

17

**AGENDA ITEM
ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS**

Deadline for Submission - Wednesday 9 a.m. – Thirteen Days Prior to BCC Meeting

11/6/2018

BCC MEETING DATE

TO: Michael D. Wanchick, County Administrator **DATE:** July 10, 2018

FROM: Greg Caldwell, Assistant Public Works Director **PHONE:** 209-0132

SUBJECT OR TITLE: CNG Vehicle Fuel Purchase Agreement Amendment

AGENDA TYPE: Consent Agenda, Resolution

BACKGROUND INFORMATION:

Per resolution 2014-321, the County entered into a Compressed Natural Gas (CNG) Vehicle Fuel Purchase Agreement (FPA) with NoPetro to utilize an alternative source of sustainable fuel for a portion of County vehicles. The agreement entailed a private public partnership (PPP) that would allow NoPetro to construct and operate a CNG fueling station on County owned land (leased to NoPetro). The agreement requires NoPetro (Seller) to pay the County (Buyer) \$0.10 on every third party gallon of gas sold from this station. Additionally, the County and NoPetro set minimum annual volume of gallons to be used by the County. At the request of the County, NoPetro has proposed an amendment to the contract that allows the County to reduce the minimum annual volumes of gallon required for the first three years of the term. This will allow the County an extended period of time to meet minimum volume requirements beyond the one-year timeframe provided in the current contract. In exchange, NoPetro requests that royalties due to the County be allowed to accrue, and be paid at the end of the fourth contract year. Based upon its review, Staff believes that the proposed amendment serves the best interests of the County. This amendment benefits both parties. Staff recommends approval.

1. IS FUNDING REQUIRED? No **2. IF YES, INDICATE IF BUDGETED.** No
IF FUNDING IS REQUIRED, MANDATORY OMB REVIEW IS REQUIRED:
INDICATE FUNDING SOURCE:

SUGGESTED MOTION/RECOMMENDATION/ACTION:

Motion to adopt Resolution 2018-_____ authorizing the County Administrator, or designee, to execute an amendment to the CNG Vehicle Fuel Purchase Agreement providing an extension of time for the County to meet minimum annual volume requirements and an extension to time for NoPetro to submit royalty payments to the County.

For Administration Use Only:
Legal: RDR 10/17/2018 **OMB:** N/A **Admin:** DML 10/17/2018

RESOLUTION NO. 2018-_____

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, CONDITIONS, PROVISIONS, AND REQUIREMENTS OF AN AMENDMENT TO THE COMPRESSED NATURAL GAS (CNG) VEHICLE FUEL PURCHASE AGREEMENT WITH NOPETRO-ST. JOHNS COUNTY , LLC. AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AMENDMENT ON BEHALF OF ST. JOHNS COUNTY (COUNTY);

RECITALS

WHEREAS, The County and NoPetro entered into a Vehicle Fuel Purchase Agreement (FPA) to utilize an alternative source of sustainable fuel for a portion of the County vehicles: and

WHEREAS, the agreement set minimum annual volume of gallons to be used by the County; and

WHEREAS, the agreement required NoPetro to pay the County \$0.10 on every third party gallon of gas sold and submit royalty checks to the County on a quarterly basis; and

WHEREAS, NoPetro submitted a proposal on July 6, 2018 to the County to amend the current contract dated March 11, 2015; and

WHEREAS, the amendment language would reduce the County's minimum annual volume for contract year 2 shall be 125,000 gas gallon equivalents (GGEs) and Contract year 3 shall be 150,000 GGEs; and

WHEREAS, the royalties from the third party sales will accrue and shall become due and payable after Contract Year 4, and shall be made quarterly for all subsequent years; and

WHEREAS, the Project is in the best interest of the County for the health, safety and welfare of its citizens.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution, and such Recitals are adopted as finds of fact.

Section 2. The Board of County Commissioners hereby approves the terms, conditions, provisions, and requirements of the Grant Agreement with the State of Florida, Division of Emergency Management, and authorizes the County Administrator, or designee, to execute the Grant Agreement on behalf of the County for the purposes mentioned above and in substantially the form and format as attached.

Section 3. The Clerk is instructed to have two (2) copies of the Amendment executed by the Chair and mailed to NoPetro, 111 East College Avenue, Tallahassee, Florida 32301, Attention: Mr. Jonathan Locke, President and COO.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this ____ day of _____, 2018.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: _____
Henry Dean, Chair

ATTEST: Hunter S. Conrad, Clerk

By: _____
Deputy Clerk



St. Johns County
500 San Sebastian View
St. Augustine, FL 32084
P: (904) 209-0300

July 6, 2018

Dear St. Johns County,

This Letter Agreement (also "Agreement") serves to amend that certain CNG Vehicle Fuel Purchase Agreement ("FPA") between St. Johns County ("the County" or "Buyer") and Nopetro-St. Johns County, LLC ("Nopetro" or "Seller") (each a "Party" and collectively referred to as "Parties") dated March 11, 2015. Except as modified by this Agreement, the Parties confirm and acknowledge that all other terms and conditions of the FPA shall and do remain in full force and effect, and the Parties shall remain bound thereby.

Accordingly, the Parties agree that the FPA will be amended only as provided in paragraphs 1 and 2 below:

1. Buyer's Fuel Quantities. The Parties hereby agree that Section A of Exhibit B-1 of the FPA will be amended to provide that Buyer's Minimum Annual Volume for Contract Year 2 shall be 125,000 GGEs and Contract Year 3 shall be 150,000 GGEs. Buyer's Minimum Annual Volume for Contract Years 4-15 shall remain 175,000 GGEs. Nothing contained in this Agreement will relieve Buyer's obligation to procure its Fuel Requirements from Seller during Contract Years 16-25, and in any renewal period.

2. Payments to the County for Third-Party Fuel Purchases. The Parties hereby agree that Section 4.5 of the FPA will be amended as follows: "Nopetro shall pay the County \$0.10 for every third-party GGE of Fuel sold at the Station, irrespective of whether such third-party purchaser is another governmental entity or a private party. Nopetro shall pay the County such royalties, in any, quarterly in arrears for the quarters ending on March 31, June 30, September 30, and December 31. Notwithstanding the foregoing, the Parties agree that all such royalties beginning from the July 6, 2018 execution date of the Letter Agreement to the CNG Vehicle Fuel Purchase Agreement shall accrue and will not be paid by Nopetro to the County until the end of Contract Year 4, at which time the total accrued amount of such royalties shall become due and payable. After Contract Year 4, payment from Nopetro to the County for all royalties shall be made quarterly as provided in this Section for all subsequent Contract Years. Nopetro shall provide to the County concurrent with the quarterly royalty payments details of the amount of Fuel sold at the Station to third parties."

Miami
2625 Ponce de Leon Blvd.
Coral Gables, Florida 33134
TEL (305) 441-9059
FAX (305) 441-9085
www.nopetro.com

Orlando
2713 Lynx Lane
Orlando, Florida 32804
TEL (305) 441-9059
FAX (305) 441-9085
www.nopetro.com

Tallahassee
1152 Capital Circle SW
Tallahassee, Florida 32304
TEL (850) 574-6021
FAX (305) 441-9085
www.nopetro.com

St. Augustine
1625 SR 16
St. Augustine, Florida 32084
TEL (305) 441-9059
FAX (305) 441-9085
www.nopetro.com



Agreed to by the Parties this 6th day of July, 2018 by and through the undersigned.

On behalf of NOPETRO-ST. JOHNS COUNTY, LLC

Name: Jonathan "Jack" Locke

Title: President and COO

Signature: 

On behalf of St. Johns County

Name: _____

Title: _____

Signature: _____

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CNG VEIDCLE FUEL PURCHASE AGREEMENT

BY AND BETWEEN

ST. JOHNS COUNTY, FLORIDA

AND

NOPETRO-ST. JOHNS COUNTY, LLC

DATED

March / / ,201s

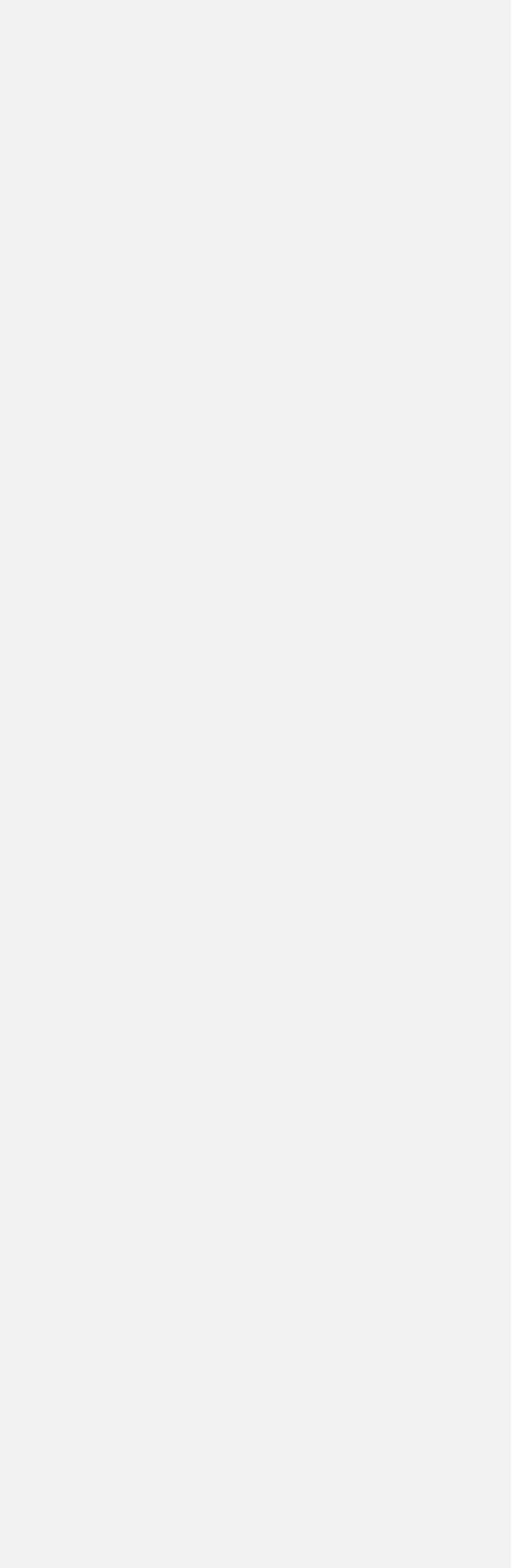


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CNG VEIDCLE FUEL PURCHASE AGREEMENT

THIS CNG VEHICLE FUEL PURCHASE AGREEMENT (the "Agreement"), is made and effective this day of , 2015 ("Effective Date") by and between ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida ("the County"), and NOPETRO-ST. JOHNS COUNTY, LLC, a limited liability company organized under the laws of the State of Florida ("Nopetro"). The County and Nopetro are each a "Party," and collectively are the "Parties."

RECITALS

WHEREAS, the County desires, through a public-private partnership with Nopetro, to promote the development, construction and operation of a CNG fueling station on premises owned by The County to fuel vehicles owned, leased, or operated by the County and third parties, and thereby promote the use of CNG and reduce the consumption of gasoline and diesel fuel;

WHEREAS, Nopetro was selected by the County in connection with an unsolicited proposal submitted pursuant to Section 287.05712, Florida Statutes (the "Nopetro CNG P3 Proposal") to develop, finance, construct, operate, and maintain a CNG fueling station on premises owned by the County and to sell CNG to the County for use in vehicles owned, leased, or operated by the County and to third parties for use in vehicles operated by third parties;

WHEREAS, the County desires to purchase from Nopetro, and Nopetro desires to sell to the County, all of the County's requirements for CNG (but in no event less than the Minimum Annual Volume), in order to fuel vehicles owned, leased, or operated by the County in furtherance of the efficient, cost-effective, and reliable performance of its governmental purpose and essential functions.

