. Bauer H.  Title/Position: Draident
Signed, sealed and delivered in the presence of:
Witness: Tames R Lussier  Witness: Print Name Date 3/30/2017
Mitness: Print Name Date 3/30/2017
On this 30 day of 20, 20/7, before me, the undersigned, a Notary Public in and for the State of Florida, duly commissioned and sworn, personally appeared 2000 Canery Harown to be the person that executed the foregoing instrument on behalf of Grantor, and acknowledged the said instrument to be the free and voluntary act and deed of said entity, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.
Witness my hand and official seal hereto affixed the day and year written above.  Notary Public State of Florida  Notary Public in and for the State of Florida  Notary Public in and for the State of Florida  My Commission Expires:
Commission No

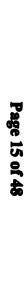
Page 12 of 48

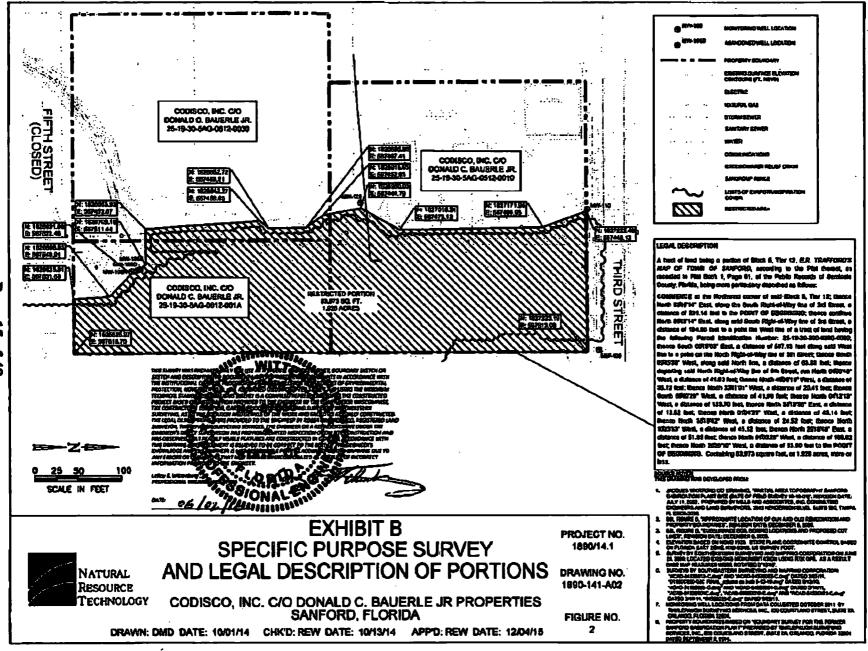
	ENVIRONTMENTAL PROTECTION
Approved as to form by:	By:
Sant Struting	ffor bell &.
Toni Sturtevant, Asst. General Counsel	F. JOSEPH ULLO, Jr., P.B., Director
Office of General Counsel	Division of Waste Management
Signed, sealed, and delivered in in the presence of:	Dept. of Environmental Protection Division of Waste Management 2600 Blairstone Road Tallahassee, FL 32399-2400
Oul	
Witness Signature	Witness Signature
Jennifar Victors	Jennifer Baker
Printed Name	Printed Name
<u>le/16/17</u>	(0)14/17
Date	Date '
•	
STATE OF FLORIDA COUNTY OF LEON	
The foregoing instrument was acknowledg	ed before me this /6 day of June
20 /7 , by F. JOSEPH ULLO, who is personally	known to me.
JUDITH PERBENGTON  AT COMMISSION I FF 215417  EXPEREM Mech 21, 2019	Sentil Grayton
Boate They being highly device	Notary Public, State of Fforida at Large
Attachn	aents:
Exhibit A - Legal Description/Surve	ey of the Property
Exhibit B - Survey Map/Legal of the	
Exhibit C - Survey Map of the Ston	
	imbrances on the Property

FLORIDA DEPARTMENT OF

Page 13 of 48







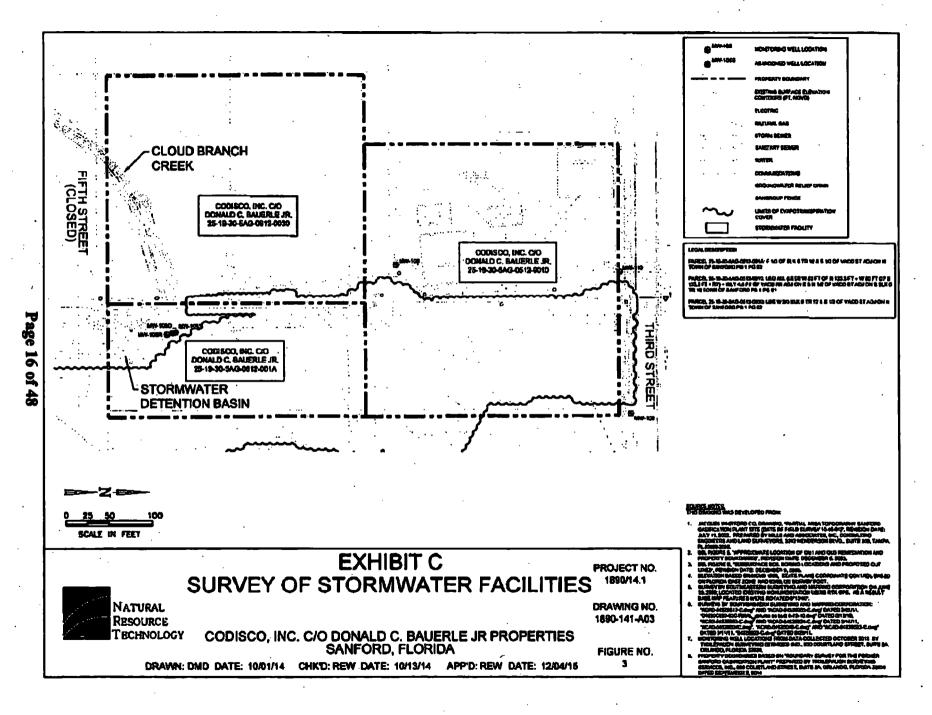


Exhibit D

Existing Liens and Encumbrances on the Property

Instrument	Date	Book and Page
Deed	October 15, 1996	Book 99, Page 334
Easement	August 30, 1979	Book 1241, Page 240
Ordinance	June 11, 1985	Book 165, Page 835
Codisco, Inc. Access & Remediation Agreement	July 30, 2009	Book 7230, Page 1303
Joinder and Consent of Easement Holder (releasing Easement at Bk 1241, P 240)	June 3, 2016	Book 8700, Page 1020

800X 99 Reg 334

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TRUSTY	RES OF THE			E STATE OF FLORIDA, (	GRAPITOR
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in the	County of Ber		re received, and the s ed the sale of the said	ale on the .27 day of ASE aid Trustees having accepte land to the person making a	
(8) KNOW	ALL MEN BY	THESE PRESENTS:- the State of Florida, un	That the State of Flo der authority of Secti	rids, through the Trustees of ion 9 of Chapter 18298, Law	the internal and Florida,
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of Flor	ida erising out o	of said Section 9 of Chapt	er 18296, cuto the sai	d Grantee, their her	W, EMCCOSOCTS
and sar State o	signs, in and to	the following described in	nd, situate, lying and described by State a	being in the County of Sei	ninole, estes to-wit:
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(7) TO HAV	TE AND TO HO	LD the above granted an	d described premises	unto the said GRANTEE, as Chapter 18296 aforesaid.	d their
9) IN TEST have but grade D	rmokir Whei remts someribe epartment of A	REOF the said Trustees of their names and affine griculture of the State of	of the Internal Impro od the official seal of a Florida to be hereupt	versant Fund of the State said Trustees, and have caus to affixed, at the Capitol, in	of Florida ed the seal the City of
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	tenance of electric utility facilities (in	reluding wires, poles, guys, cabi	es, conduits, transformer end	ceutes an
	apparement equipment) to be installed			
57	the size of or remove such facilities or a other Company or person; also, to cut,			
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	as follows;			
	An easument 10 feet wide in th	ne following described prog	erty:	
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Page 19 of 48

SEALAGLE OF L

This instrument prepared by William L. Colbert, City Attorney, P. O. Box 1778, Sanford, Florida 32771

ORDINANCE NO. 1765

AN ORDINANCE OF THE CITY OF SANFORD, FLORIDA, CLOSING, VACATING, AND ABARDONING THAT PORTION OF FOURTH STREET LYING BETWEEN POPLAR AVERUE AND THE SEABOARD COASTLINE RAILROAD RIGHT-OF-WAY, RESERVING A UTILITY EASEMENT; PROVIDING FOR SEVERABILITY, CONFLICTS AND EFFECTIVE DATE.

WHEREAS, the owners of that certain real property abuiting that portion of Fourth Street lying between Poplar Avenue and the Scaboard Coastline Right-of-Way, applied to the City of Sanford, Florida their application to have said property closed, vacated and abandoned; and

WHEREAS, a public hearing was hold on June 10, 1985, for consideration and determination as to whether or not the closing, vacating and abandoning of that certain portion should be allowed; and

WHEREAS, the City Commission has determined that the closing, vacating and abandoning of that certain property does not conflict with the Comprehensive Plan of the City of Sanford, Floride, and that the public health, economy, comfort, order, convenience, and welfare will be promoted by such closing, vacating and abandoning.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY, OF SANFORD, FLORIDA:

Section 1: That a portion of Fourth Street lying between Poplar Avenue and the Scaboard Coastline Railrond Right-of-Way, more particularly described as follows:

That portion of Fourth Street Right-of-Way lying between Block 5 and Block 6. Tier 12, E. R. Trafford's Hap of the Town of Sanford, Plat Book 1, Pages 61 and 62, Public Records of Seminole County, Florida, and lying best of Seabourd Constiine Railroad Right-of-Way.

be and the same is hereby closed, vacated and abandoned, providing however that the City hereby reserves possibility casement over said property.

Page 20 of 48

SECTION 2: If any section or portion of a section of this ordinance proves to be invalid, unlawful or unconstitutional, it shall not be held to impair the validity, force or effect of any other section or part of this ordinance.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith be und the same are hereby revaked.

SECTION 4: That this ordinance shall become effection innediately upon its passage and adoption.

Betty & Anth

ATTEST:

All Janes

An the City Commission of the City of San odd, Florida.

# CERTIPICATE .

I, H. N. Tamm, Jr., City Clerk of the City of Sanford, Florida, do hereby certify that a true and correct copy of the foregoing Ordinance No. 1765, PASSED and ADOPTED by the City Commission of the City of Sanford, Florida, on the 8th day of July, 1985, was POSTED at the front door of the City Hall in the City of Sanford, Florida, on the 10th day of July, 1985.

Agrhe City Clerk of the City of Sanford, Plorida

Page 21 of 48

MANNOE MORRE, CLERK OF CIRCUITY SENTINGE COUNTY SK 67230 Pgs 1363 - 1366, CApps CLERK'S & 2005003614 MECONOED 97/20/2009 11:10:39 AV MECONOED BY 8 Harford

This instrument prepared by:
George F. Gramling, III
Gramling & Fingar, LLP
118 South Newport Avenue
Tampa, FL 33606-1944
Phone: (813) 259-1060
Page: (813) 259-1020

# CODISCO, INC. <u>ACCESS AND REMEDIATION AGREEMENT</u>

THIS ACCESS AND REMEDIATION AGREEMENT is made and entered into among Codisco, Inc., by and on behalf of itself, and its directors, officers, employees, shareholders, trustees, representatives, legal representatives, assigns, agents, affiliates, residents, parent and subsidiary corporations, parents, servants, contractors, attorneys, engineers, consultants, members, successors, successors in title, managers, and their respective heirs, personal representatives and legal representatives, and all persons, natural, corporate or of other legal status in privity with any of them (herein collectively referred to as "CODISCO"), and Florida Power & Light Company, City of Sanford Florida, and Atlanta Gas Light Company (collectively the "PRP Group"), and each of the foregoing being individually referred to as a "Party" and collectively referred to as the "Parties."

WHEREAS, Codisco is the current owner of certain real property described in Exhibit "A" attached hereto and made a part hereof (the "Property"); located in the vicinity of the former manufactured gas plant ("MGP") on West Sixth Street, Sanford, Florida (the "MGP Property"); and

WHEREAS, environmental investigations conducted on the MGP Property indicate that chemical constituents, substances and compounds that are derived from MGP operations ("MGP Constituents") exist on the MGP Property; and

WHERBAS, MGP Constituents have been detected on, beneath, and in the vicinity of the Property ("MGP Impacts"); and

Book7230/Page1303 CFN#2009083614 Page 22 of 48

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WHEREAS, the Group desires access to the Property for the purpose of addressing the MGP Impacts; and

WHEREAS, Codisco agrees to permit the Group to access and remediate the Property as provided herein;

NOW, THEREFORE, for and in consideration of TEN DOLLARS, the mutual promises and obligations set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties do hereby agree to this Access and Remediation Agreement (the "Agreement") upon the following terms and conditions:

1. Access. Codisco hereby authorizes the PRP Group, which term, as the context so requires, shall include the PRP Group's members, and the Group's authorized agents, representatives, consulting engineers and contractors, assignees; successors, as well as the United States Environmental Protection Agency ("EPA"), and the Florida Department of Environmental Protection ("FDEP"), and their agents, representatives, contractors, engineers and consultants, to enter upon the Property to conduct all activities associated with the remedial action as described in the Remediation Design Work Plan dated September 18, 2008, and as may be added to or amended from time to time, including but not limited to the Final Design (all of which shall hereafter collectively be described as the "Work").

# Cooperation.

- a. The Group will cooperate with Codisco to develop a schedule for the Work to minimize interference with Codisco's operations, with the understanding that the Work is subject to the requirements of EPA and FDEP and the demands of sequencing the work and meeting economic realities. Vehicular access to, and all utilities serving, the remaining buildings on the Property shall be kept in continuous operation during the Work, except for such temporary interruptions as may be required by construction activities. The Group will notify Codisco in writing at least two weeks prior to commencing the Work on the Property.
- b. Upon written request by Codisco, the Group will provide copies of any reports that are required by the Consent Decree to be sent to the EPA, until the EPA or Court issues a "Certificate of Completion" (or equivalent).

## Remediation.

- a. The Group will conduct the Work substantially in accordance with this Agreement. If Codisco, at the conclusion of the Work, believes that the PRP Group has breached this obligation, then Codisco shall notify the PRP Group in writing and provide ninety (90) days to cure. If the PRP Group fails to cure after said cure period then Codisco shall have whatever rights and remedies that exist under applicable law.
- b. Codisco shall not take any action on the Property that disrupts, interferes with, or alters the Work. Without limiting the generality of the foregoing, neither Codisco nor any future

2

owner of the Property shall disrupt the integrity of the solidified mass, the culvert, and/or any monitoring wells remaining on the Property at the conclusion of the Work.

- 4. Restoration. Upon completion of the Work, the Group shall restore the Property as set forth in the Final Remediation Design. Notwithstanding the preceding sentence, stabilized or solidified materials, groundwater-monitoring wells, and other remedial features as called for in the Work may remain on Codisco's Property, pursuant to the Work and the Declaration of Restrictive Covenant which shall be substantially similar to the form attached hereto as Exhibit "B". The Group will permanently abandon any remaining groundwater monitoring wells in accordance with applicable law within six months after approval by EPA to do so.
- 5. <u>Standards of Performance</u>. The Group shall ensure that the Work is performed substantially in accordance with the standards practiced by reputable professionals in the environmental consulting, engineering and remediation disciplines and profession.
- 6. Regulatory Compliance. The Group shall ensure that the Work is performed in compliance with all applicable laws, rules, and regulations and will obtain all permits necessary for the conduct of the Work. The Group shall locate utilities on the Property prior to any invasive work on the Property. All investigative or Remediation-derived materials resulting from the Work are the Group's responsibility and the Group will ensure that such materials are handled and disposed of in accordance with applicable law, regulations, and procedures.
- 7. Indemnification. The Group agrees that it is solely responsible for the conduct of the Work, that it will bear all costs and expenses thereof, and that Codisco does not have any responsibility or obligation for the Work except as specifically provided in this Agreement. The Group further agrees that the Group shall fully indemnify, defend and hold harmless Codisco; or any successor in title ("Indemnified Party"), from and against any and all claims, suits, damages, liabilities, judgments, fines, attorneys' fees, penalties, losses, costs or expenses arising out of, caused, or claimed to arise out of or be caused by: (1) the Work or any other actions or omissions incidental to or associated with the activities authorized under this Agreement; or (2) any claim by EPA or FDEP for future cleanup of the MGP Impacts on the Property; provided, however, the Group shall have no obligation to indemnify or hold harmless any Indemnified Party against any liability to the extent caused by or resulting from the negligence or willful misconduct of that party, its agents or its employees.
- 8. Assumption of Defense. In connection with any indemnity by the Group, the Group shall have the right to assume and take over the defense of any claim against Indemnified Party and engage attorneys to represent both parties in connection therewith, at the Group's sole cost and expense. Indemnified Party shall notify the Group of any claims required to be indemnified by the Group hereunder within five (5) days after Indemnified Party receives notice of any such claims, and Indemnified Party shall cooperate with the Group in connection with the defense of any such claims; provided, however, if Indemnified Party fails to notify the Group within a reasonable time period, at the Group's election, such failure to notify the Group shall release the Group's obligation to indemnify Indemnified Party hereunder as to such claim.
- 9. Nothing in this Agreement shall confer any right or remedy in conflict with the Access-Conditions Agreement.

 Insurance. The Group shall ensure that its contractors maintain commercial general liability and property damage insurance with a combined single limit coverage of not less than two million dollars (\$2,000,000).