NOW, THEREFORE, for and in consideration of the foregoing recitals, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and Nopetro do hereby covenant and agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1. Definitions. Capitalized terms listed in this Section 1.1 shall have the meanings set forth below unless the context requires otherwise.

"Affiliate" means, with respect to any Person, each Person that directly or indirectly controls or is controlled by or is under common control with such Person.

"Agreement" means this CNG Vehicle Fuel Purchase Agreement by and between the County and Nopetro, dated and effective as of , 2015, as the same may be amended from time to time in accordance with the terms thereof.

"Applicable Laws" means all applicable federal, state, and local laws, codes, ordinances, rules, regulations, judgments, decrees, orders, or directives of any Governmental Authority which are binding on a Party or any of its property relating to this Agreement.

"Bankrupt" means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it; (ii) makes an assignment or any general arrangement for the benefit of creditors; (iii) otherwise becomes bankrupt or insolvent (however evidenced); (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets; or (v) is generally unable to pay its debts as they fall due.

"Best Efforts" shall mean all commercially reasonable efforts, consistent with Prudent Practices.

"Business Day" means any day that is not a Saturday, a Sunday or a holiday in St. Johns County.

"County" has the meaning set forth in the first paragraph, and includes its successors and permitted assigns.

"County Governmental Authorizations" means Governmental Authorizations to be obtained by the County under the terms of the Lease and Development Agreement for the siting, development, design, and construction of the Station.

"County Fleet" means vehicles owned, leased, or operated by or for the County at any time during the term of this Agreement (whether owned, leased, or operated by the County as of the Effective Date or at any time thereafter) that are fueled by CNG.

"CNG" means compressed natural gas.

"Commercial Operations Date" means the date that Nopetro declares by notice to the County that construction of the Station is substantially complete, as evidenced by a duly issued Certificate of Occupancy, and the Station is available to dispense Fuel, which date shall be no later than the Scheduled Station Completion Date.

"Compatible Vehicles" means replacement vehicles that are the same as or substantially the same as vehicles being replaced, except that such replacement vehicles are CNG-fueled vehicles; provided that the vehicle being replaced consumes a sufficient amount of fuel to justify an economic return for an expected 7-year life of the vehicle from the replacement of such vehicle with a CNG-fueled vehicle, and that the conversion to CNG does not impede the operational use or performance of the vehicle.

"Confidential Information" means information provided by one Party to the other Party in connection with the negotiation or performance of the Agreement, any audit or review of financial books and records, or other Project Agreements that is clearly labeled or designated by the disclosing Party at the time of disclosure as "confidential," "proprietary" or "trade secret" or

with words of like meaning or, if disclosed orally, clearly identified as confidential with that status confirmed promptly thereafter in writing. However, if determined to be a public record by a court of competent jurisdiction, no confidentiality shall be enforced. Nopetro shall be responsible for all costs associated with enforcing confidentiality, including attorney's fees.

"Contract Rate" means the lower of (i) the prime rate on corporate loans at large U.S. money center commercial banks as set forth in the Wall Street Journal "Money Rates" table under the heading "Prime Rate," or any successor thereto, on the first date of publication for the applicable calendar month, plus four percent (4%) and (ii) the maximum rate permitted by applicable law.

"Contract Year" means a period of one year commencing on each October 1; provided however that the period from the Commercial Operations Date to September 30 and the period from October 1 to the date on which the Agreement expires or is earlier terminated in accordance with the terms thereof shall be deemed Contract Years.

"Costs" means, with respect to the non-defaulting Party, brokerage fees, commissions, and other similar third party transaction costs and expenses directly and reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entered into new arrangements which replace the Agreement, including all reasonable attorneys' fees and expenses incurred by the non-defaulting Party in connection with such termination or new arrangement.

"DGE" means diesel gallon equivalent, a unit of Volume defined as one (1) DGE equals 139,000 BTUs.

"Financing Party" means any third party providing an equity investment or debt financing or refinancing for the development, equipping, construction, installation, operation, maintenance, expansion or repair of the Station and other improvements, systems or facilities of Nopetro on the Premises and any CNG vehicle financing agreed to by Nopetro and the County, including credit support, credit enhancement or other loan, credit, working capital, letter of credit facility, liquidity facility or natural gas price risk management services, as well as collateral agents, administrative agents and trustees.

"Fuel" means CNG.

"Fuel Price per GGE" means the price to be paid by the County for Fuel, as calculated in accordance with Exhibit B-1.

"Fuel Requirements" means the County's actual fuel requirements for Fuel in any Contract Year.

"Governmental Authority" means, as to any Person, any federal, state, local, or other governmental, regulatory, or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental entity having jurisdiction over such Person or its property or operations relating to the Agreement.

"Governmental Authorizations" means any authorization, consent, permission, approval, license, ruling, permit, exemption, variance, order, judgment, instruction, condition, direction, directive, decree, declaration of, or regulation by any Governmental Authority relating to the Agreement.

"Lease and Development Agreement" means that certain Lease and Development Agreement by and between the County and Nopetro, dated and effective as of _____, 2015, as the same may be amended from time to time in accordance with the terms thereof.

"Milestone Date" means a date a task is to be completed, as set forth on the Milestone Schedule.

"Milestone Schedule" means the schedule of milestone events and dates relating to the satisfaction of conditions precedent and the development, permitting and construction of the Station as set forth in Exhibit F to the Lease and Development Agreement.

"Minimum Annual Volume" means the minimum amount of Fuel to be purchased and received or paid for by the County in each Contract Year as set forth in Exhibit B-1.

"Minimum Annual Volume Deficiency" means the shortfall, if any, for any particular Contract Year, between the Minimum Annual Volume for such Contract Year and the amount of Fuel actually purchased and paid for by the County in such Contract Year. "Nopetro" has the meaning set forth in the first paragraph of the Agreement, and includes its successors and permitted assigns.

"Nopetro Equipment" means the equipment, systems and items to be installed on the Premises for the receipt, processing, storage, handling, measuring, testing, safeguarding, controlling and dispensing of Fuel, as more specifically described in Exhibit C to the Lease and Development Agreement.

"Nopetro Governmental Authorizations" means Governmental Authorizations to be obtained by Nopetro in accordance with the terms of the Lease and Development Agreement for the design, development and construction of the Station.

"Person" means a natural person, corporation, partnership, limited partnership, limited liability company, business trust, Governmental Authority, association, or other legal entity.

"Premises" means the land owned by the County upon which the Station is to be constructed, the precise boundaries of which are described in Exhibit A-1.

"Project" means the CNG fueling station to be constructed, operated and maintained by Nopetro for the receipt, storage, processing, dispensing and sale of CNG.

"Project Agreements" means this Agreement, the Lease and Development Agreement, and exhibits, schedules, and attachments to each such agreement, as well as any other agreement between the County and Nopetro relating to the Premises or the Station, or to the purchase and sale of Fuel.

"Prudent Practice" means the practices, methods, and acts (including the practices, methods, and acts engaged in or approved by a significant portion of the applicable industry), that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with Applicable Laws, codes, standards, equipment manufacturer's recommendations, reliability, safety, environmental protection, cost effectiveness, and expedition, which are not limited to the optimal practices, means, methods and acts under the applicable circumstances.

"Replacement Price" means the price at which the County, acting in a commercially reasonable manner, purchases a replacement for Fuel not made available by Nopetro to the County to fuel the County Fleet as a result of an Unexcused Failure by Nopetro under the Agreement.

"Scheduled Construction Commencement Date" means one hundred fifty (150) days after the satisfaction of the last of the conditions precedent to the Nopetro's Development Obligations as set forth in Section 2.3 of the Lease and Development Agreement, and the conditions precedent set forth in Section 2.2(a) of this Agreement, as such date shall be extended for Force Majeure events.

"Scheduled Station Completion Date" means one hundred twenty six (126) calendar days after the Scheduled Construction Commencement Date, as such date shall be extended for Force Majeure events. This is the stage in the progress when the work is sufficiently complete in accordance with the Project Agreements and the construction documents so that the Nopetro can occupy or utilize the Station for its intended use under this Agreement and the Lease and Development Agreement; all systems included have been successfully tested and are fully operational; all required governmental inspections and certifications required have been made, approved and posted; and designated initial instruction of the County's and Nopetro's personnel in the operation of systems has been completed.

"Station" means the CNG fueling station to be owned, constructed and operated by Nopetro at the Premises, pursuant to the Lease and Development Agreement, the original construction of which is more fully described in Exhibit B-1 to the Lease and Development Agreement.

"Station Hours" means (i) with respect to the County, twenty-four (24) hours per day, seven (7) days per week, and (ii) with respect to third parties (i.e., not the County), the hours that the Station will be open for sales of Fuel to such third parties, as determined by Nopetro in a commercially reasonable manner in accordance with Applicable Laws and Governmental Authorizations; provided that such hours for sale of Fuel to third parties (other than the County) initially shall be from 5:00 a.m. to 5:00 p.m. on Business Days; provided, however that the County shall have priority access to fuel at the Station from 5:00 a.m. to 8:00 p.m. on Business Days.

"St. Johns Fleet Yard" means that real property owned and operated by the County, located on Charles Usina Memorial Highway, State Road 16, which is used for parking, cleaning, servicing and maintaining the County's vehicle fleet, as described in Exhibit A-2.

"Taxes" means all taxes, fees, levies, licenses, or charges imposed by any Governmental Authority, other than taxes, levies, licenses or charges based upon net income or net worth.

"Undisputed Amount" means with respect to the amount to be paid by a Party pursuant to an invoice, statement, bill, or other such request or demand for payment or credit by the other Party, the portion thereof which is not manifestly in error.

"Unexcused Failure" means non-performance or delay in performance by a Party of its obligations and covenants under the Agreement that is not caused by or does not result from a Force Majeure event affecting the Party, regardless of whether such non-performance or delay in performance was cured after notice by the other Party or if uncured, would constitute or result in an Event of Default.

Section 1.2. Instructions. The following rules of interpretation shall apply: (a) the words "herein," "hereof" and "hereunder" and words of similar import when used in this Agreement shall, unless otherwise expressly specified, refer to this Agreement as a whole and not to any particular provision of this Agreement; (b) unless otherwise specified, references to "Articles," "Sections," or "Exhibits" shall be to articles, sections, or exhibits of this Agreement; (c) the Exhibits attached hereto are incorporated in and are intended to be a part of this Agreement; provided, that in the event of a conflict between the terms of any Exhibit and the terms of this Agreement, the terms of this Agreement shall prevail; (d) the term "knowledge", and any other similar expressions, shall mean actual knowledge of management of a Party; (e) the words "include," "includes" and "including" are not limiting; (f) words singular and plural in number shall be deemed to include the other and pronouns having gender shall be deemed to include the other; and (g) in accordance with the principles of good faith and fair dealing in the performance of this Agreement and, unless expressly provided otherwise in this Agreement, (i) where the consent, approval, or similar action by a Party is required, such consent, approval or similar action shall not be unreasonably withheld, conditioned or delayed and shall be deemed provided if notice of withholding or denial is not given within forty-five (45) days, and (ii) wherever this Agreement gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be reasonable. The recitals are intended to be a general introduction to this Agreement and are not intended to expand the scope of the Parties' respective rights or obligations or alter the plain meaning of this Agreement and the terms and conditions hereof; however, to the extent the terms and conditions of this Agreement are unclear or ambiguous or in conflict with terms and conditions of other Project Agreements, such terms or conditions should to the extent reasonably possible be reconciled and construed to be consistent with the objectives set forth in the recitals.

Section 1.3. Exhibits. The following documents are exhibits to this Agreement and incorporated herein.

<u>Exhibit A-1</u>	Description of the Premises
<u>Exhibit A-2</u>	Description of St. Johns Fleet Yard
<u>Exhibit B-1</u>	Fuel Price and Minimum Fuel Volumes
<u>Exhibit B-2</u>	Fuel Price and Minimum Fuel Quantities Defined Terms
<u>Exhibit C</u>	Notices

Exhibit D Insurance

**ARTICLE II
SCOPE; TERM**

Section 2.1. Scope; Term.

(a) This Agreement sets forth the terms and conditions of the purchase by the County of its Fuel Requirements from Nopetro and the sale by Nopetro of such Fuel; provided, however, that in each Contract Year, the County shall be obligated to purchase and receive or pay for not less than the Minimum Annual Volume as set forth in this Agreement. Contemporaneously with the execution and delivery of this Agreement, the Parties have executed and delivered the Lease and Development Agreement and any other applicable Project Agreement (unless, by its terms, such other Project Agreement need not be executed and delivered until a later date). The Parties intend that in the event of any conflict between the Project Agreements, this Agreement shall govern any matter, claim, dispute, or controversy relating to the terms and conditions of the County's purchase of Fuel from Nopetro.

(b) This Agreement is in force and effect as of the Effective Date and the term hereof ends on the twentieth (20th) anniversary of the Commercial Operations Date unless it is terminated earlier in accordance with its terms.

Section 2.2. Conditions Precedent.

(a) The following are conditions precedent to the obligation of Nopetro to sell and dispense Fuel to the County at or from the Station:

(i) Nopetro, with the reasonable cooperation of the County, obtains all Governmental Authorizations necessary for construction, operation, maintenance and repair of the Station and such Governmental Authorizations are final and not subject to re-hearing or appeal;

(ii) all conditions precedent under the Project Agreements that are to be satisfied prior to the commencement of on-site construction of the Station have been satisfied by the Party responsible therefor; and

(b) The Parties shall use commercially reasonable efforts to satisfy the conditions precedent that are their respective responsibility, coordinate their exchanges of information and documents relating thereto, and promptly notify the other Party upon satisfaction of each condition precedent.

(c) If the conditions precedent (i)-(ii) are not satisfied by the Party responsible therefor or waived by the appropriate Party on or before the applicable Milestone Date, either Party, if not in breach of its obligations with respect to the satisfaction of conditions precedent, shall have the right to terminate this Agreement by notice to the other Party within thirty (30) days after the applicable deadline. Termination in accordance with this Section 2.2(c) shall not be an Event of Default hereunder, and thereafter neither Party shall have any further liability or

obligations as a result of such termination other than those which specifically survive the termination hereof.

Section 2.3. Station.

(a) Subject to satisfaction of the conditions precedent in Section 2.2(a) hereof and satisfaction of the conditions precedent to the Nopetro's Development Obligations in the Lease and Development Agreement relating to the commencement of construction of the Station at the Premises, Nopetro shall develop, finance and construct the Station on the Premises. Nopetro shall operate and maintain the Station in accordance with the terms and conditions of this Agreement and the Lease and Development Agreement, for the purpose of selling and dispensing Fuel at the Station to the County and third parties.

(b) The Parties agree that Nopetro shall have the right to develop, finance, construct, operate and maintain other CNG fueling stations within St. Johns County as may be required to provide Fuel to the County Fleet, provided that the County and Nopetro mutually determine that one or more such additional CNG fueling station(s) is desirable to provide all Fuel Requirements of the County.

ARTICLE III
PURCHASE AND SALE OF FUEL

Section 3.1. Nopetro's Obligations. Commencing on the Commercial Operations Date Nopetro shall:

(a) procure, receive, compress and store at the Station, and sell to the County quantities of Fuel sufficient to dispense to County Fleet;

(b) in the event Station is inoperable or unavailable, Nopetro shall use Best Efforts to provide Fuel by alternative means necessary to operate the the County's fleet until such time Station becomes operable and available. Should Nopetro not be able to provide Fuel such that the County cannot operate the County Fleet, the Minimum Annual Volume shall be reduced by the average daily volume of consumption for the period of time Fuel is unavailable. Nopetro shall pay the County an amount for such deficiency equal to the product of (i) the positive difference, if any, obtained by subtracting the Fuel Price per GGE, from the Replacement Price and (ii) the amount of replacement Fuel purchased by the County; provided, that the invoice for such amount from the County to Nopetro shall include a written statement explaining in reasonable detail the calculation of such amount;

(c) make available Fuel to County Fleet during the Station Hours applicable to the County.

(d) procure, receive, compress and store quantities of Fuel to sell and dispense Fuel at the Station to third parties as Seller determines in its sole discretion; provided however that Seller's obligations to the County under this Agreement shall not be prejudiced by this section;

(e) operate the Station during Station Hours for the sale of Fuel to the County and, as Seller determines in its sole discretion, to third parties; provided however that Seller's obligations to the County under this Agreement shall not be prejudiced by this section;

(f) provide priority access, in the form of a dedicated fueling lane providing immediate access to the County at the Station from 5:00 a.m. to 5:00 p.m. on Business Days;

(g) use commercially reasonable efforts to procure economic supplies of Fuel from domestic production;

(h) dispense Fuel at the Station that meets minimum industry standards and the requirements of Applicable Laws for motor fuel;

(i) sell Fuel to the County at the price calculated in accordance with Exhibit B-1 and set the prices for Fuel sold to third-parties at the Station in GGEs, DGEs, or other units of measurements at its discretion, subject to Applicable Law;

G) install and maintain a point of sale system on the dispensers at the Station compatible with the County's fuel management system to measure and record sales of Fuel in GGEs, or other measurements, identify taxable and tax-exempt transactions, and charge the correct amount, including fuel taxes, as applicable, to each class of customer; provided that sales of Fuel to the County shall be metered in GGEs;

(k) invoice third party customers for and use commercially reasonable efforts to collect all amounts owed by third party customers for Fuel purchased at the Station which are not payable at the time of the sale;

(l) use commercially reasonable efforts to market and advertise the Station to potential third party purchasers of Fuel;

(m) meet with the County not less than one time each Contract Year to discuss efforts by the Parties to publicize the availability of Fuel at the Station for sale to third parties at no expense to the County;

(n) issue an invoice to the County at the end of each week (Monday through Sunday) for Fuel purchased in such week, in accordance with Section 4.2;

(o) within thirty (30) days after the end of each Contract Year, issue an invoice to the County with respect to the County's failure, if any, to purchase and pay for the Minimum Annual Volume for such Contract Year, in an amount equal to the product of (i) the Minimum Annual Volume Deficiency and (ii) the average Fuel Price per GGE during such Contract Year, which amount shall be paid by the County within forty-five (45) days of receipt of Nopetro's invoice.

Section 32. The County's Obligations. The County shall purchase all of its Fuel Requirements for County Fleet from Nopetro and perform and pay the following obligations commencing on the Commercial Operations Date except as otherwise specified:

(a) procure its Fuel Requirements for the County Fleet and purchase from Nopetro and pay for the Minimum Annual Volume in each Contract Year, except when Nopetro incurs an Unexcused Failure to sell and dispense Fuel to the County;

(b) pay the Undisputed Amount contained in Nopetro's invoices within forty-five (45) days after receipt;

(c) throughout the term of this Agreement, use best efforts to include in its yearly capital plan and operating budget all monies reasonably necessary to perform and pay its obligations hereunder;

(d) except when Nopetro incurs an Unexcused Failure to sell and dispense Fuel to the County or when any vehicle in the County Fleet is taken outside the County borders, ensure that all of the County Fleet is fueled by Fuel purchased from Nopetro and that such vehicles comply with all Applicable Laws and are fitted with fuel tanks and receptacles compatible to receive and utilize Fuel;

(e) throughout the term of this Agreement, refrain from offering, contracting or agreeing to re-sell, trade, exchange or otherwise transfer Fuel to or procure, purchase, or receive Fuel for fueling County Fleet from any other Person within St. Johns County;

(f) comply with Nopetro's reasonable policies, procedures, rules and regulations regarding the Station (and promptly notify Nopetro of any unreasonable policies), including those related to dispensing Fuel at the Station, safety and security, provided that Nopetro's policies, procedures, rules, and regulations shall not interfere with the County's operation of its facilities on or at the Premises;

(g) ensure that persons operating County Fleet vehicles are trained and possess all licenses, registrations, and other Governmental Authorizations required for the safe and lawful operation of such vehicles;

(h) in the event that after the Effective Date Buyer were to engage or retain any Person to provide services typically provided by Buyer with vehicles that do not consume Fuel, but that could be replaced with Compatible Vehicles as determined by Buyer, Buyer shall require as such Person, contract operator or contractor replace its existing vehicles with Compatible Vehicles.

(i) from and after the Commercial Operations Date, at least fifty percent (50%) of Buyer's new vehicle acquisitions will be Compatible Vehicles; and

(j) throughout the term of this Agreement, meet with Nopetro not less than one time each Contract Year to discuss efforts by the Parties to publicize the availability of Fuel at the Station for sale to third parties and to market and advertise the Station to potential third party purchasers of Fuel within St. Johns County; provided that any expenses associated with this subsection (j) shall be borne by Nopetro.

Section 3.3. Service Commencement. Nopetro shall sell and dispense Fuel to the County at the Station beginning on the Commercial Operations Date and continuing through the

term of this Agreement. If at any time it appears that Nopetro will be unable to provide Fuel to the County at the Station at the times and in the quantities required by the County in the applicable Minimum Annual Volume(s), Nopetro shall immediately give notice to the County and the Parties will work together to make alternate arrangements to provide Fuel for County Fleet pending Nopetro's ability to begin or resume full performance. In such circumstances, Nopetro shall limit or discontinue sales to third parties if necessary to supply the County with at least eighty percent (80%) of the average daily amount required by the County.

Section 3.4. Replacement Fuel. If as a result of Nopetro's default under this Agreement, the County is required to reduce the amount of Fuel purchased from Nopetro by fueling at locations other than the Station, or if Nopetro otherwise fails to provide Fuel as required herein (the "Replacement Fuel Period"), then (a) replacement fuel purchased by the County from third parties for such Replacement Fuel Period shall be credited towards the County's Minimum Annual Volume, and (b) Nopetro shall pay the County an amount for such deficiency equal to the product of (i) the positive difference, if any, obtained by subtracting the Fuel Price per GGE, from the Replacement Price and (ii) the amount of replacement fuel purchased by the County; provided, that the invoice for such amount from the County to Nopetro shall include a written statement explaining in reasonable detail the calculation of such amount. Subject to the above, nothing contained in this Section 3.4 shall be construed as relieving the County from its obligation to purchase the Minimum Annual Volume from the Nopetro. The parties recognize that for County Fleet vehicles that are capable of operating on gasoline as well as Fuel, in the circumstances set forth in this Section 3.4, the County may use gasoline without constituting an Event of Default.