# 11. Codisco's Obligations.

- a. Codisco represents and warrants that it is the sole owner of the Property, that it is fully authorized to execute this Agreement, and that it will fully indemnify, protect, and indemnify the Group against any and all claims by persons who contest Codisco's ownership or authority as stated in this paragraph 11(a). Codisco further represents and warrants that the Property is free and clear of any liens, mortgages, or encumbrances that could impair Codisco's ability to execute this Agreement.
- b. Codisco acknowledges that it has received copies of the following documents:
  "Amended Record of Decision for Operable Unit 1;" "Record of Decision for Operable Unit 2;"
  "Record of Decision for Operable Unit 3;" "RD/RA Consent Decree for Operable Units 1, 2 and 3;" and the Statement of Work (SOW).
- c. Codisco shall notify the Group of any condition of the Property of which Codisco has actual knowledge that may threaten the Work on the Property.
  - d. Codisco shall not interfere with the conduct of the Work.
- e. Codisco hereby authorizes the Group and its contractors to erect temporary or permanent signs, barricades or fences to prevent unsuthorized persons form entering or drawing near areas where excavation or drilling activities or other activities are occurring that involve the use of equipment or that could be disturbed or interfered with by third parties.
- f. Codisco hereby authorizes the Group and its contractors to cordon off an area in the vicinity of the equipment used to perform the Work as such equipment moves about the Property for purposes of excavating, handling and accumulating soil, water, spent supplies and waste materials.
- g. Codisco understands and agrees that signs, notices or placards may be placed indicating that the activities occurring or the substances present at the Property are dangerous, hazardous, or subject to regulation.
- b. Codisco understands and agrees that the Work will necessarily involve the use of heavy equipment and other machinery, as well as access by various delivery and other vehicles. These operations are anticipated to be noisy.
- i. Codisco understands and agrees that the Work may take place on weakdays, weekends or both. The Work will occur during daylight hours only unless circumstances beyond the Group's control require otherwise.
- j. To the maximum extent permitted by law, Codisco shall enforce any and all of Codisco's obligations in the Agreement against all tenants, subtenants, employees, invitees, clients, customers, or guests of the Property to ensure full compliance with this Agreement.

4

- k. Codisco hereby grants to the Group a right of future and perpetual access to implement activities as may be necessary or appropriate to complete the Work or achieve environmental requirements stipulated by EPA or FDEP.
- l. Codisco understands and agrees that residual levels of MGP Constituents, treatment byproducts, solidified or stabilized materials, or other materials, may remain in, on, or under the Property, including groundwater, after completion of the Work, and further waives all claims related to said materials and conditions and accepts same.
- m. Codisco shall execute and, upon request, record any and all covenants, land use restrictions, licenses, essements, affidavits, or contracts as may be necessary or appropriate to effect the terms and conditions of this Agreement. Codisco shall execute and deliver to the Group, which may, upon completion of the Work, record a Declaration of Restrictive Covenant on the Property, the general form of which is found in attached Exhibit "B" and such other form as may be necessary, appropriate, or required by FDEP.
- 12. Reports. The Group will provide Codisco with a copy of the final report submitted to EPA regarding completion of the Work on the Property.
- 13. No Admission of Liability. The Parties, Releasors and Releasers hereto agree and acknowledge that this Agreement and the Access-Conditions Agreement represent a compromise and settlement of their respective claims, and that nothing related to or contained herein shall be construed to be an admission of liability on the part of any of them with respect to the matters set forth in this Agreement or the Access-Conditions Agreement.
- 14. Rights Against Third Parties. Codisco hereby assigns to the Group any and all rights or remedies under environmental law, at law or in equity, that Codisco may have against any persons not parties to this Agreement that may have caused, contributed to or in any manner be responsible for the MGP Constituents on, in, about, or under the Property. Codisco will cooperate with the Group in pursuing any such rights and remedies in connection with any claim or litigation against such third parties and will execute and deliver such further documents as may reasonably request relating thereto.
- 15. Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been given after depositing the same in the United States mail, postage pre-paid and registered or certified with return receipt requested; after depositing the same with an overnight express mail provider; or after hand delivery; a courtesy copy may be delivered via smail, if desired by the sender, but not as a replacement for the above methods of delivery; addressed to the respective persons denoted to receive notice on the Parties' signature pages, and if such action is to the PRP:

George F. Gramling, III, Esq. Gramling & Finger, LLP 118 South Newport Avenus Tampa, FL 33606

5

nd Charles K. Ross
Lead Environmental Specialist
Progress Energy Service Company
410 South Wilmington Street
Raleigh, NC 27601

Codisco and the Group may designate any further or different addresses to which subsequent notices, certificates or other communications will be sent.

- 16. <u>Facsimile as Writing</u>. The parties expressly acknowledge and agree that, notwithstanding any statutory or decisional law to the contrary, the printed product of a facsimile transmittal will be deemed to be "written" and "writing" for all purposes of this Agreement.
- 17. Assignment. The rights of the parties under this Agreement are personal and may not be assigned without the prior written consent of the parties hereto. Subject to the foregoing, this Agreement will be binding upon and enforceable against, and will inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors (including successors in title) and permitted assigns.
- 18. <u>Headings.</u> The use of headings, captions, and numbers in this Agreement is solely for the convenience of identifying and indexing the various provisions in this Agreement and will in no event be considered otherwise in constraing or interpreting any provision in this Agreement.
- 19. <u>Exhibits</u>. Each and every Exhibit referred to or otherwise mentioned in this Agreement is and will be construed to be made a part of this Agreement by such reference.
- 20. <u>Severability</u>: If any term, covenant, condition or provision of this Agreement, or the application thereof, to any person or circumstance, will ever be held to be invalid or enforceable, then in each such event the remainder of this Agreement or the application of such term, covenant, condition or provision to any other person or any other circumstances (other than those to which it will be invalid or unanforceable) will not be hereby affected and each term, covenant, condition and provision hereof will remain valid and enforceable to the fullest extent permitted by law.
- 21. Non-Waiver. Failure by any party to complain of any action, non-action or breach of any other party will not constitute a waiver of any aggrieved party's rights hereunder. Waiver by any party of any right arising from any breach of any other party will not constitute a waiver of any other right arising from a subsequent breach of the same obligation or for any other default, past, mesent or future.
- 22. <u>Rights Cumulative</u>. All rights, remedies, powers and privileges conferred under this Agreement on the parties will be cumulative of and in addition to, but not restrictive of or in lieu of those conferred by law.
- 23. Governing Law and Venue. This Agreement shall be governed by and construed under and in accordance with laws of the State of Florids. The Parties consent and agree that Orange County, Florida, shall be the exclusive, proper, and convenient venue for any legal proceeding in

federal or state court relating to this Agreement, and each Party hereby waives any defense, whether asserted by motion or pleading, that said County is an improper or inconvenient venue.

- 24. Entire Agreement. Codisco agrees that none of the terms of the Access-Conditions Agreement conflict with or supersede any provision or term of this Access and Remediation Agreement or the Declaration of Restrictive Covenant. This Agreement and the Access-Conditions Agreement contain the entire agreement of the parties with respect to the subject matter hereof and all representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Agreement or the Access-Conditions Agreement will be of no force or effect.
- 25. <u>Modifications</u>, This Agreement will not be modified or amended in any respect except by written agreement by the parties in the same a manner as this Agreement is executed.
- 26. <u>Counterparts</u>. This Agreement may be executed in several counterparts, each of which will be deemed an original, and all such counterparts together will constitute one and the same instrument.
- 27. Authority. Each party hereto warrants and represents that such party has full and complete authority to enter into this Agreement and each person executing this Agreement on behalf of a party warrants and represents that he has been fully authorized to execute this Agreement on behalf of such party and that such party is bound by the signature of such representative.
- 28. The Effective Date of this Agreement is the date on which the last Party to execute this Agreement affixes its signature hereto, and it and it shall not have any termination date.
- 29. Third Party Beneficiary. There are no intended or unintended third party beneficiaries of this Agreement.
- 30. <u>Recordation</u>. This Agreement is intended to run with the land and to provide notice to and bind future owners of the Property, and to that end this Agreement will be recorded.
- 32. Time is of the Essence of this Agreement and each of its provisions.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the Effective Date.

[SIGNATURE PAGES FOLLOW ON PAGES 8-12.]

Cedisco, Inc. Signed in the presence of: Printed Name: Donald C. Bauerle Title: President 7/16/09 Designated Representative for Receipt of Notice: Donald C. Benerie, Jr. James R. Lussier, Esq. **446.**West Highbanks Road Mateer Harbert Suite 600, Two Landmark Debary, Florida 32713 225 E. Robinson Street Orlando, FL 32801 Telephone Number: (407) 423-2016 (407) 474-2699 (386) 668-5072 Facsimile Number: (407) 425-9044 Email: jlussier@mateerharbert.com dbauerle@aol.com STATE OF FLOTIOL COUNTY of 1/0 1/10 The foregoing instrument was acknowledged before me this // 20 09, by Donald C. Benerie as President of Codisco, inc. Personally Known\_\_\_ OR Produced Identifications Type of Identification Produced Print Name of Notary Public

Commission No. 70568962

Commission Expires: 10-27-10

Book7230/Page1310 CFN#2009083614 Page 29 of 48

# Florida Power Corporation Address: 299 First Avenue North St. Petersburg, FL 33701 Signed in the presence of: Print name: Gayle S. Lanier Designated Representative for Receipt of Notice: George F. Gramling, III, Esq. Gramling & Finger, LLP 118 South Newport Avenue Tampa, FL 33606 Telephone Number: (813) 259-1060 Facsimile Number: (813) 259-1020 STATE OF North Continue The foregoing instrument was acknowledged before me this 10 day of Personally Known **OR Produced Identifications**

Print Name of Notary Public

Commission Expires: 12/17/

Commission No.

Book7230/Page1311 CFN#2009083614 Page 30 of 48

Type of Identification Produced

City of Sanford		
Address: P. O. Box 1788 Sanford, FL 32772		
A A	Signed in the presence of	
By: Vendlet	Sebra Cislemonaras	·
9	Witness Signature	
Its: City Manager	DEBRAC. SIMMONS	<u>.</u> :
Print Name: Sharman Yehl	Print Name	<del></del> .
Date: 6-23-09	Con the Porter	·
	Witness Signature acting city (	inh
	Cynthia Porter	
	Print Name	<u> </u>
		٠
Designated Representative for Receipt of Notice:	With Copies to: Tom Maurer, Esq.	
Robert Yehl	Foley & Lardner I	
City Manager	111 N. Orange Av	<b>o.</b>
P.O. Box 1788 Sanford, FL 32772	Suite 1800 Oriando, FL 3280	1
Telephone Number: (407) 330-5604	Telephone Number: (407) 244-3242	
Facaimile Number: (407) 330-5606	Facsimile Number: (407) 648-1743	
STATE of Themas		·
COUNTY of Seasons 12	<u> </u>	·. ·
The foregoing instrument was acknowledged be 20 04, by	sfore me this 21 day of	<u> </u>
Personally Known X OR Produ	uced Identifications	•
Type of Identification Produced	——————————————————————————————————————	· .
ry Public Stat	a Strine Signature of Notary Public	
77.24 Commission	40078979	
Brotres I	Print Name of Notary Public	
	Commission No. DD7354	77

Book7230/Page1312 CFN#2009083614 Page 31 of 48

	ver ex ragint Company	
Address:	700 Universe Boulevard, Juno Beach, FL 33408	
	DIIDID	Signed in the presence of:
Ву:	ell for	Lais Sun
		Witness Signature
	esident Environmental Serv	Las Sivia
Print Name	Rendall R. LaBeuve	Print Name
Date:	<u>46, 2009</u>	Wighest Signature of
		Withess Signature
		MADELIU TASKEL
		Print Name
Designated R	Representative for Receipt of No	tice:
	Peter Cocotos, Esq. Florida Power & Light 700 Universe Boulevar Juno Beach, FL 33408	t Company rd
Telephone N Facsimile Nu		
STATE of	Horida	
COUNTY of	Palm Beach	
The foregoing	g instrument was acknowledged Kandall R. La Davye	before me this b day of Quil.
Perso	rally Known 🗶 OR Pro	duced Identifications
Type	of Identification Produced	B. A.C.O.
1.		Signature of Notary Public
		Beverly A. Colderan Print Name of Notary Public
		Commission No Hamber San affects
		Commission Express Ay Commission D0689187

Address: 10 Peachtree Place Atlanta, GA 30309	
122 0	Signed in the presence of:
By four A Sharte	adueno Co Acandot cos topo
Its: Exec. V. P. and General Course	Witness Signature
Print Name: Paul R. Shanta	Adrienne E. Scandrett CPS/CI
Data: June 18, 2009	Willele
Date. Superior	Witness Signature
	William A. Palmer III
	Print Name
Designated Representative for Receipt of Notice	
E. A. Skip Kazmarek, Esq. Kazmarek, Geiger & Laseter LL. One Securities Center, Suite 201 3490 Piedmont Rd., NE Atlanta, GA 30309-1743	
Telephone Number: (404) 813-0840 Facsimile Number: (404) 812-0845	
STATE OF GEOGGIA COUNTY OF ROCK dale	
The foregoing instrument was acknowledged be 20.09, by Paul R. Shlan Ta	fore me this /Y day of Yune
Personally Known OR Produ  Type of Identification Produced	aced Identifications
S GOTARY S GOTARY PUBLE PLEASE	Signature of Notary Public  COMMIC C HTARRIS  Print Name of Notary Public  Commission No.  Commission Expires: 3-11-18
CALE	12

## Exhibit A

# Legal Descriptions of the Three Codisco Parceli Comprising the "Property"

### Sanford Site Parcel #13.

The East 95 feet of Block 6, Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Page(s) 56-64, of the Public Records of Seminole County; Florida;

and the South 1/2 of Fourth Street to the North which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653 Page 835, Public Records of Seminole County, Florida.

Beginning at the point of intersection of the Southwestern line of Coder Avenue and the Southeastern line of Fourth Street; running thence Southwestwardly, along said street line, 50 feet to a Located Point of Beginning; thence Southeastwardly, parallel to said avenue line, 265.1 feet to the Northwestern line of Fifth Street; thence Southwestwardly, along said street line 95 feet; thence Northwestwardly, parallel to said avenue line, 265.1 feet to the said Southeastern line of Fourth Street; thence Northeastwardly, along said street line, 95 feet to the Located Point of Beginning;

and the South 1/2 of Fourth Street to the North which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653, Public Records of Seminole County, Florida.

## Senford Site Parcel #14.

All (LESS the West 80 feet of the North 133.3 feet and the West 80 feet of the South 133.3 feet and railroad right of way) Block 5, Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED B.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Page(s) 56-64, of the Public Records of Seminole County, Florida;

and the North 1/2 of that portion of Fourth Street lying to the South which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653 Page 835, Public Records of Seminole County, Florida.

And the Westernmost 4.5 feet of the Western right of way of Grantor's track, the Western line of which is parallel with and 14.8 feet Westwardly, measured at right angles, from the center line of sald track; said strip of land to extend between Third and Fourth Streets; and a strip of land 4 feet wide adjoining and lying East of the strip of land described hereinabove, as deeded by the Seaboard Coast Line Railroad Company in deed dated June 14, 1981 in O.R. Book 1357 Page 29. Public Records of Seminole County, Florida.

# Senford Site Parcel #15.

The West 2/3 of Block 6, Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Pages 56-64, of the Public Records of Seminole County, Florida; and the South 1/2 of Fourth Street to the North which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653 Pages 835, Public Records of Seminole County, Florida.

## Exhibit B

Form of Declaration of Restrictive Covenant

Servendent. Codino PINAL DRAPTS CODISCO FINAL Assess Agreement of

14

Book7230/Page1316 CFN#2009083614 Page 35 of 48 This instrument prepared by:
George F. Gramling, III
Gramling & Fingar, LLP
118 South Newport Avenue
Tumpa, FL 33606-1944
Phone: (813) 259-1050
Fex: (813) 259-1020

Attorneys for Florida Power Corporation

# **DECLARATION OF RESTRICTIVE COVENANT**

THIS DECLARATION OF RESTRICTIVE COVENANT (hereinafter "Declaration") is made this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 200\_\_\_\_\_, by Codisco, Inc. (hereinafter "GRANTOR") and the Florida Department of Environmental Protection (hereinafter "DEP").

## RECITALS

- A. GRANTOR is the fee simple owner of that certain real property situated in the County of Seminole, State of Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter the "Property");
- B. The United States Environmental Protection Agency (hereinafter "EPA") Facility Identification Number for the Sanford Gasification Plant Site is FLD984169193, of which all or a portion of the Property is a part thereof.
- C. "Hazardous Substances" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act were discharged on the Property from the Sanford Gasification Plant Site as documented in the following EPA Records of Decision ("ROD"):
  - Amended ROD for Operable Unit 1, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/a2006040001230.pdf
  - ROD for Operable Unit 2, dated June 12, 2001, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r0401586.pdf; and

Book7230/Page1317 CFN#2009083614 Page 36 of 48

- ROD for Operable Unit 3, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r2006040001227.pdf.
- D. EPA entered into that certain Consent Decree, U.S. District Court, Middle District of Florida, Orlando Division, Case No. 6:08-cv-00442 on January 15, 2009 (hereinafter "Consent Decree"), with Florida Power Corporation, Atlanta Gas Light Company, Florida Power & Light Company, Florida Public Utilities Company, and the City of Sanford Florida (collectively referred to herein as the "Group"), which is incorporated herein by reference.
- E. The Consent Decree is on file with the above-mentioned U.S. District Court.
- F. The Consent Decree requires the use of a number of remediation activities (collectively the "remedies"), including excavation, stabilization of the bed and banks of Cloud Branch Creek, and in-situ solidification (hereinafter "ISS"), which creates a stable, low-permeability, monolithic mass in the soil of affected properties ("Solidified Soil"), and groundwater remedy described in the applicable regulations as "monitoring for natural attenuation." DEP has approved the remediation activities required to be implemented by the Consent Decree.
- G. Hazardous Substances on the Property have been remediated in accordance with the Consent Decree and Record of Decision.
- H. Consistent with applicable Florida and federal environmental laws and regulations, with the ROD, and with the Consent Decree, the principles of "risk-based corrective action" necessitate that certain land use controls be established for the property and maintained in perpetuity through this Declaration of Restrictive Covenant. The land use controls established in this Declaration of Restrictive Covenant have been approved by the EPA and the DEP. It is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure to any Hazardous Substances present on the Property, to reduce or eliminate the possibility that the applicable remedies are disturbed and to reduce or eliminate the threat of migration of any such Hazardous Substances.