Section 3.5. Compliance with Laws. In performance of the duties and obligations described in this Agreement, the County and Nopetro, respectively shall abide by, and comply with, all applicable laws, rules, regulations, orders, and policies, of the Local, State, and Federal governments. If a Party believes it likely that compliance with the terms of this Agreement would cause it to be in violation of any Applicable Law enacted, amended or changed after the Effective Date, it shall promptly notify the other Party and the Parties shall promptly meet and confer in an attempt to amend or modify the requirements hereof to avoid any non-compliance. A Party receiving notice or other communication from a Governmental Authority regarding any actual or potential violation of any such Applicable Laws shall provide prompt notice thereof to the other Party.

ARTICLE IV PRICE; PAYMENT

Section 4.1. Price. Nopetro agrees to sell and dispense, and the County agrees to purchase and pay for, the County's Fuel Requirements at the Fuel Price per GGE, calculated in accordance with Exhibit B-1. The price for Fuel sold to third parties at the Station shall be measured in units and set by Nopetro at its sole discretion. Notwithstanding the foregoing, Nopetro shall sell Fuel to any waste provider that is required by contract with the County to utilize Fuel for all or part of its fleet at a Fuel Price per GGE no higher than 25% above the Fuel Price per GGE paid by the County.

Section 4.2. Weekly Invoice. Within seven (7) days after the end of each week throughout the term of this Agreement, Nopetro shall send the County a detailed statement of the amount of Fuel sold to The County at the Station in such week (expressed in GGEs), along with a calculation of the Fuel Price per GGE attributable to such sales. The County shall remit payment of any Undisputed Amount invoiced by Nopetro within forty-five (45) days after receipt of Nopetro's invoice without setoff, reduction, withholding, or counterclaim, unless Nopetro's invoice is manifestly in error, in which circumstance the County shall promptly inform Nopetro thereof and Nopetro shall re-issue the invoice. Notwithstanding the above, both parties may request and the other party shall provide a billing adjustment for any billing error discovered after payment.

Section 4.3. Payment Terms. The County shall remit payment of any Undisputed Amount invoiced by Nopetro hereunder in accordance with the Chapter 218, Florida Statutes. Nopetro may request, and the County shall honor, payments via electronic means. All payments due under this section and not timely made shall bear interest at the rate of one percent (1%) of the outstanding balance per month. . In the event of any dispute about the amount of any invoice, representatives of the Parties shall meet and confer within five (5) days to attempt to resolve the dispute.

Section 4.4. Quarterly Statement. Nopetro shall provide to the County within thirty (30) days after the end of each quarter of the County's Fiscal Year, details of the amount of Fuel sold at the Station and Nopetro's calculation of Fuel Price per GGE charged during the prior Contract Year if different than amounts invoiced. Nopetro shall keep and maintain accurate records of all Fuel sales at the Station and shall, subject to Section 5.1, make records relating to the cost of CNG procurement and transportation available to the County upon request and under commercially reasonable conditions.

Section 4.5. Payments to the County for Third-Party Fuel Purchases. Nopetro shall pay the County \$0.10 for every third-party GGE of Fuel sold at the Station, irrespective of whether such third-party purchaser is another governmental entity or a private party. Nopetro shall pay the County such royalties, if any, quarterly in arrears for the quarters ending on March 31, June 30, September 30, and December 31. Nopetro shall provide to the County concurrent with the quarterly payments details of the amount of Fuel sold at the Station to third parties.

ARTICLE V
BOOKS AND RECORDS

Section 5.1. Audit of Books and Review of Records.

(a) As a condition of entering into this Agreement, and to ensure compliance, especially as it relates to Applicable Laws, the County shall have the right to examine, review, inspect, reproduce and audit the books and records, in order to determine whether compliance has been achieved with respect to the terms, conditions, provisions, rights, and responsibilities noted in this Agreement.

(b) The County shall have the right to inspect, reproduce, and audit the books and records of Nopetro relating to Fuel Price per GGE. If as a result of such inspection and audit, the

County determines that the Fuel Price per GGE or other amount paid by the County was not properly calculated at any time during the Contract Year, (a) if such miscalculation resulted in an overcharge to the County, Nopetro shall upon written notice from the County refund to the County the amount of any such overcharge, plus interest accrued thereon calculated at the Contract Rate within thirty (30) days of such notice and (b) if such miscalculation resulted in an undercharge to the County, the County shall upon written notice from Nopetro, pay to Nopetro the amount of any such undercharge, within forty five (45) days of such notice.

(c) The County shall also have the right to inspect, reproduce, and audit the books and records of Nopetro relating to sales of Fuel to third parties. If as a result of such inspection and audit, the County determines that the amount of royalties paid pursuant to Section 4.5 was underpaid, Nopetro shall remit to the County the amount of such underpayment within thirty (30) days, plus interest accrued thereon at the Contract Rate. If the amount of royalties was overpaid, the County shall pay to Nopetro the amount of the overpayment within thirty (30) days. The Parties acknowledge that such books and records and the information set forth therein are "Confidential Information" to the extent that they are labeled as such at the time they are provided to the County. Such books and records shall be maintained confidential and not subject to disclosure to the maximum extent permissible under the laws of the State of Florida.

Section 5.2. Cash Control Structure. Nopetro shall maintain an internal control structure consistent with Prudent Practice to measure and record transactions and generate financial records for the purposes of preparing financial statements. The internal control structure shall be documented in written policies and procedures. Nopetro shall retain supporting documentation for all refunds and voided transactions for a period of sixty (60) months beyond the Contract Year.

Section 5.3. Financial Statements. In accordance with the requirements of Section 287.05712(9)(a)(6), Florida Statutes, Nopetro shall submit annual financial statements pertaining to the Project to the County, subject to the confidentiality provisions of Section 14.16.

ARTICLE VI

STATION OPERATION AND MAINTENANCE

Section 6.1. Station Operation. Nopetro shall operate the Station during Station Hours and dispense Fuel to the County and third parties in accordance with this Agreement. Nopetro shall provide repair services and routine, preventative, and remedial maintenance for the operation of the Station in accordance with a schedule to be provided by Nopetro. Nopetro shall have maintenance and repair personnel or contractors on call to perform emergency or unscheduled repairs and maintenance. In the event of an emergency at the Station, Nopetro shall respond thereto within four (4) hours and restore the operation of the Station as soon as is commercially reasonable.

Section 6.2. Premises Maintenance. Nopetro shall maintain and keep the Premises in good order, repair, and condition at all times. Nopetro shall maintain and repair all fixtures and equipment on the Premises, except to the extent maintenance and repair is the obligation of the utility serving the Premises. Nopetro's obligations under this Section 6.2 shall be subject to monitoring by the County to ensure proper maintenance of the Premises.

**ARTICLE VII
INDEMNIFICATION**

Section 7.1. Indemnification. Nopetro shall indemnify, defend, and hold the County harmless from all claims (including tort-based, contractual, injunctive, and/or equitable), losses (including property (personal and/or real), and bodily injury), costs (including attorneys' fees), suits, administrative actions, arbitration, or mediation originating from, connected with, or associated with, or growing out of (directly and/or indirectly), development, construction, use, maintenance, repair, or operation of the Station and Nopetro's activities on the Premises excepting, however, such costs, claims, liabilities and losses as may be due to or caused by the acts or omissions of the County, its invitees, agents or independent contractors (each and collectively, "County Entities' Acts or Omissions"). Nopetro shall not be responsible for any costs, claims, liabilities or losses to the extent attributable to any County Entities' Acts or Omissions.

Section 7.2. This provision relating to Indemnification, is separate and apart from, and is in no way limited by, any insurance provided pursuant to this Agreement, or otherwise.

Section 7.3. Nothing in this Agreement shall be interpreted or construed to mean that the County waives its common law sovereign immunity as provided under Section 768.28, Florida Statutes, or consents to being sued hereunder.

Section 7.4. These provisions relating to indemnification shall survive the termination/expiration of this Agreement.

Section 7.5. Notwithstanding anything to the contrary in this Agreement, Nopetro and County each waive any claims that each may have against the other with respect to consequential, incidental or special damages, however caused, based upon any theory of liability.

**ARTICLE VIII
ENVIRONMENTAL**

Section 8.1. The County represents and warrants, to the best of the County's knowledge, after due inquiry, as of the Effective Date of this Agreement (i) there are no known hazardous substances, including asbestos-containing materials and lead paint on or at the Premises; and (ii) the Premises has not been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation.

Section 8.2. The County and Nopetro hereby agree that each will be individually responsible for compliance with any and all applicable governmental laws, rules, statutes, regulations, codes, ordinances or principles of common law regulating or imposing standards of liability or standards of conduct with regard to protection of the environment or worker health and safety, as may now or at any time hereafter be in effect, to the extent such apply to all use of the Premises. The County, subject to the limitations of liability set forth in Section 768.28, Florida Statutes, and Nopetro agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities and liabilities at the sole cost and expense of the indemnifying

party for, payment of penalties, sanctions, forfeitures, losses, costs or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding, to the extent arising from that party's breach of its obligations or representations under this Agreement.

Section 8.3. In the event either party hereto becomes aware of any hazardous materials, or any environmental, health or safety condition on, at or relating to the Premises, that party shall, within no more than 5 calendar days of becoming aware of such event, notify the other thereof.

Section 8.4. In the event that at any time during this Agreement or the Lease Agreement, Nopetro becomes aware of any hazardous materials on the property, or any environmental, health or safety condition or matter relating to the Premises, that, in Nopetro's sole determination, renders the condition of the Premises or property unsuitable for Nopetro's use, or if Nopetro believes that the leasing or continued leasing of the Premises would expose Nopetro to undue risks of liability to a government agency or third party, Nopetro will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement and the Lease and Development Agreement upon written notice to the County.

ARTICLE IX DAMAGE AND DESTRUCTION

Section 9.1. Notice. In the event of any damage to or destruction of all or any part of the Premises or the Station that might have an adverse effect on the operation of the Station, the Party discovering same will promptly give or cause to be given written notice thereof to the other Party generally describing the nature and extent of such damage or destruction. If the Premises or the Station are damaged, Nopetro shall thereafter promptly provide information, documents, and data reasonably requested by the County regarding the schedule and plan to remedy or repair such damage or destruction to the Premises or the Station in accordance with the applicable provision of the Lease and Development Agreement.

Section 9.2. The County shall be excused from performing its obligations under this Agreement during any time in which the Station is inoperable.

ARTICLE X INSURANCE

Section 10.1. Classes of Insurance: Requirements. Nopetro covenants and agrees that it will maintain in full force and effect throughout the term of this Agreement insurance coverages as set forth in Exhibit D.

Section 10.2. Certificates. Nopetro shall deliver to the County, a copy of each insurance policy or a certificate from each insurer addressed to the County and dated within thirty (30) days prior to the delivery thereof and annually thereafter (a) listing the insurers and policy numbers of the insurance then required to be maintained by Nopetro hereunder, and (b) certifying that said insurance is in full force and effect. Nopetro's failure to effect, maintain or renew any insurance provided for in this Article IX or to pay the premiums therefor, or to deliver

to the County any of the certificates, shall entitle the County, at its election, but without obligation, upon ten (10) days' prior written notice to Nopetro, to procure such insurance, pay the premiums therefor or obtain such certificates, and any sums expended by the County for such purposes, shall be repaid by Nopetro upon demand of the County.