NOW, THEREFORE, in compliance with all applicable Florida and federal environmental laws and regulations, embodied in and enforced through the Consent Decree and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the undersigned parties, GRANTOR agrees as follows:

- 1. The foregoing recitals are true and correct and are incorporated herein by
- Except as required or permitted by the Consent Decree, or as may be required or
  permitted by the EPA or DEP pursuant to an enforceable legal mandate or order
  protective of public health, the following restrictions are imposed on the Property,
  in the area shown on Exhibit B (sealed survey of the remediation area):

Page 2 of 9

- a. There shall be no access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- b. There shall be no access to or withdrawal or use of any groundwater for consumption, irrigation or any other purpose and there shall be no drilling or construction of any wells for any purpose.
- c. With the exception of those storm water facilities described in the ROD for OU3, there shall be no stormwater swales, stormwater detention or retention facilities, ditches, or other structures or equipment affecting surface or groundwater.
- d. There shall be no construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any area of Solidified Soil.
- There shall be no construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any area of Cloud Branch Creek.
- It is the intention of GRANTOR that the restrictions contained in this Declaration. shall touch and concern the Property, run with the land and with the Title to the Property in perpetuity, and shall apply to and be binding upon and inure to the benefit of the successors and sasigns of GRANTOR, and to EPA, and to DEP, and to the members of the Group, as to each of their respective successors and assigns, and to any and all parties hereafter having any right, title, or interest in the Property or any part thereof. DEP, EPA, and the members of the Group or their respective successors and assigns may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of DEP, EPA, or members of the Group to exercise its right in the event of the failure of the GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of any rights hersunder. This Declaration shall continue in perpetuity, unless otherwise modified in writing by GRANTOR, DEP, EPA, and all members of the Group as provided in paragraph 6 hereof. This Declaration may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by these restrictions.
- 4. To ensure the perpenual nature of this Declaration, GRANTOR shall reference these restrictions in any subsequent deed of conveyance, including the recording book and page of record of this Declaration.
- EPA, DEP, all members of the Group and their respective representatives, successors and assigns, shall have access to the Property at all reasonable times for the purpose of conducting any activity relating to the Property as necessary or

Page 3 of 9

appropriate under the terms of the Consent Decree or any orders or requirements issued by EPA or DEP related thereto, or for the purpose of monitoring the restrictions set forth above.

- 6. This Declaration is binding on GRANTOR and its successors and assigns until a release of covenant is executed by the DEP Secretary (or designee) and GRANTOR and its successors and assigns, and approved in writing by EPA and all members of the Group or their successors and assigns, and is recorded in the land records of Seminole County. DEP will not approve the release of any requirement of these restrictions unless the applicable cleanup target level(s) established under the Florida Statutes and DEP rules have been achieved. This Declaration may be modified in writing only. Any subsequent amendment must be executed by both GRANTOR, DEP, or their respective successors and assigns, and approved in writing by EPA and all members of the Group, or their successors and assigns, and be recorded by GRANTOR, or its successors and assigns, as an amendment hereto.
- 7. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions thereof. All such other provisions shall continue unimpaired in full force and effect.
- 8. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Property in fee simple and has good right to create, establish, and impose this restrictive covenant on the use of the Property. GRANTOR also covenants and warrants that the Property is free and clear of any and all liens, mortgages, or encumbrances that could impair GRANTOR's rights to impose the restrictive covenants described in this Declaration, or that if such liens, mortgages, or encumbrances do exist, the written consent of all applicable lien holders or mortgages is included in this Declaration.
- 9. GRANTOR, by and on behalf of itself, and its directors, officers, employees, shareholders, trustees, representatives, legal representatives, assigns, agents, affiliates, residents, parent and subsidiary corporations, partners, servants, contractors, attorneys, engineers, consultants, members, successors, successors in title, managers, and their respective heirs, personal representatives and legal representatives, and all persons, natural, corporate or of other legal status in privity with any of them (all of whom shall be collectively referred to in this Declaration as "Releasors") does hereby jointly and severally specifically release, remise, acquit, and forever discharge the PRP Group and its members, individually and jointly, in all capacities whatsoever, and each of their respective directors, officers, employees, shareholders, trustees, representatives, legal representatives, assigns, agents, affiliates, residents, parent and subsidiary corporations, partners, servants, contractors, antorneys, engineers, consultants, members, successors, successors in title, managers, and their respective heirs, personal representatives

Page 4 of 9

and legal representatives, and all persons, natural, corporate or of other legal status in privity with any of them (all of whom shall be collectively referred to in this Declaration as "Releasees"), of and from any and all past, present and future obligations, claims, debts, demands, covenants, contracts, guarantees; promises, agreements (both expressed and implied), warranties (both express and implied), liabilities, damages, injuries, loss of value to the Property, including any claim for diminished market value of the Property, losses, lawsuits, controversies, disputes, costs, interest, expenses, attorney's fees, actions, and causes of action of any nature whatsoever (whether common law, statutory or otherwise) at law or in equity, whether any of the foregoing are foreseen or unforeseen, matured or unmatured, known or unknown, accrued or not yet accrued, direct or indirect, latent or patent, discovered or undiscovered, that Releasors ever had, now have or can, shall or may hereafter have against Releasees, collectively or in any combination, associated with, arising out of or related in any way to:

- 1) the past, present, or future presence of MGP Residuals and any other chemical whatsoever on, in, or under the Property or the groundwater;
- any past, present or future operation of, or occurrence at the Site or the Property;
- the release, discharge, dispension, emission or deposition of particulate material, debris, gasses, or any other chemical matter, including but not limited to MGP Residuals, hazardous substances or wastes; and
- any and all Remediation or other activity or work performed on the Property or the Site;

all of which shall be referred to as "Released Claims."

Future owners of the Property shall be deemed to be given notice of the MGP Residuals remaining on the Property, the Released Claims, and the indemnity obligations stated herein, and to have taken the Property subject to such notice and

10. GRANTOR shall not individually, or in combination with any other person or entity, assert, prosecute, pursue or file, any complaint, pleading, accusation, paper, or claim against or in any way involving the Releasees in or with any local, state, or federal court, administrative agency, licensing authority, state or federal agency, company, or organization in any way relating to or arising out of any Released Claim, and hereby forever waive such Released Claims. If any claim is made against GRANTOR relating to or arising out of any such Released Claim, GRANTOR agrees that it shall not implead any member of the PRP Group, and will not in any other way seek to cause any member of the PRP Group to respond to any such claim. However, nothing in this paragraph or paragraph 3, above, shall require

Page 5 of 9

# GRANTOR to indemnify or defend the PRP Group for any independent, third party claim made directly against the PRP Group or any member thereof.

Signed; sealed and delivered in the presence of:  GRANTOR  CODISCO, INC.  By  Donald C. Bauerie  Title: President  Address: 448 West Highbanks Road Debary, Florida 32713  Witness:  Date:  Print Name:  Witness:  Print Name:  STATE of  COUNTY of The foregoing instrument was acknowledged before me this day of 20 by Donald C. Bauerie as President of Codisco, Inc. Personally Known OR Produced Identifications  Type of Identification Produced  Signature of Notary Public  Print Name of Notary Public  Commission No	IN WITNESS WHEREOF, GRANT	OR has executed this instrument, this day of
CODISCO, INC.  By	Signed, sealed and delivered in the presence	of:
By		GRANTOR
Donald C. Bauerie Title: President  Address: 448 West Highbanks Road Debary, Florida 32713  Witness: Date:  Print Name:  Witness: Date:  Print Name:  STATE of COUNTY of The foregoing instrument was acknowledged before me this day of 20, by Donald C. Bauerie as President of Codisco, Inc. Personally Known OR Produced Identifications Type of Identification Produced  Signature of Notary Public  Print Name of Notary Public Commission No.		CODISCO, INC.
Title: President  Address: 448 West Highbanks Road Debary, Florida: 32713  Witness:  Print Name:  STATE of COUNTY of The foregoing instrument was acknowledged before me this day of 20, by Donald C: Bauarle as President of Codisco, Inc. Personally Known OR Produced Identifications Type of Identification Produced  Signsture of Notary Public  Print Name of Notary Public  Commission No		Donald C. Roneria
Debary, Florida 32713  Witness:		
Print Name:  Witness:  Print Name:  STATE of  COUNTY of  The foregoing instrument was acknowledged before me this day of, by Donald C. Bauerle as President of Codisco, Inc.  Personally Known OR Produced Identifications  Type of Identification Produced  Signature of Notary Public  Print Name of Notary Public  Commission No.	Without	Debary, Florida 32713
Witness:  Print Name:  STATE of  COUNTY of  The foregoing instrument was acknowledged before me this day of  20, by Donald C. Bauerle as President of Codisco, Inc.  Personally Known OR Produced Identifications  Type of Identification Produced  Signature of Notary Public  Print Name of Notary Public  Commission No.		Date:
STATE of  COUNTY of  The foregoing instrument was acknowledged before me this		Date:
COUNTY of The foregoing instrument was acknowledged before me this day of, 20, by Donald C. Bauerle as President of Codisco, Inc. Personally Known OR Produced Identifications Type of Identification Produced  Signature of Notary Public  Print Name of Notary Public  Commission No	Print Name:	
The foregoing instrument was acknowledged before me this day of, by Donald C. Bauerle as President of Codisco, Inc.  Personally Known OR Produced Identifications  Type of Identification Produced  Signature of Notary Public  Print Name of Notary Public  Commission No		
Personally Known  Type of Identification Produced  Signature of Notary Public  Print Name of Notary Public  Commission No.	The foregoing instrument was acknowledged	before me this day of,
Print Name of Notary Public  Commission No.	Personally Known OR Pro	
Commission No.		Signature of Notary Public
Commission No.		B. A. N. C. C. V. B. A. H.
		Commission Expires:

Page 6 of 9

Book7230/Page1322 CFN#2009083614 Page 41 of 48

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Book7230/Page1323 CFN#2009083614 Page 42 of 48

## Exhibit A

# Legal Descriptions of the Three Codisco Paresis Comprising the "Property"

## Sanford Site Parcel #13.

The East 95 feet of Block 6, Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Page(s) 56-64, of the Public Records of Seminole County, Florida;

and the South 1/2 of Fourth Street to the North which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653 Page 835, Public Records of Seminole County, Florida.

#### AKJA

Beginning at the point of intersection of the Southwestern line of Cedar Avenue and the Southeastern line of Fourth Street; running thence Southwestwardly, along said street line, 50 feet to a Located Point of Beginning; thence Southeastwardly, parallel to said avenue line, 265:1 feet to the Northwestern line of Fifth Street; thence Southwestwardly, along said street line 95 feet; thence Northwestwardly, parallel to said avenue line, 265:1 feet to the said Southeastern line of Fourth Street; thence Northwestwardly, along said street line, 95 feet to the Located Point of Beginning;

and the South 1/2 of Fourth Street to the North which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653, Public Records of Seminols County, Florida.

## Sanford Site Parcel #14.

All (LESS the West 80 feet of the North 133.3 feet and the West 80 feet of the South 133.3 feet and railroad right of way) Block 5, Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Page(s) 56-64, of the Public Records of Seminole County, Florida;

and the North 1/2 of that portion of Fourth Street lying to the South which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653 Page 835, Public Records of Seminole County, Florida.

And the Westernmost 4.5 feet of the Western right of way of Grantor's track, the Western line of which is parallel with and 14.8 feet Westwardly, measured at right engles, from the center line of said track; said attrip of land to extend between Third and Fourth Streets; and a strip of land 4 feet wide adjoining and lying East of the strip of land described hereinabove, as deeded by the Seaboard Coast Line Railroad Company in deed dated June 14, 1981 in O.R. Book 1357 Page 29, Public Records of Seminole County, Florida.

## Sanford Site Parcel #15.

The West 2/3 of Block 6, Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plet thereof as recorded in Plat Book 1, Pages 56-64, of the Public Records of Seminole County, Florida; and the South 1/2 of Fourth Street to the North which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653 Page 835, Public Records of Seminole County, Florida.

Page 8 of 9

Book7230/Page1324 CFN#2009083614 Page 43 of 48

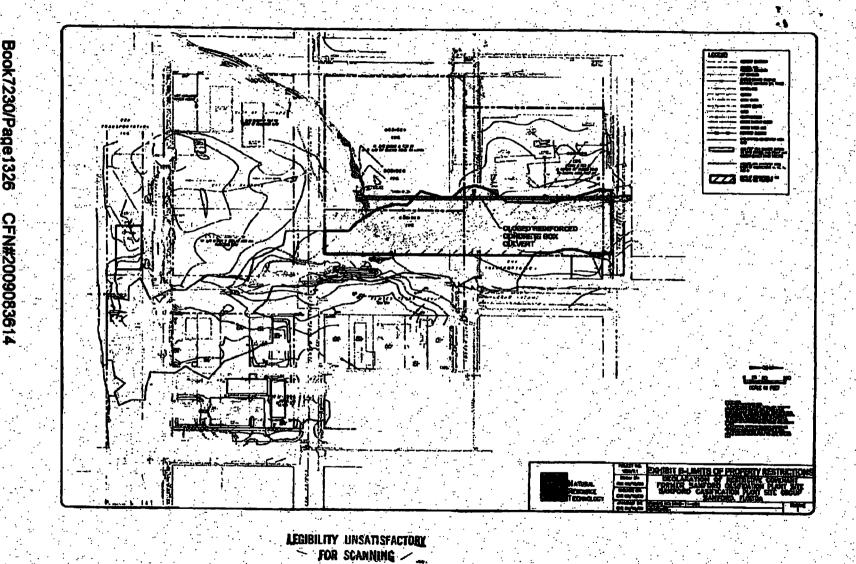
## Exhibit B

# Scaled Survey of the Remediation Area

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Page 9 of 9

Book7230/Page1325 CFN#2009083614 Page 44 of 48





MARYANNE MORSE, SEMINOLE COUNTY CLERK OF CIRCUI) COURT & COMPTROCEER DR 8700 Pas 1015-1020 (3Fas) CLERK'S \$ 2016057653 RECORDED 08/03/2016 12:18:19 P, RECORDED 08/03/2016 12:18:19 P, RECORDED BY Ession

This instrument prepared by. or under supervision of:

Roy E. Wittenberg, PE
Principal Engineer
Natural Resource Technology, Inc.
234 W. Florida Street, Fifth Floor
Milwaukee, Wisconsin 53204

# JOINDER AND CONSENT OF EASEMENT HOLDER

# KNOW ALL MEN BY THESE PRESENTS:

THAT FLORIDA POWER & LIGHT COMPANY, a Florida corporation whose mailing address is 700 Universe Boulevard, Juno Beach, Florida 33408 (hereinafter "Easement Holder"), hereby certifies that it is the holder of that certain Easement dated June 12, 1979, and recorded August 30, 1979, in Official Records Book 1231, at page 249, of the Public Records of Seminole County which encumbers the property described on Exhibit "A" attached hereto and incorporated herein, owned by Codisco, Inc. (hereinafter "Owner"). The Easement Holder hereby joins in and consents to the granting of the Declaration of Restrictive Covenant by the Owner to the Florida Department of Environmental Protection and agrees that the Easement shall be subordinated to the foregoing Declaration of Restrictive Covenant by and between Codisco, Inc. and the Florida Department of Environmental Protection.

Page 46 of 48

COUNTY OF TURN, SEALL.	
The forgoing instrument was acknowledged before m  2016, by Alex Rubbo, as  Florida Power & Light Company, a Florida corporation, on be who is personally known to me or who produced	V.P. Corp. Real Estate of half of the corporation,
Notary Public, State of Florida	
Printed Notary Name	
Commission No. Name of Parish State of Parish	
My Commission Expires:	•

## Exhibit "A"

# (Legal Description of Owner's Property)

## Owner's Parcel E1

The East 95 feet of Block 6. Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Page(s) 56-64, of the Public Records of Seminole County, Florida; and the South 1/2 of Fourth Street to the North which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653 Page 835, Public Records of Seminole County, Florida.

## A/K/A

Beginning at the point of intersection of the Southwestern line of Cedar Avenue and the Southeastern line of Fourth Street; running thence Southwestwardly, along said street line, 50 feet to a Located Point of Beginning; thence Southeastwardly, parallel to said avenue line, 265.1 feet to the Northwestern line of Fifth Street; thence Southwestwardly, along said street line 95 feet; thence Northwestwardly, parallel to said avenue line, 265.1 feet to the said Southeastern line of Fourth Street; thence Northeastwardly, along said street line, 95 feet to the Located Point of Beginning;

and the South 1/2 of Fourth Street to the North which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653, Public Records of Seminole County, Florida.

# Owner's Parcel E2

All (LESS the West 80 feet of the North 133.3 feet and the West 80 feet of the South 133.3 feet and railroad right of way) Block 5, Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Page(s) 56-64, of the Public Records of Seminole County, Florida; and the North 1/2 of that portion of Fourth Street lying to the South which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653 Page 835, Public Records of Seminole County, Florida.