Section 10.3. Waiver of Subrogation. Except as expressly provided in Section 7.4, each Party hereby waives and releases the other Party of and from any and all rights of recovery, claim, action or cause of action, against the other Party, its managers, officials, officers, agents and employees, for any loss or damage that may occur to the Station or property of the County, which is covered by insurance or would be covered by insurance required hereunder, regardless of cause or origin, including negligence of the other Party and their officers, agents and employees. The Parties acknowledge and agree that the waiver and release set forth in this Section 9.3 are not intended to benefit or result in the release, acquittal or discharge of any insurance carrier from its obligations and coverages in respect of any loss or damage which is covered by policies of insurance issued by such carrier or the release, acquittal or discharge of a Party of its obligations and liabilities hereunder if such loss is not covered by insurance and this Agreement required such Party to maintain insurance to cover such loss.

ARTICLE XI
REPRESENTATIONS AND
WARRANTIES

Section 11.1. Representations of the Parties. As of the Effective Date, each Party represents and warrants to the other Party that:

(a) It is duly organized, validly existing and in good standing under the laws of the State of Florida and has all requisite power and authority to conduct its business, to own or lease its properties, and to execute, deliver, perform and pay its obligations under this Agreement and the other Project Agreements;

(b) The execution and delivery of this Agreement and performance and payment of its obligations hereunder have been duly authorized by all necessary limited liability company or governmental action, as applicable, and do not and will not (i) require any consent or approval by any governing body of such Party, other than that which has been obtained and is in full force or is identified in the Lease and Development Agreement as a consent or approval that will be obtained pursuant thereto and; (ii) violate any Applicable Law, or violate any provision in any organizational or governance documents of such Party, the violation of which could have a material adverse effect on the ability of such Party to perform and pay its obligations under this Agreement; (iii) result in a breach or constitute a default under its organizational or governance documents, or under any contract, indenture, bond, loan, or credit agreement, or any other agreement, lease, or instrument to which it is a party or by which it or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of it to pay or perform its obligations under this Agreement; (iv) or result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this Agreement or the other Project Agreements or is in favor of a Financing Party) upon or with respect to any of the assets or properties of it now owned or hereafter

acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on its ability to pay or perform its obligations under this Agreement; and

(c) This Agreement and the other Project Agreements executed on the date hereof each constitutes the legal, valid and binding obligation of such Party enforceable against it in accordance with the terms hereof or thereof, as applicable, subject to equitable principles and general limitations on creditor's rights.

Section 11.2. County Representations. The County represents and warrants throughout the term as follows:

(a) (i) all acts necessary to the valid execution, delivery and performance of this Agreement and the other Project Agreements have been taken and performed under its resolutions, bylaws, rules, or regulations; (ii) all persons making up the governing body of the County are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with all Applicable Law; (iii) execution, delivery, and performance of this Agreement and the other Project Agreements is for a proper public purpose and does not violate or contravene any governing documents or Applicable Laws; (iv) the term of this Agreement and the other Project Agreements does not extend beyond any applicable limitation imposed by any governing documents and Applicable Laws; and (v) funds to be used by the County to pay for Fuel hereunder shall be from any of the County's legally available funds.

(b) The County is not a party to any other agreement, contract, purchase order, procurement, arrangement or understanding relating to the purchase, procurement or receipt of CNG;

(c) The County is not planning, evaluating, studying or otherwise considering, the privatization, contracting or outsourcing of any major component of the services it provides through the use of its County Fleet or other vehicle fleet; provided however that if the County does privatize, contract or outsource any major component of the services it provides through the use of its County Fleet or other vehicle fleet, the County shall comply with the provisions of Section 3.20) and (k), as applicable, and

(d) The County is not a party to a lawsuit or other proceeding, nor is the commencement of a lawsuit or other proceeding threatened, which is reasonable likely to materially adversely affect the ability of the County to perform and pay its obligations under this Agreement.

Section 11.3. Nopetro's Representations. Nopetro represents and warrants as follows:

(a) Subject to the conditions precedent set forth above in Section 2.2, Nopetro has obtained and fully paid for, or will promptly obtain and fully pay for, all Governmental Authorizations necessary for Nopetro to provide the services as set forth in this Agreement, except those that cannot be obtained at this time or until construction of the Station has been completed, and Nopetro will obtain and fully pay for such additional Governmental Authorizations as soon as they are required and can be obtained.

(b) Except as otherwise disclosed by Nopetro to the County in writing and subject to the assumptions and limitations stated therein, any and all factual statements and representations in Nopetro's December 6, 2013 CNG P3 Proposal to the County, as amended by the Addendum dated April 17, 2015, are true and correct in all material respects, and there have been no material adverse changes to the financial condition or ability of Nopetro to perform its obligations hereunder as a result of changes in such statements and representations since that date. To the best of the knowledge of Nopetro, there has been no change to the financial condition or capability of Nopetro since such date which materially adversely affects the business or prospects or condition (financial or other) of Nopetro or its properties or assets, which has not been set forth herein or in a certificate or statement furnished by Nopetro to the County or disclosed to the County in writing.

(c) Nopetro is not a party to a lawsuit or other proceeding, nor is the commencement of a lawsuit or other proceeding threatened, which is reasonably likely to materially adversely affect the ability of Nopetro to perform and pay its obligations under this Agreement.

ARTICLE XII ASSIGNMENT

Section 12.1. Assignment. Except as otherwise provided in Section 12.3, this Agreement and the rights and interests of the County and Nopetro in this Agreement or any part thereof, may not be assigned, pledged or otherwise transferred by the County or Nopetro to a third party ("Transferee"), in whole or in part, and whether by operation of law or otherwise, except as provided in this Section 12.1. The prior written consent of the other Party shall be required for any assignment by a Party of its rights or obligations hereunder; such consent shall not be unreasonably withheld. Each Party shall, in its good faith exercise of its right to withhold consent to assignment, pledge or transfer of this Agreement by the other Party consider the following factors: (i) whether the proposed Transferee is in good standing with such Party; (ii) the ability, knowledge and experience of the Transferee related to the performance of the obligations of the assigning Party; and (iii) the financial resources of the Transferee to perform and pay the obligations of the assigning Party. The selection and engagement of contractors and operators shall be contingent upon the County's consent to the use of such contractors and operators, which consent shall not be unreasonably withheld.

Section 12.2. Effect of Assignment. The assignment or transfer of this Agreement or of a Party's rights or interest under this Agreement shall not relieve the assigning Party of liability for its obligations under this Agreement unless such assignee assumes in writing the obligations of the assigning Party hereunder and the other Party consents thereto. The terms of any assignment or transfer of this Agreement or of a Party's interest under this Agreement shall be consistent with the terms of this Agreement. Any Person who shall become a transferee or assignee of this Agreement or the rights and obligations of the transferor or assignor shall be bound by and be liable upon all the terms, covenants, provisions and conditions contained in this Agreement during the remaining term of this Agreement.

Section 12.3. Rights of Financing Parties. Nopetro may finance and refinance all or a portion of the cost to develop, construct, equip, operate, maintain, repair, expand, alter and replace the Station. Nopetro may assign or pledge this Agreement to any Financing Party in

connection with such financing or refinancing. The County shall, upon request by Nopetro, execute and deliver certificates, opinions and other documents reasonably requested by the Financing Party from time to time. The rights and obligations of the Parties and the Financing Party, including the right of a Financing Party upon the occurrence of a Nopetro Default or a default by Nopetro under the financing documents related to the Station, shall be as set forth in the Lease and Development Agreement and other agreements, instruments and documents executed by and among the Nopetro and the Financing Parties.

ARTICLE XIII
DEFAULT

Section 13.1. Events of Default by Nopetro. The occurrence of any of the following acts, events or conditions shall constitute a "Nopetro Default" by Nopetro under this Agreement:

(a) Nopetro's Unexcused Failure to comply with Section 3.1(a), such that the County is unable to fuel at least eighty percent (80%) of the daily portion of the applicable Minimum Annual Volume amount as and when needed from the Station or any source owned or operated by Nopetro or the County for a cumulative total of thirty (30) days during a Contract Year;

(b) Nopetro fails, within thirty (30) days after receipt of notice of such failure from the County, to pay the County any sum due and owing, plus accrued interest thereon, as a result of the County's permissible purchase of Fuel from a third party during the Replacement Fuel Period;

(c) Nopetro abandons or incurs an Unexcused Failure to operate the Station for ten (10) consecutive days and Nopetro fails to provide Fuel for County Fleet during that time period;

(d) Nopetro fails at any time during the term hereof to perform any other material covenant, agreement or obligation of Nopetro hereunder and such failure or refusal shall continue without cure for a period of sixty (60) days from and after notice from the County; provided, however, that if such default is of a nature such that it is not reasonably susceptible of being cured within such sixty (60) day period, a Nopetro Default shall not be deemed to have occurred if Nopetro commences to cure during such sixty (60) day period and diligently and continuously pursues such cure to completion;

(e) Nopetro fails at any time during the term hereof to cure any inaccuracy, incompleteness, breach or violation of any material representation or warranty made by Nopetro herein and such failure or refusal shall continue without cure for a period of sixty (60) days from and after notice from the County; provided, however, that if such default is of a nature such that it is not reasonably susceptible of being cured within such sixty (60) day period, a Nopetro Default shall not be deemed to have occurred if Nopetro commences to cure during such sixty (60) day period and diligently and continuously pursues such cure to completion;

(f) Nopetro fails to materially comply with Applicable Laws governing the operation of CNG fueling stations and fails to cure such failure within thirty (30) days after notice from The County or such longer period of time reasonable under the circumstances;

(g) Nopetro attempts to assign this Agreement in a manner inconsistent with the applicable terms hereof;

(h) Nopetro fails to exercise Prudent Practice in maintenance, upkeep or operation of the Station.

(i) Nopetro defaults under any other Project Agreement, including but not limited to the payment of Rent pursuant to the Lease and Development Agreement; or

G) Nopetro is Bankrupt.

(k) Seller fails to comply with any applicable Local State or Federal regulation governing construction, maintenance and operation of the Station.

Section 13.2. Events of Default by the County. The occurrence of any of the following acts, events or conditions shall constitute a "County Default" by the County under this Agreement:

(a) The County fails to timely pay any Undisputed Amount of any invoice or statement that is due and owing hereunder in accordance with Chapter 218, Florida Statutes.;

(b) The County initiates, conducts, causes, suffers, or permits activities that it knows or reasonably should know may damage, impair, or otherwise adversely affect the Station or the operation, maintenance, level of service, safety, security, or function of the Station or other Nopetro Equipment or improvements relating thereto including, without limitation, activities that may adversely affect the access and egress to and from the Premises by third party vendors, contractors, invitees, and customers of Nopetro or the cost to Nopetro to operate and maintain the Station, and thereafter fails within sixty (60) days after notice from Nopetro to commence and thereafter diligently pursue a cure of such circumstance;

(c) The County fails at any time during the term hereof to perform any other material covenant, agreement or obligation of the County hereunder and such failure or refusal shall continue without cure for a period of sixty (60) days from and after notice from Nopetro; provided, however, that if such default is of a nature such that it is not reasonably susceptible of being cured within such sixty (60) day period, a County Default shall not be deemed to have occurred if the County commences to cure during such sixty (60) day period and diligently and continuously pursues such cure to completion;

(d) The County fails at any time during the term hereof to cure any inaccuracy, incompleteness, breach, or violation of any material representation or warranty made by the County herein and such failure or refusal shall continue without cure for a period of sixty (60) days from and after notice from Nopetro; provided, however, that if such default is of a nature such that it is not reasonably susceptible of being cured within such sixty (60) day period, a County Default shall not be deemed to have occurred if the County commences to cure during such sixty (60) day period and diligently and continuously pursues such cure to completion;

(e) The County is Bankrupt.