And the Westernmost 4.5 feet of the Western right of way of Grantor's track, the Western line of which is parallel with and 14.8 feet Westwardly, measured at right angles, from the center line of said track; said strip of land to extend between Third and Fourth Streets; and a strip of land 4 feet wide adjoining and lying East of the strip of land described hereinabove, as deeded by the Seaboard Coast Line Railroad Company in deed dated June 14, 1981 in O.R. Book 1357 Page 29, Public Records of Seminole County, Florida.

# Owner's Parcel E3

The West 2/3 of Block 6, Tier 12 of FLORIDA LAND AND COLONIZATION COMPANY LIMITED E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat thereof as recorded in Plat Book 1, Pages 56-64, of the Public Records of Seminole County, Florida; and the South 1/2 of Fourth Street to the North which was vacated by Ordinance No. 1765 recorded July 11, 1985 in O.R. Book 1653 Page 835, Public Records of Seminole County, Florida.

Page 48 of 48

From Fig. 1 pg. F-I

Index F3+F4

FIPF2 did not regr.

restrictions

This instrument prepared by, or under supervision of:

Roy E. Wittenberg, PE
Principal Engineer
Natural Resource Technology, Inc.
234 W. Florida Street, Fifth Floor
Milwaukee, Wisconsin 53204

## **DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants (hereinafter "Declaration") is given by Ellis Family Properties, LLC ("Grantor"), having an address of West State Road 48 & 3rd Street, PO BOX 2746 SANFORD, FL 32772-2746, to the State of Florida Department of Environmental Protection (hereinafter "FDEP" or "Grantee") (collectively, the "Parties"). The Parties agree as follows:

## **RECITALS**

- A. WHEREAS, Grantor is the fee simple owner of that certain real property situated in the County of Seminole, State of Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter the "Property").
- B. WHEREAS, the Property subject to this restrictive covenant is within the Sanford Gasification Plant Superfund Alternative Site ("Site"), to which the U.S. Environmental Protection Agency ("EPA") has assigned Facility Identification Number FLD984169193.
- C. WHEREAS, "Hazardous Substances" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act are located in, on, and under the Property.
- D. WHEREAS, the discharge of Hazardous Substances ("Contamination") on the Property is documented in the following reports that are incorporated by reference:

Page 1 of 43

- 1. The following "Records of Decision" ("RODs") which document the EPA, Region 4 Remedial Action for the Site, and which contain certain further information in reference to Hazardous Substances on the Property:
  - (a) Amended ROD for Operable Unit 1, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/a2006040001230.pdf
  - (b) ROD for Operable Unit 2, dated June 12, 2001, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r0401586.pdf; and
  - (c) ROD for Operable Unit 3, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r2006040001227.pdf.
- 2. Consent Decree entered in the United States District Court, Middle District of Florida, Civil Action, Case No. 6:08-cv-442-Orl-22DAB dated January 15, 2009 (hereinafter "Consent Decree"), between the United States of America, Plaintiff, and Florida Power Corporation, Atlanta Gas Light Company, Florida Power & Light Company, Florida Public Utilities Company, and the City of Sanford Florida (collectively referred to herein as the "Group"), Defendants.
- E. WHEREAS, the Consent Decree is on file with the above-mentioned United States District Court.
- F. WHEREAS, the reports noted in Recital D set forth the nature and extent of the Contamination described in Recital D that is located on the Property. These reports confirm that contaminated groundwater and/or soil as defined by Chapter 62 of the Florida Administrative Code exists on the Property. Also, these reports indicate that the groundwater and/or soil Contamination extends beyond the Property boundary, and that restrictive covenants will be required for those properties as well.
- G. WHEREAS, the Consent Decree required the use of a number of remediation activities (collectively the "remedies") which were developed by FDEP and EPA and entered though the Consent Decree, including excavation, stabilization of the bed and banks of Cloud Branch Creek, and in-situ solidification (hereinafter "ISS"), which creates a stable, low-permeability, monolithic mass in the soil of affected properties, and groundwater remedy described in the applicable regulations as "monitoring for natural attenuation."
- H. WHEREAS, the Contamination on the Property has been remediated in accordance with the Consent Decree and RODs, yet Hazardous Substances remain in, on, and under the Property.
- I. WHEREAS, it is the Intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure to the Hazardous Substances that remain on the Property, to reduce or eliminate the possibility that the applicable remedies are

disturbed and to reduce or eliminate the threat of migration of any such Hazardous Substances.

- J. WHEREAS, consistent with applicable Florida and federal environmental laws and regulations, with the RODs, and with the Consent Decree, the principles of "risk-based corrective action" necessitate the restrictions contained herein be maintained in perpetuity.
- K. WHEREAS, Grantor deems it desirable and in the best interest of all present and future owners of the Property that the Property be subject to the land use restrictions and engineering controls ("Engineering Controls") described herein and in the RODs, that will run with the land, for the purpose of protecting human health and the environment, all of which are more particularly hereinafter set forth.
- L. WHEREAS, the FDEP affirms and approves the restrictions in this Declaration as compliant with Chapter 376, Florida Statutes, and Florida Administrative Code Rule 62-780, and EPA has affirmed and approved the restrictions in this Declaration as compliant with the Consent Decree and the RODs.
- M. WHEREAS, the Parties hereto have agreed (1) that EPA is a third-party beneficiary of said restrictions and said restrictions shall be enforceable by the EPA, FDEP, and their successor agencies, and (2) to grant an irrevocable right of access over the Property to the Group, EPA, FDEP, and their agents or representatives for purposes of implementing, facilitating and monitoring the remedial action.
- N. WHEREAS, the Engineering Controls applicable to the Property Include an engineered barrier and rip rap for Cloud Branch Creek. The Engineering Controls will require operation, monitoring, maintenance and reporting to ensure the ongoing effectiveness of the remedial action.
- O. WHEREAS, an Operation and Maintenance ("O&M") Plan approved by the EPA requires the Group to inspect, monitor and maintain the Engineering Controls.
- P. WHEREAS, FDEP has affirmed and approved the O&M Plan as equivalent to an Engineering Control Maintenance Plan ("ECMP") as that term is defined in Chapter 62-780, Florida Administrative Code.
- Q. WHEREAS, as stated in this Declaration of Restrictive Covenant, some restrictions apply to the entire Property <u>Exhibit "A"</u>, while other restrictions apply only to portions of the Property ("Portions"). The Portions and legal descriptions are shown in <u>Exhibit "B"</u>.

NOW THEREFORE, Grantor, on behalf of itself, its successors, its heirs, and assigns, in consideration of the recitals above, the terms of the Records of Decision, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, which shall touch and concern and

run with the title of the Property, and does give, grant and convey to the Grantee, and its assigns, 1) an irrevocable use restriction and site access covenant of the nature and character, and for the purposes hereinafter set forth and 2), the perpetual right to enforce said covenants and use restrictions, with respect to the Property. Grantor further agrees as follows:

- A. The foregoing recitals are true and correct and are incorporated herein by reference.
- B. Grantor hereby imposes on the Property the following restrictions:
  - 1. Restrictions Applicable to Entire Property (Exhibit "A"). Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, on-site engineering controls described in the Consent Decree, including any underground ISS structure and the banks and bed of Cloud Branch Creek previously discussed and identified in the RODs, shall be maintained.

For purposes of this restriction, the following actions, activities and uses would be deemed to interfere with the integrity or effectiveness of the remedies prescribed by the Consent Decree:

- a. the destruction or modification of any groundwater monitoring wells;
- b. the performance of any dewatering activities on the Property, except pursuant to a plan approved by FDEP's Division of Waste Management ("DWM") to address and ensure the appropriate handling, treatment and disposal of any extracted groundwater that may be contaminated.

Additional specific restrictions are outlined in Paragraphs 2 through 8. Further information regarding the remedial objectives and other considerations bearing on the restrictions can be found in the Final Construction Report, Sanford Gasification Plant Site, dated January 24, 2012, available in the public record maintained by the FDEP and available at the Seminole County Public Library.

2. Restrictions Applicable to the Property Outside of the Portiona.

Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, the installation of wells for access to or withdrawal of groundwater with a screened depth less than 50 feet below ground surface IS SPECIFICALLY PROHIBITED in the area outside of the Portions. Any wells installed outside of the Portions which are more than 50 feet below ground

Page 4 of 43

surface must be double-cased wells. The installation of monitoring wells must be pre-approved in writing by FDEP's DWM in addition to any authorizations required by the DRWM and the WMD.

- 3. Restrictions and Conditions Applicable to the Portions. The following activities and conditions on the Portions ARE SPECIFICALLY PROHIBITED:
  - a. Access to or withdrawal or use of any groundwater for consumption, irrigation or any other purpose;
  - b. Drilling or construction of any wells for any purpose;
  - c. Construction of any borrow pit:
  - d. Construction of any building basement, sub-basement, or other subsurface structure;
  - e. Any modification or removal of the existing stomwater ponds and facilities;
  - f. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 4. Restrictions and Conditions Applicable to Cloud Branch Creek.
  The following activities and conditions ARE SPECIFICALLY
  PROHIBITED with respect to Cloud Branch Creek:
  - a. Construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any area of Cloud Branch Creek.
  - b. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 5. Restrictions and Conditions Applicable to Surface Water Features
  Constructed as Part of the Remedial Action. Attached as
  Exhibit "C", and incorporated by reference herein, is a Survey
  identifying the size and location of existing stommwater swales,
  stommwater detention or retention facilities, ditches, and stom sewers or
  culverts on the Property that were constructed as part of the remedial
  construction. Such existing stommwater features shall not be altered,
  modified or expanded. A revised exhibit must be recorded when any
  stommwater feature is altered, modified, expanded, or constructed. The
  following activities and conditions ARE SPECIFICALLY PROHIBITED

with respect to surface water features constructed as part of the Remedial Action:

- There shall be no construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any surface water feature or appurtenance to a surface water feature.
- b. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 6. Professional Engineer ("P.E.") Certified Allowable Soil Activities and Conditions Within the Portions. Notwithstanding any other conditions and restrictions specified in this Declaration, the following activities and conditions are allowed within the Portions, provided that:

  (1) such work is performed in full compliance with all applicable laws and (2) before commencement of such work, the work is fully described in documentation bearing a PE CERTIFICATION as defined in paragraph 7 below, and subject to approval by EPA and FDEP.
  - a. Excavation of footers for new building construction and vertical (above land surface) construction of buildings;
  - b. Modifications to the engineered barrier for Cloud Branch Creek (e.g. new storm sewer outlets)
  - c. Minor earth disturbance activities at depths greater than 2 feet below land surface (such as deep fence posts, sign footers, utility installations, trenches for underdrains):
  - d. Pavement construction for driveways and parking lots;
  - e. Site grading of any area greater than 500 square feet; and
  - f. Construction of swales and ditches.
- 7. For purposes of paragraph 6 above, "PE Certification" shall mean that the work to be performed is fully described and depicted in plans, drawings, and/or descriptions, which documents are certified to the State of Florida by a signature and seal of a Florida licensed Professional Engineer and containing the following statement: "I have personally reviewed the plans, drawings, and/or descriptions of the work described herein. I have familiarized myself with the purposes and objectives of the remedial measures required by the Consent Decree applicable to the Property. I hereby certify that the work described herein will not interfere with the Integrity or effectiveness of any remedial measure on the Property and the

Page 6 of 43

work will not create any conditions that adversely affect human health or the environment."

- 8. Allowable Soil Activities and Conditions without PE Certification, Within the Portions. Unless prohibited by paragraph 6 above, the following activities and conditions are deemed not to interfere with the integrity or effectiveness of the remedy, and are therefore allowed without any P.E. Certification:
  - a. Minor earth disturbing activities to a depth less than two feet below land surface, and within an area less than 500 square feet:
  - b. Planting of grass or other ground covers;
  - Shallow plantings for shrubs, hedges, plants, flowers (all with roots that do not exceed and are not likely to exceed two feet in depth); and
  - d. Construction of walkways.
- 9. If Grantor observes any damage to the Engineering Controls on the Property, then the Grantor should notify the EPA and the FDEP of such observations.
- C. In the remaining paragraphs, all references to "Grantor," "Grantee," "EPA," "the Group" (as defined in Recital D, above) and "FDEP" shall also mean and refer to their respective representatives, successors and assigns.
- D. Irrevocable Covenant for Site Access: Grantor hereby grants to the Grantee, its agents and representatives, an irrevocable, permanent and continuing right of access to the Property at all reasonable times and with reasonable notice to the Grantor for purposes of:
  - a) Implementing any remaining response actions in the RODs;
  - b) Verifying any data or information submitted to EPA and Grantee;
  - c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
  - d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;

- e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations; and
- E. <u>Modification:</u> This Declaration shall not be modified, amended, or terminated without the written consent of FDEP or its successor agency. FDEP shall not consent to any such modification, amendment or termination without the written consent of EPA.
- F. (a) Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, its heirs, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and covenants granted herein.
  - (b) Reserved Rights of EPA: Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's or authority to take response actions under CERCLA, the NCP, or other federal law.
  - (c) Reserved Rights of Grantse: Nothing in this document shall limit or otherwise affect Grantse's rights of entry and access or authority to act under state or federal law.
- G. <u>Notice requirement</u>: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

- H. <u>Administrative Jurisdiction</u>: FDEP or any successor state agency having administrative jurisdiction over the interests acquired by the State of Florida by this instrument is the Grantee. EPA is a third party beneficiary to the interests acquired by Grantee.
- I. <u>Enforcement:</u> The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. These

Page 8 of 43

restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation or governmental agency that is substantially benefited by this Declaration. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. It is expressly agreed that EPA is not the recipient of a real property interest but is a third party beneficiary of the Declaration of Restrictive Covenants, and as such, has the right of enforcement. Enforcement of the terms of this instrument shall be at the discretion of the entities listed above, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.

- J. <u>Damages</u>: Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.
- K. Covenants: Grantor hereby covenants to and with the Grantee, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on Exhibit D attached hereto.
- L. <u>Notices</u>: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, referencing the Site name and Site ID number and addressed as follows:

To Grantor.

Ellis Family Properties, LLC c/o Harry W. Ellis, Jr. 915 West First Street Sanford, FL 32771 To Grantee:

Program Administrator, Waste Cleanup Program FDEP M.S. 4505 2600 Blair Stone Road Tallahassee, FL 32399

To EPA:

U.S. EPA, Region 4
Waste Management Division
Superfund Remedial and Technical Services Branch
Section Chief, Section D
61 Forsyth Street, SW
Atlanta, GA 30303

Page 9 of 43

M. Recording in Land Records: This Declaration shall be recorded in timely fashion in the Official Records of Seminole County, Florida, with no encumbrances other than those noted in Exhibit D, and shall be recorded at any time Grantee may require to preserve its rights. The Group shall pay all recording costs and taxes necessary to record this document in the public records.

## N. General provisions:

- a) <u>Controlling law</u>: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state of Florida.
- b) <u>Liberal construction</u>: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c) <u>Severability</u>: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d) <u>Entire Agreement</u>: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.
- e) <u>No Forfeiture</u>: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- f) <u>Joint Obligation</u>: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.
- g) <u>Successors</u>: The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee

and Grantor under this instrument are freely assignable, subject to the notice provisions hereof.

- h) <u>Captions</u>: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- i) <u>Counterparts</u>: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the State of Florida Department of Environmental Protection and its successors and assigns forever.

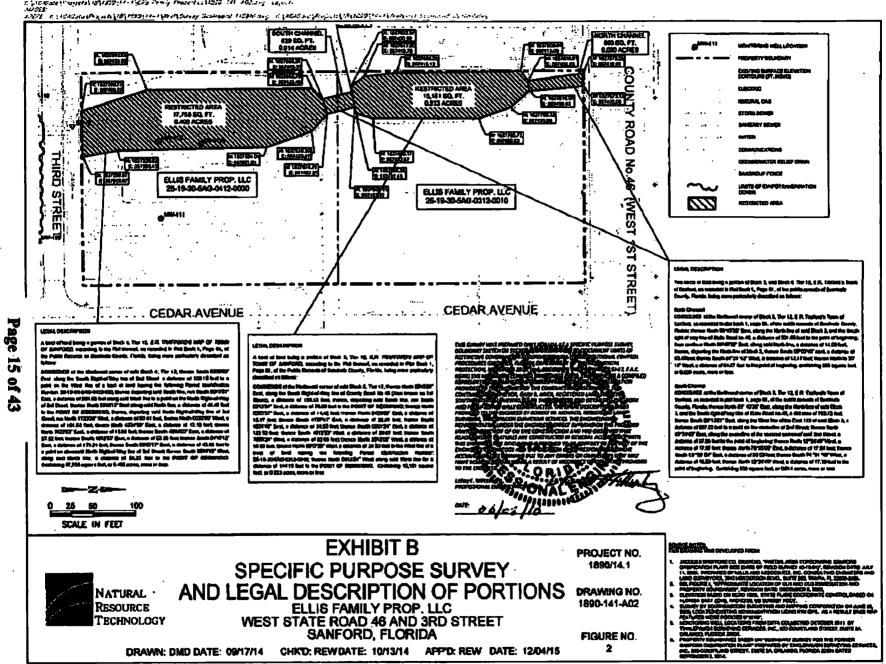
IN WITNESS name.	S WHEREOF, Grantor	has caused	I this Agreement to be s	signed in its
Executed this	s X2 day of MA	irch,	20 <u>17</u> .	
GRANTOR:	By: Name: Hanny V Title/Position: /2 9 /2		~	
Signed, seal	ed and delivered in the	e presence	of:	•
Witness:	Jpm 7/	Print Nam	Aprae 10	Date 3-22-2017
Witness:	Y SANTON	Print Nam	<u>USMIHA</u> ne	Date 3-22-17
On thi Notary Public personally at the foregoing to be the free	is 22 May of 1400 c in and for the State of peared 1000 Eller or behalf and voluntary act an	of Florida, do \(\(\S\) \(\sigma\) of Grantor, d deed of so	0.7, before me, the unduly commissioned and a known to be the persor and acknowledged the aid entity, for the uses any are authorized to exe	swom, n that executed said instrument and purposes
Witness my	hand and official seal	hereto affixe	ed the day and year writ	ten above.
	JOANDES BER MY COMMERSION S EQUIPMENT AND I Boarded Thru Notary Pub	A, 2020	Notary Public in and for State of Florida  My Commission Expire	
			Commission No	

Page 12 of 43

	ENVIKONIMENTAL BROTECTION					
Approved as to form by:	PROTECTION					
Approved as whomi by:	Ву:					
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Jaw & Kalulum	from alle for					
Toni Sturtevant, Asst. General Counsel	F. JOSEPH ULLO, Jr., P.E., Director					
Office of General Counsel	Division of Waste Management					
	Dept. of Environmental Protection					
	Division of Waste Management					
·	2600 Blairstone Road					
Others described and delicement in	Tallahassee, FL 32399-2400					
Signed, sealed, and delivered in						
in the presence of:						
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) and						
Witness Signature	Witness Signature					
100 16 1 -	Lennifer Paker					
Julitar Videos						
Printed Name	Printed Name					
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Date	Date					
STATE OF FLORIDA						
COUNTY OF LEON	•					
The foregoing instrument was acknowledge	ed hefore me this // day of Jule					
20 17, by F. JOSEPH ULLO, who is personally	known to me.					
JUDITH PENGANGTON	ب صورت					
HY COMMENSION A FF 215017	Switt Jumpon					
Resident Trans Secretary Acres	Notary Public, State of Florida at Large					
·						
Attachments:						
Ryhibit A - Legal Description/Survey of	f the Property					
Exhibit A - Legal Description/Survey of the Property  Exhibit B - Survey Map/Legal of the Portion						
Exhibit C - Survey Map of the Stormwater Features						
Exhibit D - Existing Liens and Encumber						
•	<u>-</u>					

FLORIDA DEPARTMENT OF

Page 13 of 43



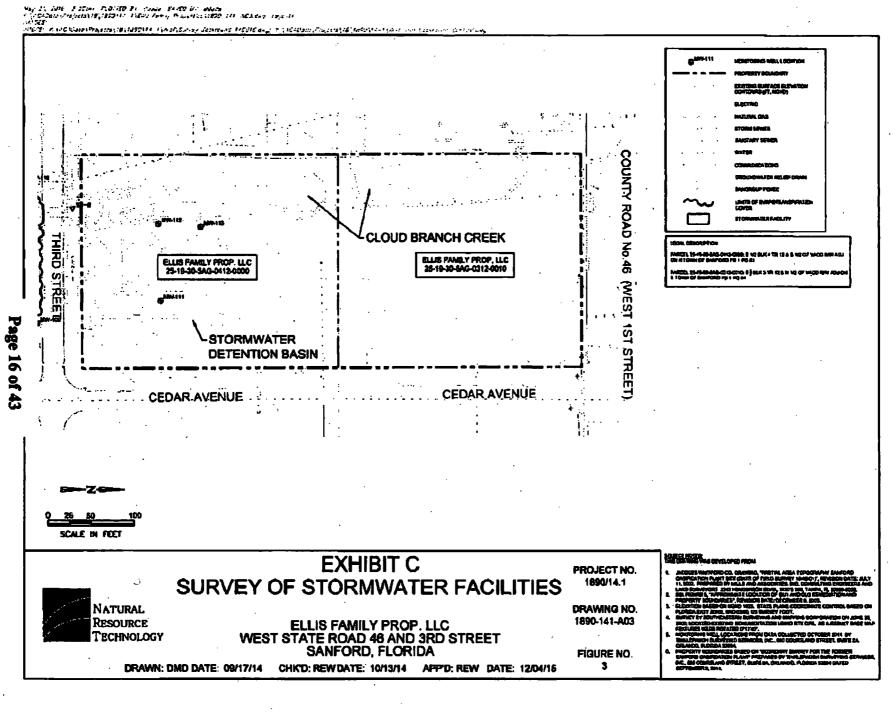


Exhibit D

Existing Liens and Encumbrances on the Property

Instrument	Date	Book and Page
Mortgage	April 8, 2014	Book 8239, Page 1533
Assignment of Rents	April 8, 2014	Book 8239, Page 1541
Order (U.S. District Court, Case No. 6:09-cv-1724)	January 13, 2010	Book 7318, Page 865
City of Sanford Ordinance No. 2012-4240	February 28, 2012	Book 7721, Pag 1475
City of Sanford Ordinance No. 2012-4280	December 17, 2012	Book 7921, Page 558

HERMOE HEER, SHOULE CHARY CLERK OF CHICLEY CHIEF & COPPUBLIES SK 6823 Pp. 1821 - 2545; Sippa CLERK' B # 2014627546 D PLANTAL CONTINE HITS DOC THE APP. OF THE HIT COR. OF THE HITCH PRINT OF THE

u Childre S. W. Genneury Best-Files Addisons P.O., Sun 1860, Whiter Park, Fl. 22760-G916

### MORTGAGE

PUTURE ADVANCES

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HTTOAGE deleti April 3, 2014, is comin and executed between BLIS FABRLY PROPERTIES LLC, a milted limitity company, with its address at 015 W First Street, Butto 202, Seniord, Ft. 32771 to bolow as "Granter") and BentifikST, whome address is 3791 West tot Street, Benturd, Ft. 32771

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1 thereof as recorded in Pict Book 1, Pages 85 through BA, Public Records of Sentines Country.

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This ASSESSMENT OF MEET'S STROOMS INC

Micros: Christine C. Wood , Santor Lain Percessor / 20011607 Campany: Bend/2007 Address: P.O. Box 1966, Vilher Perk, PL 82780-6969

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### AGSIGNMENT OF RENTS .

THIS ASSISTMENT OF RENTS detail April 3, 2014, to made and emouted between ELLIS FAMILY PROPERTIES LLC, a Fields Smiled Salidly company, with its eddness at 918 W First Street, Salid 202, Saniord, FL 2071 (valued to below as "Granton") and Saniord, FL 2071 (valued to below as "Granton").

AGRIGHMENT. For velocitie escaldention, Granter bereity easigns, grants a continuing escartly interest in, and conveys to Lander all of Granter's right, title, and interest in each to the Rante from the following described Property located in SERGHOLE County, State of Florida:

PARCEL CHE: The East % of Block 9, The 12, FLOREDA LAND AND COLONIZATION COMPANY LIMITED, E.R. TRAFFORD'S MAP OF THE TOWN OF SAMPORD, eccording to the plot themsel as recorded in Plot Book 1, Pages 60 through 64, Public Records of Sentinate County, Florids, and the North % of vectod sight-of-way educant on South.

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PARCEL THREE: The East 16 of Block 4, Ther 12, FLOREDA LAND AND COLONIZATION COMPANY LANTED, E.R. TRAFFORD'S MAP OF THE TOWN OF SANFORD, according to the plat theoret as recorded in First Block 1, Reges 86 through 64, Public Records of Seminsta County, Florida: and South vessial right-of-way assessed on North.

The Property or its address is commonly incom as 913 - 915 W Flux Street, Seederd, R. 22771.

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# ASSIGNMENT OF RENTS (Continued)

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### ASSIGNMENT OF RENTS (Continued)

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Case 6:09-cv-01724-GKS-GJK Document 7

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UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA

UNITED STATES OF AMERICA.

Plaintiff.

Civil Action No. 6:09-cv-1724-Ori-18GJK

Filed 12/14/2009

TWO PARCELS OF LAND. located in the Town of Sanford, Florida, formerly deeded to CSX Transportation. Inc., to rem,

Defendant.

### ORDER

Having considered the United States' Request for Judgment by Default and for an Order in Aid of Access, the lawful and proper publication of Notice of Action, no response or appearance has been filed, and good cause appearing therefor.

### IT IS HEREBY ORDERED THAT:

A Judgment by Defeatt is ENTERED against Defendant Properties with respect to liability under Section 104(e)(5) of the Comprehensive Environmental Response. Compensation. and Liability Act of 1980, ("CERCLA"), 42 U.S.C. § 9604(e)(5) as to entry and access to Defendant Properties; and

Plaintiff's Request is GRANTED, and the United States Environmental Protection

Agency, its officers, employees, agents, contractors and other representatives: the Sanford PRP

Group (comprised of Florida Power Corporation, Atlanta Gas Company, Florida Power and Light

Company, Florida Public Utilities Company and the City of Sanford, Florida), its officers.

Book7318/Page865 CFN#2010003682 Page 31 of 43 employees, agents, contractors and other representatives, are authorized immediate entry upon and access to, through, over and under the Defendant Properties described as follows:

Parcel! - The East half of Block Three of Tier 12 of E.R. Trafford's survey of
Town of Sanford, Florida. as shown on map of Sanford filed in the Office of the
Clerk of the Circuit "Court of Orange [now Seminole] County", Florida; and
Parcel 2 - The East half of Block Four of Tier 12 of E.R. Trafford's survey of
Town of Sanford, Florida, as shown on map of Sanford filed in the Office of the
Clerk of the Circuit "Court of Orange [now Seminole] County", Florida, in the
City of Sanford, Seminole County, Florida.

Such access is granted for the purposes of effectuating response actions selected by the United States Environmental Protoction Agency at and around Defendant Properties.

Access shall be for such duration as is necessary to implement the selected response actions at and around the Defendant Properties including, but not limited to: remedial design, implementation of the selected remedy, operation and maintenance of the selected remedy and selected remedy and selected remedy and selected remedy an

ENTERED this \_\_\_\_\_ day of December, 2009.

G. KENDALL SHARP SENIOR UNITED STATES DISTRICT JUDGE

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Book7318/Page866 CFN#2010003682 Page 32 of 43 An ordinance of the City of Sanford, Florida vacating and abandening a portion of Second Street located between Popiar Avenue and Cedar Avenue and between West First Street and Third Street as part of E.R. Trafford's lifer of the Town of Sanford, Sanford, Florida as recorded in Plat Book 1, Page 61 of the Public Records of Orange County (now Seminote County) and which is generally located at 915 West First Street; providing for legislative findings and intent; providing for attachment and incorporation of exhibit; providing for the reservation of rights for the benefit of the City; providing for restrictive groundwater covenants; providing for the taking of implementing administrative actions; providing for recording; providing for benefits and burdens inwing to the benefit and datriment of Harry Elils, Jr.; providing for conflicting ordinances; providing for severability; providing for non-codification and providing for a contingent effective date.

Whereas, an application was filed with the City Commission of the City of Sanford, Florida, to vacate a portion of Second Street located between Popiar Avanua and Cedar Avenue and between West First Street and Third Street; and

Whereas, the unimproved 66" wide east-west right-of-way of Second Street was platted as part of E.R. Trafford's Map of the Town of Sanford, Sanford, Florida as recorded in Plat Book 1, Page 61 of the Public Records of Orange County (now Seminote County) and is generally located at 915 West First Street and as depicted in Exhibit "A" which Exhibit is attached hereto and made a part hereof by this reference; and

Whereas, the City Commission of the City of Senford, Florida finds that the vacating of said right-of-way will not operate to the detriment of the City or the public, and that all other conditions required by controlling law have been met; provided, however, that the conditions set forth in this Ordinance are imposed relative to the vacation and abandonment action taken herein in order to protect the public interest.

Now, Therefore, Be It Enacted By The People Of The City Of Sanford, Florida:

Book7721/Page1475 CFN#2012023642 Page 33 of 43



## Section 1. Legislative findings and intent.

- (a). The City Commission of the City of Sanford hereby adopts and incorporates into this Ordinance the recitate (whereas clauses) to this Ordinance, the City staff report and City Commission agenda memorandum relating to the application and the proposed vacation of the right-of-way as set forth herein. Notwithstanding anything in this Ordinance or any other document to the contrary, the applicant relative to the action taken herein is and was Harry Etlis, Jr., regardless of who may have filed documents relating thereto on his behalf, and Harry Etlis, Jr. shall be burdened as set forth herein with regard to the vacated right-of-way.
- (b). The City of Sanford has compiled with all requirements and procedures of Florida law in processing and advertising this Ordinance.
- (c). This Ordinance is consistent with the goals, objectives and policies of the Comprehensive Plan of the City of Sanford and Section 6.19 of the Land Development Regulations of the City of Sanford.

Section 2. Vacation of right-of-way/Implementing actions.

- (a). A portion of Second Street located between Poplar Avenue and Cedar Avenue and between West First Street and Third Street generally located at 915 West First Street and as depicted in Exhibit "A" is hereby vacated.
- (b.) The City of Sanford hereby retains a perpetual right of entry to and a utility easement within and said vacated right-of-way for public and private (as approved by the City) utility maintenance and installation purposes and the City of Sanford does not release any right of any nature relative to these reserved rights. The City of Sanford retains the right to execute any further document to further memorialize the rights reserved herein without the consent of any property owner(s) to whom property vested

Ordinance No. 2011-4240 Page No. 2

Book7721/Page1476 CFN#2012023842 Page 34 of 43



as a result of the action taken in this Ordinance or the successors or assigns of such owner(s).

- (c). In accordance with the requirements of the remedial plan for the former Manufacturing Gas Plant (MGP) on or near the vicinity of said right-of-way, this Ordinance perpetually restricts any ground water use and prohibits any installation, operation or use of any water well. All such restrictions shall perpetually benefit the City and burden the subject vacated right-of-way. The City shall have the right, but not the obligation to embree such restrictions, and should the City determine to do so, the applicant, or its successors or assigns, shall be obligated to pay any and all costs of enforcement incurred by the City to include, but not be limited to, court costs and attorneys fees (to include, but not be limited to, those on appeal and paralegal costs). The applicant has agreed with the City that these conditions to not impose any unconstitutional or otherwise unlawful restriction on the property rights (past, current or future) of the applicant and its successors and assigns or constitute any arbitrary or capticious action by the City. The City shall, at no time, owe any compensation to the applicant.
- (d). The City Manager, or designee, is hereby authorized to execute the documents necessary to implement the action taken herein.

### Section 3. Recordation.

The City shall be responsible to record in the Public Records of Seminole County and copies of all such notices, proofs of publication and this Ordinance as shall be required to perfect title to the subject property of the vacated right-of-way although the City does not warrant or guarantee title and title to the vacated property shall vest in accordance with controlling law. All costs of recording shall be paid by the City upon the City requesting payment of such costs.

Ordinance No. 2011-4240 Page No. 3

Book7721/Page1477 CFN#2012023642 Page 35 of 43



Section 4. Conflicts.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

Section 5. Severability.

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

Section 6. Non-Codification.

This Ordinance shall be not be codified.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon passage and adoption.

Passed and adopted this 27th day of February, 2012.

Attest

Caneth . Noughett Ganet Dougherty, Oily Clerk

Approved as to form and legal sufficiency.

William L. Colbert, City Attorney

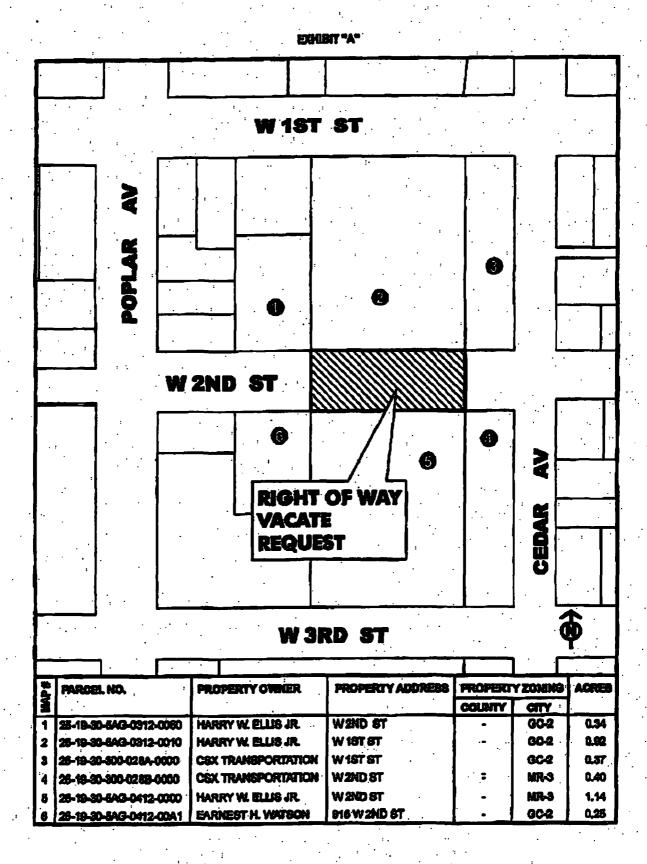
City Commission Sanford, Florida

Jeff Triplett,

Ordinance No. 2011-4240 Page No. 4

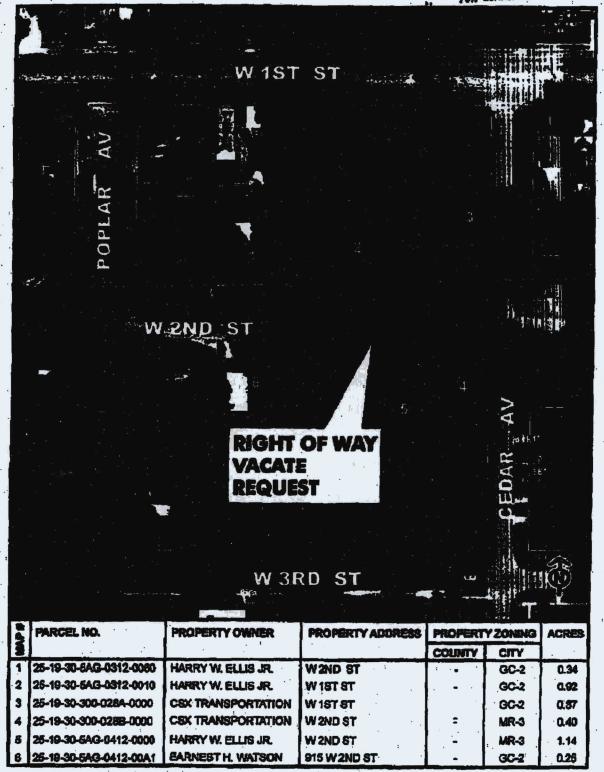
Book7721/Page1478 CFN#2012023642 Page 36 of 43





Book7721/Page1479 CFN#2012023642 Page 37 of 43





Book7721/Page1480 CFN#2012023642 Page 38 of 43

CFN# 2017074911 OFFICIAL RECORDS O DOC\_TYPE REST BK 8958 PG 1497 PAGE 38 OF 43

### Ordinance No. 2012-4280

An ordinance of the City of Sanford, Florida vacating and abandoning a portion of Second Street located between Popiar Avenue and Cedar Avenue and between West First Street and Third Street as part of E.R. Trafford's Map of the Town of Sanford, Sanford, Florida as recorded in Plat Book 1, Page 61 of the Public Records of Orange County (now Saninole County) and which is generally located at 915 West First Street; providing for legislative findings and intent; providing for attachment and incorporation of exhibit; providing for the reservation of rights for the banefit of the City; providing for restrictive groundwater covenants; providing for the taking of implementing administrative actions; providing for recording; providing for benefits and burdens inuring to the benefit and detriment of Harry Ellie, Jr.; providing for non-codification and providing for a contingent effective data.