Section 13.3. Termination by the County; Damages. Upon the occurrence of a Nopetro Default which remains uncured by Nopetro after the expiration of any cure period set forth in Section 13.1 and notice of such Nopetro Default from the County to Nopetro, the County shall have the right, at its election, to suspend performance and payment of its obligations and terminate this Agreement upon forty-five (45) days prior notice to Nopetro. Notwithstanding the immediately preceding sentence, if Nopetro shall have delivered to the County prior written notice of the name and address of any Financing Party, the County shall provide prompt notice of any Nopetro Default to such Financing Party or Parties, and the County shall accept a cure to a Nopetro Default performed by any Financing Party or Parties, provided that the cure is accomplished within thirty (30) days after the applicable cure period set forth in this Agreement. The County shall have the right to recover from Nopetro all direct Costs that the County has incurred by reason of such Nopetro Default.

Section 13.4. Termination by Nopetro; Damages. Upon the occurrence of a County Default which remains uncured by the County after the expiration of any cure period set forth in Section 12.2 and notice of such County Default from Nopetro to the County, Nopetro shall have the right, at its election, to suspend performance and payment of its obligations and terminate this Agreement upon forty-five (45) days prior notice to the County. Nopetro shall have the right to recover from the County all direct Costs that Nopetro has incurred by reason of such County Default.

Section 13.5. General. Each Party shall, to the extent commercially reasonable under the circumstances, continue to perform its respective obligations hereunder in the event of a Dispute that is referred to mediation, litigation or other proceeding hereunder. Each right, power, and remedy of a Party provided in this Agreement or in any other Project Agreement or now or hereafter existing at law or in equity shall be cumulative and concurrent and shall be in addition to each and every other right, power or remedy provided in this Agreement or in any other Project Agreement or at law or in equity. The Party not in breach or default shall be entitled to seek, to the extent permitted by Applicable Law, specific performance, including, injunctive relief, in the event of the breach or attempted or threatened breach of any term, condition or covenant of this Agreement by the other Party or to a decree compelling performance thereof. If any action shall be brought to enforce or interpret any of the terms, conditions or covenants of this Agreement, the prevailing Party shall be entitled to recover from the other Party all attorneys' fees and costs reasonably incurred in enforcing the terms of this Agreement. The Parties acknowledge that they shall not claim and shall not be entitled to recover or receive a judgment or award of consequential, indirect, special or incidental damages as a result of any loss or damages arising out of or relating to this Agreement or any other Project Agreement; provided however, that to the extent this Agreement specifies an express remedy, such remedy shall not be deemed consequential, indirect, special or incidental damages under this Section 13.5.

ARTICLE XIV MISCELLANEOUS

Section 14.1. Entire Agreement. This Agreement and the other Project Agreements set forth the entire understanding and agreement of the Parties with respect to the subject matter hereof and thereof and this Agreement has been executed contemporaneously with the execution

of the other Project Agreements. No modification or amendment of this Agreement shall be binding upon the Parties, or either of them, unless executed in writing by an authorized representative of each Party. The Parties acknowledge and agree that the expiration, non-extension, or early termination of this Agreement will not itself limit or prevent Nopetro from participating in any procurement or other process conducted by the County to procure Fuel.

Section 14.2. Waiver. Except as specifically provided herein, failure of a Party to insist upon the strict performance by the other Party of any term, condition, or covenant, or to exercise any right or remedy of this Agreement, shall not be a waiver of such performance or relinquishment of such right or remedy. No waiver by a Party of any provision, term, condition, or covenant of this Agreement shall be deemed to have been made and be enforceable unless in writing and signed by an authorized representative of the Party to be bound thereby.

Section 14.3. Severability. If any term or provision of this Agreement or the application thereof shall be held to be invalid, illegal, unlawful or unenforceable by a court of competent jurisdiction, the validity and enforceability of the remainder of this Agreement shall not be affected.

Section 14.4. Surviving Provisions. Any terms and provisions of this Agreement pertaining to rights, duties, or liabilities extending beyond the expiration or termination of this Agreement, including provisions relating to governing law, venue, dispute resolution, indemnity, payment, remedies, taxes, amendment, waiver, notice, confidentiality, or limitation of liability, shall survive the end of the term of this Agreement.

Section 14.5. Notices. All notices, demands, requests, consents, and approvals desired, necessary, required or permitted to be given hereunder, other than communication in the normal course of contract administration, shall be in writing and shall be (a) personally delivered, or (b) delivered by a nationally recognized overnight delivery service, addressed to each Party at the address set forth in Exhibit C, or at such other address as may from time to time be designated by notice. Any such notice shall be effective on the date of delivery unless such date is not a Business Day or delivery is made after normal business hours, in which case such notice shall be effective on the next Business Day.

Section 14.6. Successors; Assigns. This Agreement shall be binding upon and inure to the benefit of the respective successors and permitted assigns of each Party.

Section 14.7. Headings. Captions and headings used in this Agreement are for convenience of reference only and do not constitute a part of or affect the interpretation of this Agreement.

Section 14.8. Governing Law. This Agreement and any dispute, claim, or controversy arising hereunder or in relation hereto shall be governed by and interpreted in accordance with the laws of the State of Florida.

Section 14.9. Force Majeure. If either Party shall be prevented or delayed by an event of Force Majeure from performing any obligations under this Agreement (except payment or financial obligations), or from satisfying conditions precedent or exercising cure rights, then the time for such performance or satisfaction of the specific matter or condition or exercise of rights

shall be deemed extended on a day-for-day basis for the period of the delay caused by such event. As used herein, "Force Majeure" shall mean any non-performance or delay in a Party's reasonable performance hereunder that is caused by or results from events, conditions or circumstances not within the control of the affected Party, was not caused by the affected Party's negligence and would not have been avoided by the exercise of reasonable diligence, including changes in law, judicial, administrative or regulatory judgment, order or decree, any strike, lockout, labor dispute, unavailability of labor or materials, act of God, unusually inclement weather, flood, hurricanes, tornado, sinkhole, governmental action, civil commotion, terrorism, insurrection, sabotage, releases or discharges of hazardous materials, fire or other casualty, any condition caused by the other Party or its agents, contractors or representatives or any other cause, whether similar or dissimilar to the foregoing, which cannot be avoided or prevented by the affected Party by commercially reasonable efforts; provided, however that the following occurrences are not Force Majeure events: (i) a strike, lockout or labor dispute between the affected Party and its employees, agents, contractors and subcontractors; (ii) changes in market conditions that affect the cost of Nopetro's or the County's supplies, equipment or vehicles, or that affect demand or price for any of Nopetro's products or the County's property, plant and equipment; or (iii) the non-availability or lack of funds or failure to pay money when due, unless resulting from a failure of the banking system. Where an act, event or circumstance which primarily affects a third party or third parties prevents or delays a Party's performance hereunder, such act, event or circumstance shall constitute a Force Majeure hereunder as to such Party only if it is of a kind or character that, if it had happened to a Party, would have constituted a Force Majeure under this Section 14.9. A Party affected by the Force Majeure shall deliver a written notice to the other Party within ten (10) days of the incident or as soon as is reasonable under the circumstances specifying the nature thereof, the date such incident occurred and a reasonable estimate of the period that such incident will delay the fulfillment of obligations or conditions or exercise of rights contained herein, and thereafter take such commercially reasonable measures as applicable under the circumstances to mitigate the effects of such event of Force Majeure. If a Party is unable, despite such efforts to resume performance of its obligations hereunder due to the occurrence of an event of Force Majeure for three hundred sixty-five (365) days, either Party may terminate this Agreement by notice to the other Party prior to resumption of full performance by the affected Party, and neither Party shall have any further liability or obligations as a result of such termination.

Section 14.10. Third Party Beneficiaries. Nothing in this Agreement shall be construed to create any rights, remedies or benefits in favor of, duty to, or standard of care with reference to, or any liability to, any Person not a party to this Agreement, except those parties expressly agreed upon by both the County and Nopetro.

Section 14.11. Further Assurances. Each Party agrees to take or refrain from such actions and execute and deliver certificates, instruments and other documents as are reasonably requested by the other Party or a Financing Party to accomplish the mutual intent of the Parties in entering into this Agreement. The Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement.

Section 14.12. Relationship of the Parties. This Agreement and the other Project Agreements shall not be interpreted to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability upon either Party.

Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

Section 14.13. Dispute Resolution: Venue. In the event a dispute, claim or controversy between the Parties arises out of or relates to this Agreement (a "Dispute"), the following procedure shall be utilized to resolve the matter:

(a) Management level personnel of the Parties shall meet at a mutually acceptable time and place within five (5) days after delivery of notice of such Dispute and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to negotiate resolution of the Dispute. If the matter has not been resolved within ten (10) days from such notice, either Party may initiate mediation as provided hereinafter.

(b) Either Party may initiate a non-binding mediation proceeding by making demand by notice to the other Party; thereupon, the Parties shall engage in mediation before a mutually agreeable mediator at a mutually agreeable location in St. Johns County, in accordance with Section 44.1011 et seq., Florida Statutes. If the Parties have not agreed within five (5) days of the demand for mediation on the selection of the mediator, the Dispute will be referred to a court in St. Johns County with jurisdiction over the Parties for selection of a mediator. To the extent allowed by Applicable Laws, all negotiations, settlement agreements and/or other written documentation pursuant hereto shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and Florida Rules of Evidence.

(c) If the Dispute has not been resolved by mediation within thirty (30) days of the notice demanding mediation, either Party may pursue its remedies hereunder, and may initiate litigation upon five (5) days written notice to the other Party. The exclusive venues for litigation arising out of or relating to this Agreement shall be the courts of the State of Florida and the United States located in St. Johns County.

Section 14.14. Negotiated Transaction. This Agreement was negotiated and prepared by both Parties with the participation of counsel and advisors. The Parties have agreed to the text of this Agreement and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

Section 14.15. Access to Public Records. The access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.

Section 14.16 Confidentiality. Subject to the County's obligations under Chapter 119, Florida Statutes, the Parties will safeguard Confidential Information against disclosure by employing the same means to protect such Confidential Information as that Party uses to protect its own non-public, confidential, or proprietary information, and otherwise in accordance with the provisions of this Section 14.16. Specifically, no receiving Party shall itself, or permit its

employees, consultants, or agents to disclose to any Person the Confidential Information of the other Party without the prior written consent of the Party disclosing the Confidential Information, except a receiving Party may distribute the Confidential Information to its board members, officers, employees, agents, consultants, contractors, potential investors, and lenders who are confidentially bound to the receiving Party and have a need for such Confidential Information. In the event that the County receives a request from a third party to disclose Confidential Information, the County shall, prior to the disclosure of the Confidential Information, promptly notify the Nopetro of such request. Nopetro may thereafter, at its sole cost and expense, seek a protective order or other appropriate remedy or waive compliance with the terms of this Agreement. Nopetro shall be solely responsible for all fines, fees, and reasonable costs and attorney's fees incurred by the County in complying with this Section. Neither Party shall be entitled to any special, consequential, indirect or punitive damages as a result of a breach of this Section 14.16 or any other term or provision of this Agreement, regardless of whether a claim is based in contract, tort or otherwise. With respect to Confidential Information provided by Nopetro to the County, the provisions of this Section 14.16 shall only apply to information that is identified as Confidential Information at the time it is provided to the County. Information that is not identified as Confidential Information at the time it is provided to the County may be subject to disclosure pursuant to Chapter 119, Florida Statutes. For purposes of this Agreement and the Lease and Development Agreement, Nopetro deems the information contained in Exhibit B-2 of this Agreement a trade secret as defined in Section 812.081(1)(c) of the Florida Statutes, and shall be treated as Confidential Information under this Agreement and the Lease and Development Agreement. Nothing contained in this Section is intended to limit the definition of Confidential Information to the information contained in Exhibit B-2 of this Agreement.