Whereas, an application was filed with the City Commission of the City of Sanford, Florida, to vacate a portion of Second Street located between Poplar Avenue and Cedar Avenue and between West First Street and Third Street; and

Whereas, the unimproved 66' wide east-west right-of-way of Second Street was platted as part of E.R. Trafford's Map of the Town of Sanford, Sanford, Florida as recorded in Plat Book 1, Page 61 of the Public Records of Orange County (now Seminole County) and is generally located at 915 West First Street and as depicted in Exhibit "A" which Exhibit is attached hereto and made a part hereof by this reference; and

Whereas, the City Commission of the City of Sanford, Florida finds that the vacating of said right-of-way will not operate to the detriment of the City or the public, and that all other conditions required by controlling law have been met; provided, however, that the conditions set forth in this Ordinance are imposed relative to the vacation and abandonment action taken havein in order to protect the public interest.

Now, Therefore, Be it Enacted By The People Of The City Of Sanford, Florida:

Book7921/Page558 CFN#2012151247

Page 39 of 43



## Section 1. Legislative findings and Intent.

- (a). The City Commission of the City of Senford hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) to this Ordinance, the City staff report and City Commission agenda memorandum relating to the application and the proposed vacation of the right-of-way as set forth herein. Notwithstanding anything in this Ordinance or any other document to the contrary, the applicant relative to the action taken herein is and was Harry Ellis, Jr., regardless of who may have filed documents relating thereto on his behalf, and Harry Ellis, Jr. shall be burdened as set forth herein with regard to the vacated right-of-way.
- (b). The City of Sanford has compiled with all requirements and procedures of Florida law in processing and advertising this Ordinance.
- (c). This Ordinance is consistent with the goals, objectives and policies of the Comprehensive Plan of the City of Sanford and Section 6.19 of the Land Development Regulations of the City of Sanford.

## Section 2. Vacation of right-of-way/implementing actions.

- (a). A portion of Second Street located between Poplar Avenue and Cedar Avenue and between West First Street and Third Street generally located at 916 West First Street and as depicted in Exhibit "A" is hereby vacated.
- (b). The City of Sanford hereby retains a perpetual right of entry to and a utility easement within said vacated right-of-way for public and private (as approved by the City) utility maintenance and installation purposes and the City of Sanford does not release any right of any nature relative to these reserved rights. The City of Sanford retains the right to execute any further document to further memorialize the rights reserved herein without the consent of any property owner(s) to whom property vested

Ordinance No. 2012-4280 Page No. 2

Book7921/Page559 CFN#2012151247 Page 40 of 43



as a result of the action taken in this Ordinance or the successors or assigns of such owner(s).

- Manufacturing Gas Plant (MGP) on or near the vicinity of said right-of-way, this Ordinance perpetually restricts any ground water use and prohibits any installation, operation or use of any water well. All such restrictions shall perpetually benefit the City and burden the subject vacated right-of-way. The City shall have the right, but not the obligation to enforce such restrictions, and should the City determine to do so, the applicant, or its successors or assigns, shall be obligated to pay any and all costs of enforcement incurred by the City to include, but not be limited to, court costs and attorneys fees (to include, but not be limited to, those on appeal and paralegal costs). The applicant has agreed with the City that these conditions to not impose any unconstitutional or otherwise unlawful restriction on the property rights (past, current or future) of the applicant and its successors and assigns or constitute any arbitrary or capricious action by the City. The City shall, at no time, owe any compensation to the applicant.
- (d). The City Manager, or designee, is hereby authorized to execute the documents necessary to implement the action taken herein.

Section 3. Recordation.

The City shall be responsible to record in the Public Records of Seminole County and copies of all such notices, proofs of publication and this Ordinance as shall be required to perfect title to the subject property of the vacated right-of-way atthough the City does not warrant or guarantee title and title to the vacated property shall vest in accordance with controlling law. All costs of recording shall be paid by the City upon the City requesting payment of such costs.

Ordinance No. 2012-4280 Page No. 3

Book7921/Page560 CFN#2012151247

Page 41 of 43



Section 4. Conflicts.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

Section 6. Severability.

if any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be hald to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

Section 6. Non-Codification.

This Ordinance shall be not be codified.

Section 7. Effective Date.

This Ordinance shall take effect immediately upon passage and adoption.

Passed and adopted this 10th day of December, 2012.

Attact

Quelt . A Jaughetty
franct Dougherty, City Clark

Approved as to form and local sufficiency.

Millam L. Colbert, City Attorney

ACA

City Commission of the City of Sanford Florida

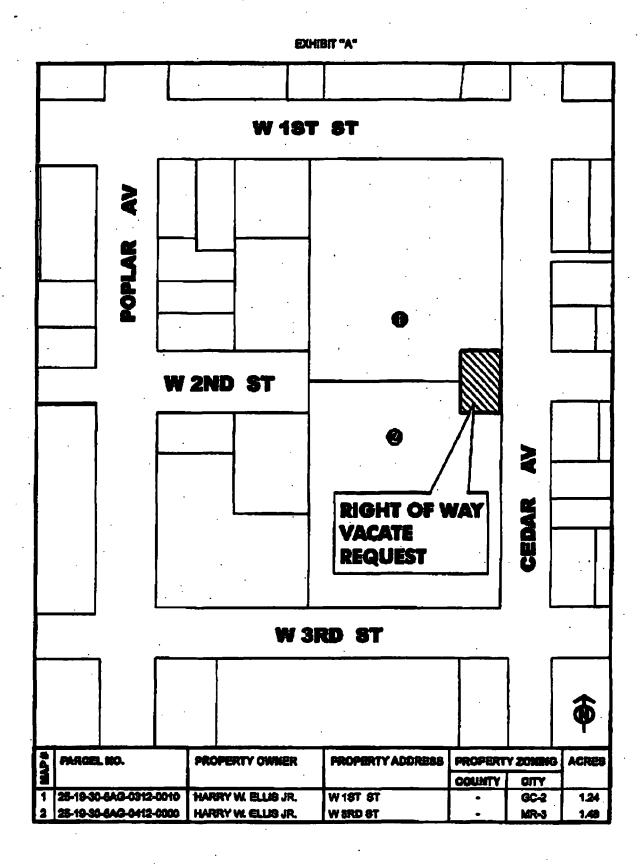
Jeff Triple

Ordinance No. 2012-4280 Page No. 4

Book7921/Page561 CFN#2012151247

Page 42 of 43





Book7921/Page562 CFN#2012151247

Page 43 of 43



From Figure 1 pg. F-1
Index # S1,52,53

This instrument prepared by, or under supervision of:

Roy E. Wittenberg, PE Principal Engineer Natural Resource Technology, Inc. 234 W. Florida Street, Fifth Floor Milwaukee, Wisconsin 53204

### **DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants (hereinafter "Declaration") is given by the City of Sanford, Florida, ("Grantor"), having an address of City Hall, 300 N. Park Avenue, P.O. Box 1788, Sanford, FL 32772-1788, to the State of Florida Department of Environmental Protection (hereinafter "FDEP" or "Grantee") (collectively, the "Parties"). The Parties agree as follows:

### **RECITALS**

- A. WHEREAS, Grantor is the fee simple owner of that certain real property situated in the County of Seminole, State of Florida, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter the "Property").
- B. WHEREAS, the Property subject to this restrictive covenant is within the Sanford Gasification Plant Superfund Alternative Site ("Site"), to which the U.S. Environmental Protection Agency ("EPA") has assigned Facility Identification Number FLD984169193.
- C. WHEREAS, "Hazardous Substances" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act are located in, on, and under the Property.
- D. WHEREAS, the discharge of Hazardous Substances ("Contamination") on the Property is documented in the following reports that are incorporated by reference:

**Page 1 of 18** 

- 1. The following "Records of Decision" ("RODs") which document the EPA, Region 4 Remedial Action for the Site, and which contain certain further information in reference to Hazardous Substances on the Property:
  - (a) Amended ROD for Operable Unit 1, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulitext/a2006040001230.pdf
  - (b) ROD for Operable Unit 2, dated June 12, 2001, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r0401586.pdf; and
  - (c) ROD for Operable Unit 3, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r2006040001227.pdf.
- 2. Consent Decree entered in the United States District Court, Middle District of Florida, Civil Action, Case No. 6:08-cv-442-Orl-22DAB dated January 15, 2009 (hereinafter "Consent Decree"), between the United States of America, Plaintiff, and Florida Power Corporation, Atlanta Gas Light Company, Florida Power & Light Company, Florida Public Utilities Company, and the City of Sanford Florida (collectively referred to herein as the "Group"), Defendants.
- E. WHEREAS, the Consent Decree is on file with the above-mentioned United States District Court.
- F. WHEREAS, the reports noted in Recital D set forth the nature and extent of the Contamination described in Recital D that is located on the Property. These reports confirm that contaminated groundwater and/or soil as defined by Chapter 62 of the Florida Administrative Code exists on the Property. Also, these reports indicate that the groundwater and/or soil Contamination extends beyond the Property boundary, and that restrictive covenants will be required for those properties as well.
- G. WHEREAS, the Consent Decree required the use of a number of remediation activities (collectively the "remedies") which were developed by FDEP and EPA and entered though the Consent Decree, including excavation, stabilization of the bed and banks of Cloud Branch Creek, and in-situ solidification (hereinafter "ISS"), which creates a stable, low-permeability, monolithic mass in the soil of affected properties, and groundwater remedy described in the applicable regulations as "monitoring for natural attenuation."
- H. WHEREAS, the Contamination on the Property has been remediated in accordance with the Consent Decree and RODs, yet Hazardous Substances remain in, on, and under the Property:
- 1. WHEREAS, it is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure to the Hazardous Substances that remain on the Property, to reduce or eliminate the possibility that the applicable remedies are

disturbed and to reduce or eliminate the threat of migration of any such Hazardous Substances.

- J. WHEREAS, consistent with applicable Florida and federal environmental laws and regulations, with the RODs, and with the Consent Decree, the principles of "risk-based corrective action" necessitate the restrictions contained herein be maintained in perpetuity.
- K. WHEREAS, Grantor deems it desirable and in the best interest of all present and future owners of the Property that the Property be subject to the land use restrictions and engineering controls ("Engineering Controls") described herein and in the RODs, that will run with the land, for the purpose of protecting human health and the environment, all of which are more particularly hereinafter set forth.
- L. WHEREAS, the FDEP affirms and approves the restrictions in this Declaration as compliant with Chapter 376, Florida Statutes, and Florida Administrative Code Rule 62-780, and EPA has affirmed and approved the restrictions in this Declaration as compliant with the Consent Decree and the RODs.
- M. WHEREAS, the Parties hereto have agreed (1) that EPA is a third-party beneficiary of said restrictions and said restrictions shall be enforceable by the EPA, FDEP, and their successor agencies, and (2) to grant an irrevocable right of access over the Property to the Group, EPA, FDEP, and their agents or representatives for purposes of implementing, facilitating and monitoring the remedial action.
- N. WHEREAS, the Engineering Controls applicable to the Property include an engineered barrier and rip rap for Cloud Branch Creek. The Engineering Controls will require operation, monitoring, maintenance and reporting to ensure the ongoing effectiveness of the remedial action.
- O. WHEREAS, an Operation and Maintenance ("O&M") Plan approved by the EPA requires the Group to inspect, monitor and maintain the Engineering Controls.
- P. WHEREAS, FDEP has affirmed and approved the O&M Plan as equivalent to an Engineering Control Maintenance Plan ("ECMP") as that term is defined in Chapter 62-780, Florida Administrative Code.
- Q. WHEREAS, as stated in this Declaration of Restrictive Covenant, some restrictions apply to the entire Property <u>Exhibit "A"</u>, while other restrictions apply only to portions of the Property ("Portions"). The Portions and legal descriptions are shown in <u>Exhibit "B"</u>.

NOW THEREFORE, Grantor, on behalf of itself, its successors, its heirs, and assigns, in consideration of the recitals above, the terms of the Records of Decision, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, which shall touch and concern and

run with the title of the Property, and does give, grant and convey to the Grantee, and its assigns, 1) an irrevocable use restriction and site access covenant of the nature and character, and for the purposes hereinafter set forth and 2), the perpetual right to enforce said covenants and use restrictions, with respect to the Property. Grantor further agrees as follows:

A. The foregoing recitats are true and correct and are incorporated herein by reference.

- B. Grantor hereby imposes on the Property the following restrictions:
  - 1. Restrictions Applicable to Entire Property (Exhibit "A"). Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, on-site engineering controls described in the Consent Decree, including any underground ISS structure and the banks and bed of Cloud Branch Creek previously discussed and identified in the RODs, shall be maintained.

For purposes of this restriction, the following actions, activities and uses would be deemed to interfere with the integrity or effectiveness of the remedies prescribed by the Consent Decree:

- a. the destruction or modification of any existing or future groundwater monitoring well;
- b. the performance of any dewatering activities on the Property, except pursuant to a plan approved by FDEP's Division of Waste Management ("DWM") to address and ensure the appropriate handling, treatment and disposal of any extracted groundwater that may be contaminated.

Additional specific restrictions are outlined in Paragraphs 2 through 8. Further information regarding the remedial objectives and other considerations bearing on the restrictions can be found in the Final Construction Report, Sanford Gasification Plant Site, dated January 24, 2012, available in the public record maintained by the FDEP and available at the Seminole County Public Library.

2. Restrictions Applicable to the Property Outside of the Portions. Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, the installation of wells for access to or withdrawal of groundwater with a screened depth less than 50 feet below ground surface IS SPECIFICALLY PROHIBITED in the area outside of the Portions. Any wells installed outside of the Portions which are more than 50 feet below ground

Page 4 of 18

surface must be double-cased wells. The installation of monitoring wells must be pre-approved in writing by FDEP's DWM in addition to any authorizations required by the DRWM and the WMD.

- 3. Restrictions and Conditions Applicable to the Portions. The following activities and conditions on the Portions ARE SPECIFICALLY PROHIBITED:
  - Access to or withdrawal or use of any groundwater for consumption, imigation or any other purpose;
  - b. Drilling or construction of any wells for any purpose;
  - c. Construction of any borrow pit;
  - d. Construction of any building basement, sub-basement, or other subsurface structure;
  - e. Installation of any stormwater retention or attenuation feature;
  - f. Any modification or removal of the existing stormwater ponds and facilities; and
  - g. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 4. Restrictions and Conditions Applicable to Cloud Branch Creek.
  The following activities and conditions ARE SPECIFICALLY
  PROHIBITED with respect to Cloud Branch Creek:
  - Construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any area of Cloud Branch Creek.
  - Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 5. Restrictions and Conditions Applicable to Surface Water Features Constructed as Part of the Remedial Action. Attached as <a href="Exhibit">Exhibit "C"</a>, and incorporated by reference herein, is a Survey identifying the size and location of existing stormwater swales, stormwater detention or retention facilities, ditches, and storm sewers or culverts on the Property that were constructed as part of the remedial construction. Such existing stormwater features shall not be altered, modified or expanded. A revised exhibit must be recorded when any stormwater feature is altered, modified, expanded, or constructed. The

Page 5 of 18

following activities and conditions ARE SPECIFICALLY PROHIBITED with respect to surface water features constructed as part of the Remedial Action:

- a. There shall be no construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any surface water feature or appurtenance to a surface water feature.
- b. Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 6. Professional Engineer ("P.E.") Certified Allowable Soil Activities and Conditions Within the Portions. Notwithstanding any other conditions and restrictions specified in this Declaration, the following activities and conditions are allowed within the Portions, provided that:

  (1) such work is performed in full compliance with all applicable laws and (2) before commencement of such work, the work is fully described in documentation bearing a PE CERTIFICATION as defined in paragraph 7 below, and subject to approval by EPA and FDEP.
  - a. Excavation of footers for new building construction;
  - Minor earth disturbance activities at depths greater than 2 feet below land surface (such as deep fence posts, sign footers, utility installations, trenches for underdrains);
  - Pavement construction for driveways and parking lots;
  - d. Site grading of any area greater than 500 square feet; and
  - e. Construction of swales and ditches.
- 7. For purposes of paragraph 6 above, "PE Certification" shall mean that the work to be performed is fully described and depicted in plans, drawings, and/or descriptions, which documents are certified to the State of Florida by a signature and seal of a Florida licensed Professional Engineer and containing the following statement: "I have personally reviewed the plans, drawings, and/or descriptions of the work described herein. I have familiarized myself with the purposes and objectives of the remedial measures required by the Consent Decree applicable to the Property. I hereby certify that the work described herein will not interfere with the integrity or effectiveness of any remedial measure on the Property and the work will not create any conditions that adversely affect human health or the environment."