Section 14.17. Express Representation. The Parties acknowledge and agree that neither Party nor its representatives, agents or advisors have made any representations, warranties, guarantees or promises with respect to or in connection with this Agreement, except as expressly set forth herein by the Parties.

Section 14.18. Prevailing Party: Fee Award. In the event of litigation or other proceedings between the Parties hereto arising out of or in connection with this Agreement, then the reasonable attorneys' fees and costs, including any fees and costs incurred in connection with pre-litigation dispute resolution proceedings pursuant to Section 14.13 of this Agreement, of the Party prevailing in such litigation or proceeding shall be paid by the other Party.

Section 14.19. Counterparts. This Agreement and any amendment hereto or other instrument executed in connection herewith may be executed in any number of counterparts, each of which shall be an original and all of which together will constitute one and the same instrument.

Section 14.20. Cooperative Purchasing. The County shall not unreasonably withhold consent to Nopetro using the terms and conditions of this Agreement with any other local governments or public entities in the development and use of mutually cooperative contracts; provided however, that any such contracts with other local governments or public entities shall not alter or amend the terms of this Agreement. Additionally, the terms of this Section 14.20 shall not be construed to authorize either Party to disclose any Confidential Information.

Section 4.21. No Pledge of Ad Valorem Funds. Nothing in this Agreement shall constitute a pledge of ad valorem funds on the part of the County. While the County will make all reasonable efforts to provide funds needed to fulfill its obligations under this Agreement, the County makes no express commitment to provide such funds in any given County fiscal year. Moreover, it is expressly noted that Nopetro cannot demand that the County provide such funds in any given County fiscal year.

Section 4.22. Renewal. This Agreement may be renewed upon mutual agreement of the Parties for an additional twenty-five (25) year term on the same terms and conditions upon no less than 6 months written notice from one Party to the other Party. The Parties' election of its renewal option shall also serve to renew any other Project Agreements in effect at the time of renewal.

Section 4.23. County Logo. Pursuant to, and consistent with, County Ordinance No. 92-2 and County Administrative Policy 101.3, Nopetro may not manufacture, use, or display any facsimile or reproduction of the County Seal/Logo without the express written approval of the Board of County Commissioners.

[END OF TEXT; SIGNATURES ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, The County and Nopetro have executed this Agreement and have affixed their seals hereunto and have delivered same as of the day and year first above written.

(SEAL)

Attest: Cheryl Strickland
By: Pam Halteim
Name: Pam Halsterman
Its: Deputy Clerk

ST. JOHNS COUNTY, FLORIDA:

By: [Signature]
Name: Michael D. Wanchick
Its: County Admin
Date: 3/11/15



Legally Sufficient:

[Signature]
Senior Assistant County Attorney

(SEAL)

Attest: /, I
#--
By: ;; IL
Name: _____
Its: A

NOPETRO-ST. JOHNS COUNTY, LLC:

By:
Name: SjC _____ cc CS
Its: CFO
Date: Z..|t0|1E

EXHIBIT A-1

Description of the Premises

A TRACT OF LAND IN GOVERNMENT LOT 3, SECTION 9, TOWNSHIP 7 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR THE POINT OF BEGINNING, START AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF STATE ROAD 16 (A 200 FOOT RIGHT OF WAY AS NOW ESTABLISHED) WITH THE EAST RIGHT OF WAY LINE OF INDUSTRIAL CENTER ROAD (A 60 FOOT RIGHT OF WAY AS NOW ESTABLISHED); THENCE SOUTH 89°55'47" EAST, ALONG THE SAID SOUTH RIGHT OF WAY OF STATE ROAD 16, A DISTANCE OF 240.00 FEET; THENCE SOUTH 00°04'13" WEST, ALONG THE WEST LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS 2467, PAGE 1170, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, A DISTANCE OF 265.27 FEET; THENCE NORTH 89°55'47" WEST A DISTANCE OF 43.06 FEET; THENCE NORTH 00°04'13" EAST A DISTANCE OF 41.62 FEET; THENCE NORTH 89°55'47" WEST A DISTANCE OF 86.00 FEET; THENCE SOUTH 00°04'13" WEST A DISTANCE OF 42.43 FEET; THENCE NORTH 89°55'47" WEST A DISTANCE OF 110.94 FEET; THENCE NORTH 00°04'13" EAST, ALONG THE AFOREMENTIONED EAST RIGHT OF WAY LINE OF INDUSTRIAL CENTER ROAD, A DISTANCE OF 20.65 FEET; THENCE SOUTH 89°55'47" EAST A DISTANCE OF 28.77 FEET; THENCE NORTH 00°04'13" EAST A DISTANCE OF 20.00 FEET; THENCE NORTH 89°55'47" WEST A DISTANCE OF 28.77 FEET; THENCE NORTH 00°04'13" EAST, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 225.43 FEET TO THE POINT OF BEGINNING.
CONTAINING 1.37 ACRES MORE OR LESS.

EXHIBIT A-2

Description of the St. Johns Fleet Yard

A parcel of land in Government Lots 3 and 4, Section 9, Township 7 South, Range 29 East and more fully described as follows:
Commence at the Southeast corner of Government Lot 3, Section 9, Township 7 South Range 29 East for the Point of Beginning
thence South 89 degrees 39 minutes 30 seconds West 546.8 feet
along the South line of said Government Lot 3 and the North line of Dupont property; thence North 0 degrees 18 minutes West 1,122.0 feet to a point 300 feet South of the South right-of-way line of State Road No. 16; said point being the Southwest corner of the property described in Deed Book 217, page 142 of the public records of St. Johns County, Florida; thence North 89 degrees 42 minutes East 300 feet, said line being 300 feet South of and parallel to the South right-of-way line of State Road No. 16; thence North 0 degrees 18 minutes West 300 feet to the South right of way line of State Road No. 16; thence North 89 degrees 42 minutes East 122.15 feet along the South right of way line of State Road No. 16 to a point that is 6.0 feet West of the Northwest corner of the property described in Deed Book 227, page 267 of the public records of St. Johns County, Florida; thence South 0 degrees 37 minutes 30 seconds East 1,422.1 feet to the South line of Government Lot 4, Section 9, Township 7 South, Range 29 East, said line bearing South 0 degrees 37 minutes 30 seconds East is parallel to and 6.0 feet West of the West line of the property described in Deed Book 227, page 257; thence South 89 degrees 39 minutes 30 seconds West 182.1 feet along the South Line of said Government Lot 4 to the Point of Beginning.

PARCEL ONE;

A tract of land in Government Lot 3, Section 9, Township 7 South, Range 29 East 1 and being more particularly described as follows:

For a Point of Reference, COMMENCE at the Southeast corner of Government Lot 3, Section 9, Township 7 South, Range 29 East; thence South 89 degrees 39 minutes 30 seconds West, along the South line of said Government Lot 3, a distance of 546.80 feet to the POINT OF BEGINNING; thence continue South 89 degrees 39 minutes 30 seconds West, along said South line of Government Lot 3, a distance of 240.00 feet to the East right of way line of Industrial Center Drive (a 60 foot right of way as now established); thence North 00 degrees 18 minutes 00 seconds West, along said East right of way line, a distance of 1381.20 feet to the South right of way line of State Road No. 16 (a 200 foot right of way as now established); thence North 89 degrees 42 minutes 00 seconds East, along said South right of way line, a distance of 240.00 feet to the East line of those lands described as Parcel 3 in Official Records Volume 4301, page 18; thence South 0 degrees 18 minutes 00 seconds East, along said East line, a distance of 1387.00 feet to the aforementioned South line of Government Lot 3 and the POINT OF BEGINNING. Being the same lands as those described as Parcels 3 and 4 in Official Records Volume 4301 page 18; EXCEPT those lands lying in the right of way of State Road No. 16, and Industrial Center Drive as recorded in Official Records Volume 751, page 1857; of said public records of St. John County, Florida.

PARCEL TWO:

A part of Section 9, Township 7 South, Range 29 East, St. Johns County, Florida, being more particularly described as follows:

For a Point of Beginning COMMENCE at the Southeast corner of Government Lot 7 of said Section 9; thence North 90 degrees 00 minutes 00 seconds West, along the South line of said Government Lot 7, a distance of 358.30 feet; thence North 22 degrees 12 11 11 minutes 21 30 seconds West, a distance of 1089.40 feet; thence North 18 degrees 18 minutes 00 seconds West, a distance of 636.50 feet; thence North 00 degrees 20 minutes 30 seconds West, a distance of 905.50 feet; thence North 89 degrees 39 minutes 30 seconds East, a distance of 200.00 feet; thence South 01 degrees 51 minutes 38 seconds East, a distance of 560.00 feet; thence North 89 degrees 48 minutes 23 seconds East, a distance of 3304.00 feet; thence North 01 degrees 49 minutes 44 seconds East, a distance of 660.49 feet; to the South line of Government Lot 2 of said Section 9; thence North 89 degrees 39 minutes 30 seconds East, along the South line of said Government Lot 2, a distance of 87.50 feet; thence South 00 degrees 29 minutes 46 seconds East, a distance of 365.00 feet; thence North 89 degrees 39 minutes 30 seconds East, a distance of 716.00 feet; thence North 00 degrees 29 minutes 46 seconds West, a distance of 365.00 feet to the South line of Government Lot 3 of said Section 9; thence North 89 degrees 39 minutes 30 seconds East, along the South line of said Government Lot 3, a distance of 60.00 feet to the West line of those lands described and recorded in Official Records Volume 724, page 721, of the public records of said County; thence South 00 degrees 29 minutes 46 seconds East, along said West line, a distance of 673.85 feet to the South line of those lands described and recorded in Official Records Volume 730, pages 248 and 249, of the public records of said County; thence North 89 degrees 39 minutes 30 seconds East, along last said South line, a distance of 970.77 feet; thence South 00 degrees 34 minutes 00 seconds East, a distance of 1459.11 feet to the Northeast corner of those lands described and recorded in Official Records Volume 728, page 914 as Parcel 1; thence North 90 degrees 00 minutes 00 seconds West, along the North line of last said lands, a distance of 500.1 feet; thence South 00 degrees 41 minutes 06 seconds East, along the West line of last said lands, a distance of 500.04 feet; thence North 90 degrees 00 minutes 00 seconds West along an Easement of the South line of said Government Lot 7, a distance of 918.30 feet to the POINT OF BEGINNING. Subject to easements as described and recorded in Official Records Volume 728, page 914 and Official Records Volume 730, pages 248 and 249, of the public records of St. Johns County, Florida.

EXIDBIT B-1

Fuel Price and Minimum Fuel Quantities

Section A. Fuel Quantities

1. During the Contract Years 1 through 15 (the "Base Period"), the County shall procure its Fuel Requirements from Nopetro and purchase or pay for the following minimum quantities of Fuel (the "Minimum Annual Volume"):

<u>YEAR</u>	MINIMUM ANNUAL VOLUME in (GGEs)
1	100,000
2	175,000 <u>125,000</u>
3	175,000 <u>150,000</u>
4	175,000
5	175,000
6	175,000
7	175,000
8	175,000
9	175,000
10	175,000
11	175,000
12	175,000
13	175,000
14	175,000
15	175,000

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During Contract Years 16-25, and in any renewal period, the County shall procure its Fuel Requirements from Nopetro but shall have no obligation to purchase or pay for any minimum quantities of Fuel.

2. The Minimum Annual Volume requirement for Contract Year 1 shall be pro-rated for 2 months following the Commercial Operations Date to allow the County to complete its transition to Fuel usage. The County shall pay for any Fuel purchased during this 2-month transition period as provided in Section B.1 of this Exhibit.

Exhibit B-1

3. If in any year, the County does not meet its minimum commitment of GGEs, Nopetro will provide the County with a Nopetro Fuel Credit for the difference between GGEs actually used and the minimum GGE requirement for that year. This credit may be used to following year to offset the Compression Fee as the County would only be responsible for the cost of the natural gas.

EXAMPLE: If the County only consumes 150,000 GGEs in Contract Year 5, it will pay the total amount due for the 175,000 GGEs, but it will obtain a Nopetro Fuel Credit equal to \$1.17 multiplied by the 25,000 GGE shortfall. Then, in Contract Year 6, assuming the County consumes 200,000 GGEs, it would pay full price for the 175,000 GGEs, yet as a result of the Nopetro Fuel Credit, only pay the Delivered Cost of Natural Gas on the remaining 25,000 GGE.

Section B.1 Fuel Price per GGE

1. The unit price to be paid by the County to Nopetro for Fuel shall be stated in terms of price per GGE for the applicable number of GGE units. The Fuel Price per GGE shall be computed as the sum of:

- a. Delivered Cost of Natural Gas;
- b. Excise Tax per GGE;
- c. Compression Fee per GGE.

2. If in any year the County chooses in its sole discretion to pre-pay part or all of that year's fixed cost for the expected GGEs to be consumed, Nopetro will further reduce that year's fixed cost per GGE by 5%. The County may, at its unilateral option, prepay more than one year's fixed costs in advance and receive additional 5% discounts for each such additional future year's fixed costs prepaid.

EXAMPLE: If the County chooses to prepay Fiscal Year 14/15's fixed costs, the County's fixed cost per GGE would decline from \$1.17 per GGE to \$1.11 per GGE.

3. The County may, at its option, fix the natural gas price of the Delivered Cost of Natural Gas required to fuel the County Fleet for a period of up to 5 years by providing notice of its election to Nopetro whereupon Nopetro shall deliver to the County a written proposal setting forth the costs and price of the Delivered Cost of Natural Gas during the election period.

Commented [J1]: The County, through contract negotiations with the local waste haulers has increased the number of waste hauler trucks. The additional trucks fuel usage shall be added to the total consumption from the County for years 2 and 3. If with the additional usage, the total consumption does not meet the 175,000 GGE minimum annual volume, then the Nopetro Fuel Credit clause will take effect.

EXHIBIT B-2

Fuel Price and Minimum Fuel Quantities Defined Terms

THE INFORMATION CONTAINED IN THIS EXHIBIT B-2 IS A TRADE SECRET AS DEFINED IN 812.081(1)(C) OF THE FLORIDA STATUTES AND SHALL BE TREATED AS CONFIDENTIAL INFORMATION UNDER THIS AGREEMENT AND THE LEASE AND DEVELOPMENT AGREEMENT. ACCORDINGLY, THE INFORMATION CONTAINED IN EXHIBIT B-2 OF THIS AGREEMENT IS SPECIFICALLY EXEMPT FROM THE DISCLOSURE REQUIREMENTS OF CHAPTER 119 OF THE FLORIDA STATUTES AS SET FORTH IN SECTION 815.045 OF THE FLORIDA STATUTES

"Base Period" means the period from the Commercial Operations Date through the fifteenth (15) anniversary thereof during which the County shall purchase or pay for the Minimum Annual Volume set forth in Section A.1 of Exhibit B-1.

"BTU" means British Thermal Unit.

"Compression Fee per GGE" means Nopetro's fee for the compression of the Fuel, expressed per GGE, which shall be charged as follows:

Gasoline Gallon Equivalent (GGE) Per Week	Compression Fee per GGE
0-6,250	\$1.17
6,251 - 15,000	\$1.03
15,001 - 36,250	\$0.85
More than 36,251	\$0.77

Once the next tier is reached, the Compression Fee per GGE shall be applied at the entire GGE purchased during that week

The total GGE Per Week shall be calculated using the total GGE consumption at the Station during the applicable week, not solely the County's consumption.

EXAMPLE: If the 30,000 GGE of Fuel are purchased in a week, the compression fee will be \$0.85 for all Fuel purchased by the County during that week.

The Compression Fee per GGE charges as set forth above shall be increased annually in amount equal to the CPI, with the first CPI adjustment occurring on the first anniversary of the initial fueling date measured from the month of initial fueling to the month of such annual Compression Fee adjustment.

"CPI" means the Consumer Price Index for All Urban Consumers (CPI-U), All Items, as published by the United States Bureau of Labor Statistics on a monthly basis, and changes to CPI shall be based on the difference from the first day of a Contract Year to the first day of the next Contract Year.

"Delivered Cost of Natural Gas" or "DCNG" means the actual cost to deliver natural gas to the Station. More specifically, DCNG consists of the following: the quoted cost of natural gas as traded on the New York Mercantile Exchange (NYMEX) for the applicable month, plus all interstate pipeline transportation and local utility pipeline transportation costs (basis, fuel, Station fuel leakage, reservation and demand costs, fees and taxes) to deliver natural gas to the Station/8.0.¹

"Excise Tax per GGE" means Nopetro's actual excise tax liability (including any and all applicable federal, state or local taxes levied upon CNG sales) stated on a per GGE basis.

"GGE" means gasoline gallon equivalent, a unit of volume defined as one (1) GGE equals 125,000 BTUs.

Nopetro shall guarantee that the County receives same or lower Fuel price as compared to other customers at the Station.

¹Natural gas trades on the NYMEX per million BTU. BTU is the actual amount of energy content in a given energy source. There are 125,000 BTUs in a gallon of gasoline. Accordingly, to calculate how many GGEs are in a million BTUs, 1,000,000 must be divided by 125,000 (equaling 8).

EXHIBIT C

Notices

All notices under this Agreement shall be sent to the other Party at the address set forth below. A Party may change its addressee/address for notices by notice to the other Party in accordance with Section 13.5.

To the County:

ST. JOHNS COUNTY, FLORIDA

500 San Sebastian View
St. Augustine, Florida 32084
Attn: County Administrator

To Nopetro:

NOPETRO-ST. JOHNS COUNTY, LLC

2625 Ponce de Leon Boulevard
Coral Gables, Florida 33134
Attn: President and Chief Operating Officer

EXHIBIT D

Insurance

- A. NoPetro shall not commence performance of this Agreement until all insurance required under this section has been obtained and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida, and all coverages shall be maintained for the duration of this Agreement. Prior to commencement, NoPetro shall furnish proof of insurance to the County.
- B. Each insurance certificate shall clearly indicate that NoPetro has obtained insurance of the type, amount, and classification as required by this Agreement, and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the COUNTY.
- C. Insurance certificates shall specifically include the County as an additional insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. A brief description of operations referencing the Bid Number, Agreement Title, Location, and/or Agreement/Resolution Number (as applicable) shall also be listed as a description on the insurance certificate.
- D. For the duration of this Agreement, NoPetro shall secure and maintain insurance in the amounts and types listed below:
 - 1. Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate to protect NoPetro from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Agreement, whether such operations be by NoPetro or by anyone directly employed by or contracting with NoPetro.
 - ii. Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000.
 - iii. Comprehensive Automobile Liability Insurance with minimum limits of \$2,000,000 combined single limit for bodily injury and property damage liability to protect NoPetro from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including

rented/hired automobiles whether such operations be by NoPetro or by anyone directly or indirectly employed by NoPetro.

- iv. Excess Liability Insurance coverage with minimum limits of liability of \$10,000,000.
- v. Workers' Compensation Insurance and disability benefits liability insurance in at least such amounts as are required by Florida law, covering all NoPetro employees at the Station.
- vi. Personal and Advertising Injury with limits of not less than \$1,000,000.
- vii. All risk physical damage insurance covering loss, damage or destruction of the Station (including Equipment) in an amount equal to the full replacement value of the Station, with coverage adjusted each year to reflect the then-current replacement value. Such insurance shall include coverage for cost of demolition and changes in applicable building codes.
- viii. Pollution Legal Liability (PLL), with minimum limits of \$2,000,000 per loss, \$2,000,000 annual aggregate for transporters of waste, \$2,000,000 per loss, \$4,000,000 annual aggregate for disposal at non-hazardous treatment, storage and disposal facilities (TSDFs), \$4,000,000 per loss, \$8,000,000 annual aggregate for disposal at hazardous treatment, storage and disposal facilities (TSDFs); for bodily injury, sickness, disease, mental anguish or shock sustained by any person including death; property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed; defense costs including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.

For losses that arise during the transportation of waste materials and from the insured facility that is accepting the waste under this contract.

Coverage shall apply to sudden and non-sudden pollution conditions including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants in to or upon land, the atmosphere or any watercourse or body of water, which results in bodily injury or property damage.

- E. Compliance with the foregoing requirements shall not relieve NoPetro of its liability and obligations under this Agreement.

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- F. Failure by NoPetro to secure and maintain insurance as described in this section shall constitute an Event of Default.

RESOLUTION NO: 2014- ;{ } }

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE A CNG VEIDCLE FUEL PURCHASE AGREEMENT WITH NOPETRO-ST. JOHNS COUNTY,LLC.

RECITALS

WHEREAS, the County desires, through a public-private partnership with Nopetro-St. Johns County, LLC (Nopetro), to promote the development, construction and operation of a compressed natural gas (CNG) fueling station on premises owned by the County to fuel vehicles owned, leased, or operated by the County and third parties, and thereby promote the use of CNG and reduce the consumption of gasoline and diesel fuel;

WHEREAS, Nopetro was selected by the County in connection with an unsolicited proposal submitted pursuant to Section 287.05712, Florida Statutes to develop, finance, construct, operate, and maintain a CNG fueling station on premises owned by the County and to sell CNG to the County for use in vehicles owned, leased, or operated by the County and to third parties for use in vehicles operated by third parties;

WHEREAS, the County desires to purchase from Nopetro, and Nopetro desires to sell to the County, all of the County's requirements for CNG, in order to fuel vehicles owned, leased, or operated by the County in furtherance of the efficient, cost-effective, and reliable performance of its governmental purpose and essential functions; and

WHEREAS, entering into an agreement with Nopetro for the purchase of CNG will serve a public purpose.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The County Administrator, or his designee, is hereby authorized to execute an agreement in substantially the same form as the attached CNG Vehicle Fuel Purchase Agreement with Nopetro for the purchase of CNG for use in vehicles owned, leased, or operated by the County.

Section 3. To the extent that there are typographical or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County,
Florida, this day of November, 2014.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: *John H. Morris*
John H. Morris, Chair

ATTEST: Cheryl Strickland, Clerk
By: *Ben Halter*
Deputy Clerk

RENDITION DATE 11/18/14