Page 6 of 18

- 8. Allowable Soil Activities and Conditions without PE Certification, Within the Portions. Unless prohibited by paragraph 6 above, the following activities and conditions are deemed not to interfere with the integrity or effectiveness of the remedy, and are therefore allowed without any PE Certification:
  - a. Minor earth disturbing activities to a depth less than two feet below land surface, and within an area less than 500 square feet;
  - b. Planting of grass or other ground covers;
  - Shallow plantings for shrubs, hedges, plants, flowers (all with roots that do not exceed and are not likely to exceed two feet in depth); and
  - d. Construction of walkways.
- 9. If Grantor observes any damage to the Engineering Controls on the Property, then the Grantor should notify the EPA and the FDEP of such observations.
- C. In the remaining paragraphs, all references to "Grantor," "Grantee," "EPA," "the Group" (as defined in Recital D, above) and "FDEP" shall also mean and refer to their respective representatives, successors and assigns.
- D. Irrevocable Covenant for Site Access: Grantor hereby grants to the Grantse, its agents and representatives, an irrevocable, permanent and continuing right of access to the Property at all reasonable times and with reasonable notice to the Grantor for purposes of:
  - a) Implementing any remaining response actions in the RODs;
  - b) Verifying any data or information submitted to EPA and Grantee;
  - c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
  - d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
  - e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations; and

Page 7 of 18

- E. <u>Modification:</u> This Declaration shall not be modified, amended, or terminated without the written consent of FDEP or its successor agency. FDEP shall not consent to any such modification, amendment or termination without the written consent of EPA.
- F. (a) Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, its heirs, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and covenants granted herein.
  - (b) <u>Reserved Rights of EPA</u>: Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's or authority to take response actions under CERCLA, the NCP, or other federal law.
  - (c) <u>Reserved Rights of Grantee</u>: Nothing in this document shall limit or otherwise affect Grantee's rights of entry and access or authority to act under state or federal law.
- G. <u>Notice requirement</u>: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

- H. <u>Administrative Jurisdiction</u>: FDEP or any successor state agency having administrative jurisdiction over the interests acquired by the State of Florida by this instrument is the Grantee. EPA is a third party beneficiary to the interests acquired by Grantee.
- I. <u>Enforcement</u>: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation or governmental agency that is substantially benefited by this Declaration. All remedies available hereunder shall be in

**Page 8 of 18** 

addition to any and all other remedies at law or in equity, including CERCLA. It is expressly agreed that EPA is not the recipient of a real property interest but is a third party beneficiary of the Declaration of Restrictive Covenants, and as such, has the right of enforcement. Enforcement of the terms of this instrument shall be at the discretion of the entities listed above, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.

- J. <u>Damages</u>: Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.
- K. <u>Covenants</u>: Grantor hereby covenants to and with the Grantee, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on <u>Exhibit D</u> attached hereto.
- L. <u>Notices</u>: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, referencing the Site name and Site ID number and addressed as follows:

To Grantor:

To Grantee:

City of Sanford City Hall 300 N. Park Avenue P.O. Box 1788 Sanford, FL 32772-1788 Program Administrator, Waste Cleanup Program FDEP M.S. 4505 2600 Blair Stone Road Tallahassee, FL 32399

To EPA:

U.S. EPA, Region 4
Waste Management Division
Superfund Remedial and Technical Services Branch
Section Chief, Section D
61 Forsyth Street, SW
Atlanta, GA 30303

M. Recording in Land Records: This Declaration shall be recorded in timely fashion in the Official Records of Seminole County, Florida, with no

Page 9 of 18

encumbrances other than those noted in Exhibit D, and shall be recorded at any time Grantee may require to preserve its rights. The Group shall pay all recording costs and taxes necessary to record this document in the public records.

## N. General provisions:

- a) <u>Controlling law</u>: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state of Florida.
- b) <u>Liberal construction</u>: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c) <u>Severability</u>: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d) <u>Entire Agreement</u>: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.
- e) <u>No Forfeiture</u>: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- f) <u>Joint Obligation</u>: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.
- g) <u>Successors</u>: The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof.

Page 10 of 18

- h) <u>Captions</u>: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- i) <u>Counterparts</u>: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the State of Fiorida Department of Environmental Protection and its successors and assigns forever.

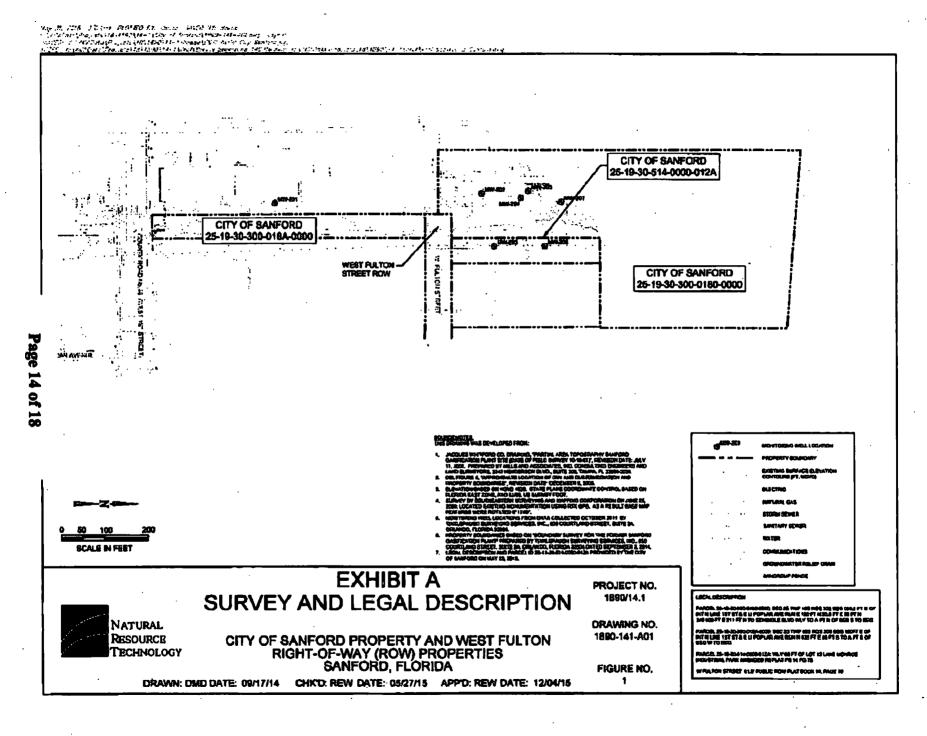
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Executed thisday	of Way	2017	·
GRANTOR: Mayor	Mar .		
CITY OF SA	NAORID, FLORIDA	,	
Signed, sealed and delive	ered in the presence	of:	
Castling Rute	Cynth:	- Porter	
Witness:	Print Nar		Date 5-3-/
for the	PAT G	EE	
Witness:	Print Na	me	Date 5-5-1
STATE OF FLORIDA COUNTY OF Samuel	<b>e</b> .		
	ma .		4
On this 3 day of Notary Public in and for the	State of Election	<u>2011</u> <b>Delote me, the</b>	undersigned, a
personally appeared 14	Firingeh	known to be the Ma	war of the City of
Sanford, the municipal en			
acknowledged the said in			
corporation, for the uses a			oath stated that
they are authorized to exe	ecute said instrumer	nt.	
Witness my hand and offi	cial seal hereto affix	ked the day and year	written above.
		Unac R. H	Duckin
Alem Ma	TRACIR HOUSEN	Notary Public in ar	nd for the
	MY COMMISSION & FF 042947	State of Florida	
A PORTO	EXPIRES: August 24, 2017 Bonded Thre Budget Hotary Services	My Commission F	mine. 8/24/17

Page 12 of 18

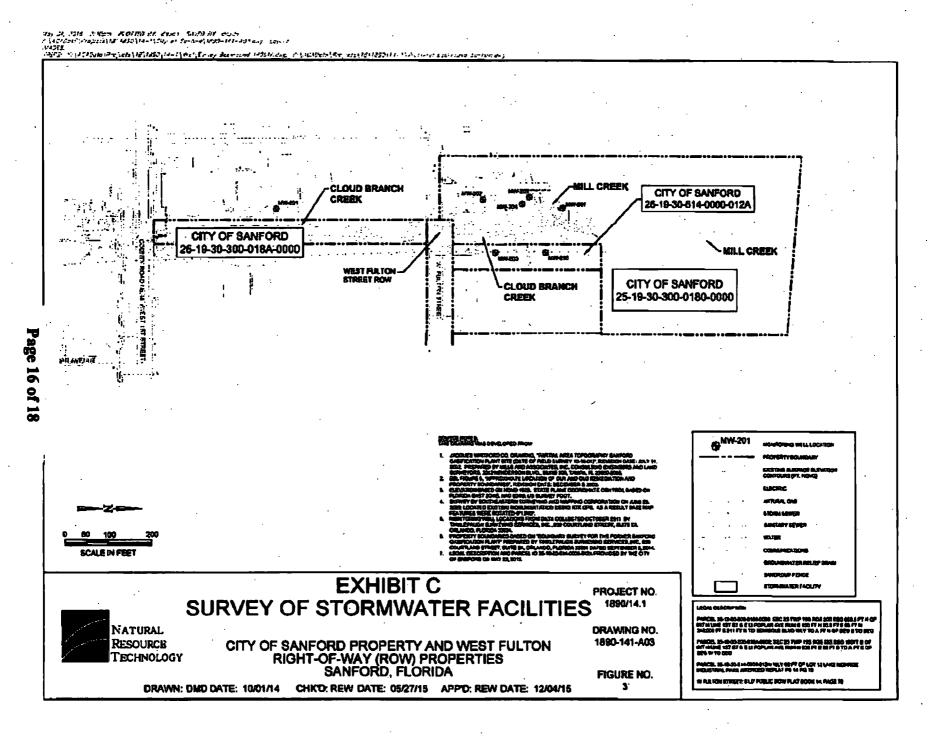
Commission No. FF043947

•	FLORIDA DEPARTMENT OF ENVIRONTMENTAL		
	PROTECTION		
Approved as to form by:	By:		
Toni Sturtevant, Asst. General Counsel	F. JOSEPH ULLO, Jr., P.E., Director		
Office of General Counsel	Division of Waste Management		
Signed, sealed, and delivered in	Dept. of Environmental Protection Division of Waste Management 2600 Blairstone Road Tallahassee, FL 32399-2400		
in the presence of:			
John			
Witness Signature	Witness Signature		
Jennifer Videus Printed Name	Printed Name		
Columbia	(0110117)		
Date	Date		
STATE OF FLORIDA COUNTY OF LEON	58.0°		
The foregoing instrument was acknowle 20 /7, by F. JOSEPH ULLO, who is persona	dged before me this & day of \wedge,		
AUDITH PENGINGTON  MY COMMISSION # FF 215017  EXPRES: March 31, 2019	Quetit Limitor		
A CALL STORY IN COLUMN TO A CALL STORY IN	Notary Public, State of Pforida at Large		
Attachments:			
Exhibit A - Legal Description/Survey of the Property Exhibit B - Survey Map/Legal of the Portion Exhibit C - Survey Map of the Stormwater Features			
Exhibit D - Existing Liens and Encumbrances on the Property			

Page 13 of 18



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**Exhibit D** 

# **Existing Liens and Encumbrances on the Property**

Instrument	Date	Book and Page
Notice of Commencement	April 30, 2014	Deed Book 31, Page 372

THIS HISTRUMENT FREPARED BY:	MRRYANGE MORSE, SENDMOLE COM
Address: ACC A. CAN K. AVE	CLERK OF CERCUIT COURT 4 COM
Same 54 3577	BK 00253 Pg 09951 (1pg)
NATION OF COMMENCE	CLERK'S # 201404747
NOTICE OF COMMENCEMENT	RECORDED 64/20/2014 94:20:25
State of Florida	RECORDING FEES 18.09
Sum or Francia County of Seminole	25 阿阿顿. 影出 1001800000
	en 25-19-30-5MG-0400-04
Percel ID Number: Percel ID Numb	en 23-17-80-1 ha 000-00
The undersigned heraby gives notice that improvement will be ma Chapter 713, Florida Statutes, the following information to provided to	
DESCRIPTED OF PROPERTY: (Legal description of the property a	nc cover sucress if everancy
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ACTURE A DESCRIPTION OF MATERIAL	
GENERAL DESCRIPTION OF IMPROVEMENT:  LIFE N. SEA LIFE L. BIK-E PEDESTRUM	PATH. REMENES TRASH
	- I WINT DENEMES - INTERNA
PERENTHALITY LICHTING	
OWNER INFORMATION:	
Marne: Crty of Souther	Same Same
Address: SOS PARK DUE, SI	OUFORD FL 32771
Fee Straple Title Holds (Faller than owner) Name:	
Address:	
CONTRACTOR:	• •
Name: ED WATERS & SONS	
	ST PAGUSTINE FL 32-872
Persons within the Same of Florida Basis paid by Owner upon v as provided by Section 713.13(1)(b), Florida Statutes.	Men nedes of other decuments may be served
Name:	
Address:	
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Figure 1, pg F-1
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This instrument prepared by, or under supervision of:

Roy E. Wittenberg, PE Principal Engineer Natural Resource Technology, Inc. 234 W. Florida Street, Fifth Floor Milwaukee, Wisconsin 53204

# **DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants (hereinafter "Declaration") is given by the City of Sanford, Florida, ("Grantor"), having an address of City Hali, 300 N. Park Avenue, P.O. Box 1788, Sanford, FL 32772-1788, to the State of Florida Department of Environmental Protection (hereinafter "FDEP" or "Grantee") (collectively, the "Parties"). The Parties agree as follows:

## **RECITALS**

- A. WHEREAS, Grantor is the fee simple owner of that certain real property situated in the County of Seminole, State of Florida, more particularly described in <a href="Exhibit "A" attached hereto and made a part hereof (hereinafter the "Property").">Exhibit "A" attached hereto and made a part hereof (hereinafter the "Property").</a>
- B. WHEREAS, the Property subject to this restrictive covenant is within the Sanford Gasification Plant Superfund Alternative Site ("Site"), to which the U.S. Environmental Protection Agency ("EPA") has assigned Facility Identification Number FLD984169193.
- C. WHEREAS, "Hazardous Substances" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act are located in, on, and under the Property.
- D. WHEREAS, the discharge of Hazardous Substances ("Contamination") on the Property is documented in the following reports that are incorporated by reference:

Page 1 of 16

- 1. The following "Records of Decision" ("RODs") which document the EPA, Region 4 Remedial Action for the Site, and which contain certain further information in reference to Hazardous Substances on the Property:
  - (a) Amended ROD for Operable Unit 1, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulltext/a2006040001230.pdf
  - (b) ROD for Operable Unit 2, dated June 12, 2001, on file at http://www.epa.gov/superfund/sites/rods/fulltext/r0401586.pdf; and
  - (c) ROD for Operable Unit 3, dated September 21, 2006, on file at http://www.epa.gov/superfund/sites/rods/fulitext/r2006040001227.pdf.
- 2. Consent Decree entered in the United States District Court, Middle District of Florida, Civil Action, Case No. 6:08-cv-442-Orl-22DAB dated January 15, 2009 (hereinafter "Consent Decree"), between the United States of America, Plaintiff, and Florida Power Corporation, Atlanta Gas Light Company, Florida Power & Light Company, Florida Public Utilities Company, and the City of Sanford Florida (collectively referred to herein as the "Group"), Defendants.
- E. WHEREAS, the Consent Decree is on file with the above-mentioned United States District Court.
- F. WHEREAS, the reports noted in Recital D set forth the nature and extent of the Contamination described in Recital D that is located on the Property. These reports confirm that contaminated groundwater and/or soil as defined by Chapter 62 of the Florida Administrative Code exists on the Property. Also, these reports indicate that the groundwater and/or soil Contamination extends beyond the Property boundary, and that restrictive covenants will be required for those properties as well.
- G. WHEREAS, the Consent Decree required the use of a number of remediation activities (collectively the "remedies") which were developed by FDEP and EPA and entered though the Consent Decree, including excavation, stabilization of the bed and banks of Cloud Branch Creek, and in-situ solidification (hereinafter "ISS"), which creates a stable, low-permeability, monolithic mass in the soil of affected properties, and groundwater remedy described in the applicable regulations as "monitoring for natural attenuation."
- H. WHEREAS, the Contamination on the Property has been remediated in accordance with the Consent Decree and RODs, yet Hazardous Substances remain in, on, and under the Property.
- I. WHEREAS, it is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure to the Hazardous Substances that remain on the Property, to reduce or eliminate the possibility that the applicable remedies are

disturbed and to reduce or eliminate the threat of migration of any such Hazardous Substances.

- J. WHEREAS, consistent with applicable Florida and federal environmental laws and regulations, with the RODs, and with the Consent Decree, the principles of "risk-based corrective action" necessitate the restrictions contained herein be maintained in perpetuity.
- K. WHEREAS, Grantor deems it desirable and in the best interest of all present and future owners of the Property that the Property be subject to the land use restrictions and an engineering control ("Engineering Control") described herein and in the RODs, that will run with the land, for the purpose of protecting human health and the environment, all of which are more particularly hereinafter set forth.
- L. WHEREAS, the FDEP affirms and approves the restrictions in this Declaration as compliant with Chapter 376, Florida Statutes, and Florida Administrative Code Rule 62-780, and EPA has affirmed and approved the restrictions in this Declaration as compliant with the Consent Decree and the RODs.
- M. WHEREAS, the Parties hereto have agreed (1) that EPA is a third-party beneficiary of said restrictions and said restrictions shall be enforceable by the EPA, FDEP, and their successor agencies, and (2) to grant an irrevocable right of access over the Property to the Group, EPA, FDEP, and their agents or representatives for purposes of implementing, facilitating and monitoring the remedial action.
- N. WHEREAS, the Engineering Control applicable to the Property consists of an evapotranspiration cover. The Engineering Control will require operation, monitoring, maintenance and reporting to ensure the ongoing effectiveness of the remedial action.
- O. WHEREAS, an Operation and Maintenance ("O&M") Plan approved by the EPA requires the Group to inspect, monitor and maintain the Engineering Control.
- P. WHEREAS, FDEP has affirmed and approved the O&M Plan as equivalent to an Engineering Control Maintenance Plan ("ECMP") as that term is defined in Chapter 62-780, Florida Administrative Code.
- Q. WHEREAS, as stated in this Declaration of Restrictive Covenant, some restrictions apply to the entire Property <u>Exhibit "A"</u>, while other restrictions apply only to portions of the Property ("Portions"). The Portions and legal descriptions are shown in <u>Exhibit "B"</u>.

NOW THEREFORE, Grantor, on behalf of itself, its successors, its heirs, and assigns, in consideration of the recitals above, the terms of the Records of Decision, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, which shall touch and concern and

run with the title of the Property, and does give, grant and convey to the Grantee, and its assigns, 1) an irrevocable use restriction and site access covenant of the nature and character, and for the purposes hereinafter set forth and 2), the perpetual right to enforce said covenants and use restrictions, with respect to the Property. Grantor further agrees as follows:

A. The foregoing recitals are true and correct and are incorporated herein by reference.

- B. Grantor hereby imposes on the Property the following restrictions:
  - 1. Restrictions Applicable to Entire Property (Exhibit "A"). Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, on-site engineering controls described in the Consent Decree, including any underground ISS structure and the banks and bed of Cloud Branch Creek previously discussed and identified in the RODs, shall be maintained.

For purposes of this restriction, the following actions, activities and uses would be deemed to interfere with the integrity or effectiveness of the remedies prescribed by the Consent Decree:

- a. the destruction or modification of any existing or future groundwater monitoring well;
- b. the performance of any dewatering activities on the Property, except pursuant to a plan approved by FDEP's Division of Waste Management (\*DWM\*) to address and ensure the appropriate handling, treatment and disposal of any extracted groundwater that may be contaminated.

Additional specific restrictions are outlined in Paragraphs 2 through 8. Further information regarding the remedial objectives and other considerations bearing on the restrictions can be found in the Final Construction Report, Sanford Gasification Plant Site, dated January 24, 2012, available in the public record maintained by the FDEP and available at the Seminole County Public Library.

2. Restrictions Applicable to the Property Outside of the Portions. Except as required or permitted by the Consent Decree, or as may be required or permitted by the EPA or FDEP pursuant to an enforceable legal mandate or order protective of public health, the installation of wells for access to or withdrawal of groundwater with a screened depth less than 50 feet below ground surface IS SPECIFICALLY PROHIBITED in the area outside of the Portions. Any wells installed outside of the Portions which are more than 50 feet below ground

Page 4 of 16

surface must be double-cased wells. The installation of monitoring wells must be pre-approved in writing by FDEP's DWM in addition to any authorizations required by the DRWM and the WMD.

- 3. Restrictions and Conditions Applicable to the Portions.
  - 3.1 Permanent Clean Cover on the Portions (i.e., evapotranspiration cover). The Portions shall be permanently covered by and maintained with two feet of clean and uncontaminated fill that prevents human exposure to soils that have been treated by ISS.
  - 3.2 Specifically Prohibited Activities and Conditions. The following activities and conditions on the Portions ARE SPECIFICALLY PROHIBITED:
  - a. Access to or withdrawal or use of any groundwater for consumption, irrigation or any other purpose;
  - b. Drilling or construction of any wells for any purpose;
  - c. Construction of any borrow pit:
  - d. Construction of any building basement, sub-basement, or other subsurface structure:
  - e. Excavation and removal of any of the ISS mass except as allowed under Paragraph 5; and
  - f. Installation of any stormwater retention or attenuation feature.
  - g. Any modification or removal of the existing stormwater ponds and facilities; and
  - Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 4. Restrictions and Conditions Applicable to Cloud Branch Creek.
  The following activities and conditions ARE SPECIFICALLY
  PROHIBITED with respect to Cloud Branch Creek, including the
  channelized portions of Cloud Branch Creek beneath Third Street:
  - a. Construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any area of Cloud Branch Creek or the channelized portions thereof.

**Page 5 of 16** 

- Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 5. Restrictions and Conditions Applicable to Surface Water Features
  Constructed as Part of the Remedial Action. Attached as
  Exhibit "C", and incorporated by reference herein, is a Survey
  identifying the size and location of existing stormwater swales,
  stormwater detention or retention facilities, ditches, and storm sewers or
  culverts on the Property that were constructed as part of the remedial
  construction. Such existing stormwater features shall not be altered,
  modified or expanded. A revised exhibit must be recorded when any
  stormwater feature is altered, modified, expanded, or constructed. The
  following activities and conditions ARE SPECIFICALLY PROHIBITED
  with respect to surface water features constructed as part of the
  Remedial Action:
  - a. There shall be no construction, excavation, disturbance, damage, drilling, digging, penetration, movement, dislodging, disturbance or impact to, on or in any surface water feature or appurtenance to a surface water feature.
  - Access to or withdrawal or use of the surface water for consumption, recreation, fishing, drinking, bathing, swimming, irrigation, or any other purpose.
- 6. Professional Engineer ("P.E.") Certified Allowable Soil Activities and Conditions Within the Portions. Notwithstanding any other conditions and restrictions specified in this Declaration, the following activities and conditions are allowed within the Portions, provided that:

  (1) such work is performed in full compliance with all applicable laws and (2) before commencement of such work, the work is fully described in documentation bearing a PE CERTIFICATION as defined in paragraph 7 below, and subject to approval by EPA and FDEP.
  - a. Excavation of footers for new building construction;
  - Minor earth disturbance activities at depths greater than 2 feet below land surface (such as deep fence posts, sign footers, utility installations, trenches for underdrains);
  - c. Excavation and removal of any of the ISS mass subject to approval by the USEPA
  - d. Pavement construction for driveways and parking lots;

Page 6 of 16

- e. Site grading of any area greater than 500 square feet; and
- f. Construction of swales and ditches.
- 7. For purposes of paragraph 6 above, "PE Certification" shall mean that the work to be performed is fully described and depicted in plans, drawings, and/or descriptions, which documents are certified to the State of Florida by a signature and seal of a Florida licensed Professional Engineer and containing the following statement: "I have personally reviewed the plans, drawings, and/or descriptions of the work described herein. I have familiarized myself with the purposes and objectives of the remedial measures required by the Consent Decree applicable to the Property. I hereby certify that the work described herein will not interfere with the integrity or effectiveness of any remedial measure on the Property and the work will not create any conditions that adversely affect human health or the environment."
- 8. Allowable Soil Activities and Conditions without PE Certification, Within the Portions. Unless prohibited by paragraphs 3 or 6 above, the following activities and conditions are deemed not to interfere with the integrity or effectiveness of the remedy, and are therefore allowed without any PE Certification:
  - a. Minor earth disturbing activities to a depth less than two feet below land surface, and within an area less than 500 square feet;
  - b. Planting of grass or other ground covers:
  - Shallow plantings for shrubs, hedges, plants, flowers (all with roots that do not exceed and are not likely to exceed two feet in depth); and
  - d. Construction of walkways.
- If Grantor observes any damage to the Engineering Control on the Property, then the Grantor should notify the EPA and the FDEP of such observations.
- C. In the remaining paragraphs, all references to "Grantor," "Grantee," "EPA," "the Group" (as defined in Recital D, above) and "FDEP" shall also mean and refer to their respective representatives, successors and assigns.
- D. Irrevocable Covenant for Site Access: Grantor hereby grants to the Grantee, its agents and representatives, an irrevocable, permanent and continuing right of access to the Property at all reasonable times and with reasonable notice to the Grantor for purposes of:

Page 7 of 16

- a) Implementing any remaining response actions in the RODs;
- b) Verifying any data or information submitted to EPA and Grantee;
- Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations; and
- E. <u>Modification:</u> This Declaration shall not be modified, amended, or terminated without the written consent of FDEP or its successor agency. FDEP shall not consent to any such modification, amendment or termination without the written consent of EPA.
- F. (a) Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, its heirs, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and covenants granted herein.
  - (b) <u>Reserved Rights of EPA</u>: Nothing in this document shall limit or otherwise affect EPA's rights of entry and access or EPA's or authority to take response actions under CERCLA, the NCP, or other federal law.
  - (c) Reserved Rights of Grantee: Nothing in this document shall limit or otherwise affect Grantee's rights of entry and access or authority to act under state or federal law.
- G. Notice requirement: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF RESTRICTIVE AND AFFIRMATIVE COVENANTS, DATED

\_\_\_\_\_\_\_, 200\_, RECORDED IN THE PUBLIC LAND RECORDS ON \_\_\_\_\_\_\_, 20\_\_\_, IN BOOK \_\_\_\_\_\_, PAGE \_\_\_\_\_\_, IN FAVOR OF, AND ENFORCEABLE BY, THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION.

Page 8 of 16

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

- H. <u>Administrative Jurisdiction</u>: FDEP or any successor state agency having administrative jurisdiction over the interests acquired by the State of Florida by this instrument is the Grantee. EPA is a third party beneficiary to the interests acquired by FDEP.
- I. Enforcement: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation or governmental agency that is substantially benefited by this Declaration. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. It is expressly agreed that EPA is not the recipient of a real property interest but is a third party beneficiary of the Declaration of Restrictive Covenants, and as such, has the right of enforcement. Enforcement of the terms of this instrument shall be at the discretion of the entities listed above, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.
- J. <u>Damages</u>: Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.
- K. <u>Covenants</u>: Grantor hereby covenants to and with the Grantee, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances.
- L. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mall, postage prepaid, referencing the Site name and Site ID number and addressed as follows:

To Grantor:

To Grantee:

City of Sanford City Hall 300 N. Park Avenue Program Administrator, Waste Cleanup Program FDEP M.S. 4505

Page 9 of 16

P.O. Box 1788 Sanford, FL 32772-1788 2600 Blair Stone Road Tallahassee, FL 32399

To EPA:

U.S. EPA, Region 4
Waste Management Division
Superfund Remedial and Technical Services Branch
Section Chief, Section D
61 Forsyth Street, SW
Atlanta, GA 30303

M. Recording in Land Records: This Declaration shall be recorded in timely fashion in the Official Records of Seminole County, Florida, with no encumbrances of record, and shall be recorded at any time Grantee may require to preserve its rights. The Group shall pay all recording costs and taxes necessary to record this document in the public records.

# N. General provisions:

- a) <u>Controlling law</u>: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state of Florida.
- b) <u>Liberal construction</u>: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c) <u>Severability</u>: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
- d) <u>Entire Agreement</u>: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.
- e) <u>No Forfeiture</u>: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

Page 10 of 16

- f) <u>Joint Obligation</u>: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.
- g) <u>Successors</u>: The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entitles named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof.
- h) <u>Captions</u>: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- i) <u>Counterparts</u>: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the State of Florida Department of Environmental Protection and its successors and assigns forever.

•				
IN WITNESS WHEREOF, Grantor has caused name.	I this Agreement to be signed in its			
Executed this 3nd day of May	2017			
GRANTOR: Mayor CITY OF SANFORD, FLORIDA	· 			
Signed, sealed and delivered in the presence	of:			
Witness: Sprint Nam  At 80 PAT US	<u>c fortu</u> ne Date 5-3-17			
Witness: Print Nam	Date 5-3-17			
STATE OF FLORIDA COUNTY OF Seminale	,			
On this 31 day of, 2017 before me, the undersigned, a Notary Public in and for the State of Florida, duly commissioned and sworn, personally appeared, known to be the Mayor of the City of Sanford, the municipal entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.				
Witness my hand and official seal hereto affixe	ed the day and year written above.			
TRACIR. HOUGHIN  WAY COLARISSION & FF 042947  EVER PER A COLORISSION & FF 042947	Notary Public in and for the State of Florida			
EXPIRES: Authorst 24, 2017  Banded Thru Budget Natury Services	My Commission Expires: 08 134 117			
	Commission NoFF043947			

Page 12 of 16

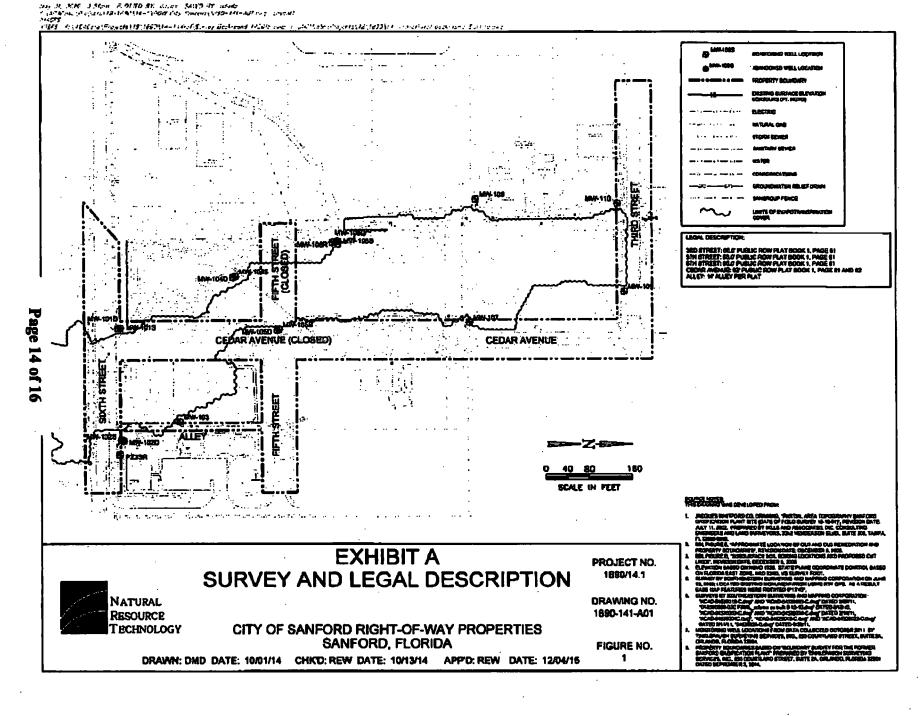
Attachments:		
JUDITO PERSONS FT 215917  EXPERES: March 31, 2019 beated for Story Noney Services	Notary Public, State of Florida at Large	
	vledged before me this 6 day of 100	
STATE OF FLORIDA COUNTY OF LEON		
Date	Date	
6/16/17	611617	
Printed Name	Printed Name	
Jennifer Viders	Jennifer Baker	
Witness Signature	Witness Signature	
A A	$\bigcirc$	
in the presence of:	•	
Signed, sealed, and delivered in	Tallahassee, FL 32399-2400	
·	Division of Waste Management 2600 Blairstone Road	
· .	Dept. of Environmental Protection	
Office of General Counsel	Division of Waste Management	
Toni Sturtevant, Asst. General Counsel	F. JOSEPH ULLO, Jr., P.E., Director	
W. W Alt	(1) less ().	
Approved as to form by:	Ву:	
	ENVIRONTMENTAL PROTECTION	

FLORIDA DEPARTMENT OF

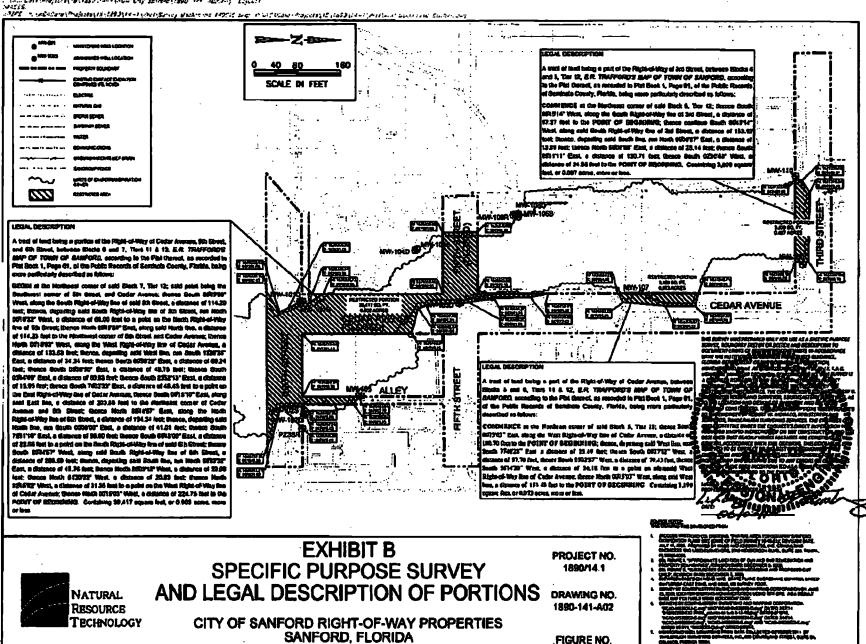
Page 13 of 16

Legal Description/Survey of the Property Survey Map/Legal of the Portion Survey Map of the Stormwater Features

Exhibit A
Exhibit B
Exhibit C



DRAWN: DMD DATE: 10/01/14



CHKD: REW DATE: 10/13/14 APPID: REW DATE: 12/04/16

