

A SUBSTITUTE RESOLUTION BY FINANCE/EXECUTIVE COMMITTEE AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE LEASE AGREEMENTS WITH NEW GENERATION POWER, INC., FOR CERTAIN CITY-OWNED PROPERTIES TO ALLOW NEW GENERATION POWER, INC., TO INSTALL, OPERATE, AND MAINTAIN SOLAR PANELS FOR THE GENERATION OF RENEWABLE ENERGY; ALL REVENUE FROM SAID LEASES SHALL BE DEPOSITED INTO THE ACCOUNTS SET FORTH HEREIN; AND FOR OTHER PURPOSES.

(REFERRED BACK BY COUNCIL 5/19/14)

Workflow List:

Denise Quarles	Completed	03/14/2014 12:16 PM
Patrick McShane	Completed	03/14/2014 2:28 PM
Finance	Completed	03/14/2014 2:57 PM
Information Technology	Skipped	03/14/2014 8:29 AM
Procurement	Completed	03/14/2014 4:17 PM
Adam Smith	Completed	03/14/2014 4:40 PM
Mayor's Office	Completed	03/14/2014 5:12 PM
Office of Research and Policy Analysis	Completed	03/18/2014 2:32 PM
Finance/Executive Committee	Completed	03/27/2014 12:22 PM
Atlanta City Council	Completed	05/05/2014 6:24 PM
Atlanta City Council	Pending	
Finance/Executive Committee	Pending	
Mayor's Office	Pending	

HISTORY:

03/26/14 Finance/Executive Committee FAVORABLE ON SUBSTITUTE

RESULT:	FAVORABLE ON SUBSTITUTE [6 TO 0]
AYES:	Wan, Shook, Adrean, Archibong, Moore, Smith
AWAY:	Clarence "C. T." Martin

04/21/14 Atlanta City Council TABLED Next:

05/05/14

RESULT:	TABLED [13 TO 0]	Next: 5/5/2014 1:00 PM
AYES:	Bond, Norwood, Dickens, Smith, Hall, Young Jr., Archibong, Wan, Adrean, Moore, Martin, Bottoms, Sheperd	
AWAY:	Cleta Winslow, Howard Shook	

05/05/14 Atlanta City Council TABLED Next:

05/19/14

RESULT: TABLED [UNANIMOUS] **Next: 5/19/2014 1:00 PM**
AYES: Bond, Norwood, Dickens, Smith, Hall, Young Jr., Winslow, Archibong, Wan, Shook, Adrean, Moore, Martin, Sheperd
ABSENT: Keisha Lance Bottoms

05/19/14 Atlanta City Council REFERRED TO COMMITTEE

RESULT: REFERRED TO COMMITTEE [10 TO 0] **Next: 5/28/2014 1:00 PM**
AYES: Norwood, Dickens, Smith, Hall, Archibong, Shook, Adrean, Moore, Martin, Sheperd
ABSENT: Michael Julian Bond, Ivory Lee Young Jr., Cleta Winslow, Alex Wan
AWAY: Keisha Lance Bottoms

RESULT: REFERRED TO COMMITTEE [10 TO 0] **Next: 5/28/2014 1:00 PM**
AYES: Norwood, Dickens, Smith, Hall, Archibong, Shook, Adrean, Moore, Martin, Sheperd
ABSENT: Michael Julian Bond, Ivory Lee Young Jr., Cleta Winslow, Alex Wan
AWAY: Keisha Lance Bottoms

Certified by Presiding Officer	Certified by Clerk
Mayor's Action <i>See Authentication Page Attachment</i>	

A SUBSTITUTE RESOLUTION BY FINANCE/EXECUTIVE COMMITTEE AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE LEASE AGREEMENTS WITH NEW GENERATION POWER, INC., FOR CERTAIN CITY-OWNED PROPERTIES TO ALLOW NEW GENERATION POWER, INC., TO INSTALL, OPERATE, AND MAINTAIN SOLAR PANELS FOR THE GENERATION OF RENEWABLE ENERGY; ALL REVENUE FROM SAID LEASES SHALL BE DEPOSITED INTO THE ACCOUNTS SET FORTH HEREIN; AND FOR OTHER PURPOSES. (REFERRED BACK BY COUNCIL 5/19/14)

WHEREAS, the City of Atlanta (“City”) owns and operates certain properties located within the city, commonly known as the Cascade Road Landfill at 4047 Cascade Road, the Key Road Landfill at 1500 Key Road, the Gun Club Road Landfill at 1401 Gun Club Road, and the Hartsfield-Jackson Atlanta International Airport (“Airport”), which includes the terminal as well as surrounding special security area, such which includes Airport Parcel I and Airport Parcel II, being more particularly described on Exhibit “A,” which is attached hereto and incorporated herein (together, the “Proposed Leased Areas”); and

WHEREAS, the City is committed to increasing and improving the City’s “green” programs, thereby improving air quality, helping distribute the generation of renewable energy, increasing the reliability of the energy grid, and creating an opportunity for local business development in the City; and

WHEREAS, the Commissioner of the Department of Public Works recognizes the benefit of leasing the landfill properties of the Proposed Leased Areas, all of which are closed landfills, for the purpose of allowing the installation, operation and maintenance of solar panels thereon for the generation of renewable energy. The landfills do not accept deposits of waste and it is not necessary for the City to keep the surfaces of the landfills in their current undeveloped conditions in order for the City to fulfill its continuing obligations to maintain the landfills in accordance with its permits and all other applicable laws; and

WHEREAS, the Aviation General Manager recognizes the benefit of leasing Airport Parcel I and Airport Parcel II of the Proposed Leased Areas, both of which are undeveloped spaces, for the purpose of allowing the installation, operation and maintenance of solar panels thereon for the generation of renewable energy; and

WHEREAS, the City has identified the Proposed Leased Areas as suitable locations to construct solar panels and to harvest solar energy and, as a whole, increase renewable energy generation and economic development; and

WHEREAS, the City advertised for FC-7272, Land Lease for Solar Generating Projects, on behalf of the Department of Public Works and the Department of Aviation, in accordance with the City Code of Ordinances; and

WHEREAS, the Chief Procurement Officer recommends that FC-7272, Land Lease for Solar Generating Projects, be awarded to New Generation Power, Inc., the most responsible and responsive offeror, for the Proposed Leased Areas, for an annual lease price to be negotiated upon acceptance into Georgia Power's Advance Solar Initiative program.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Mayor, or his authorized designee, is authorized to negotiate and enter into lease agreements with New Generation Power, Inc., for the purpose of leasing the Proposed Lease Areas to install, operate, and maintain solar panels for the generation of renewable energy, said leases to be substantially similar to the leases attached hereto as Exhibit "B" (the "Proposed Leases").

BE IT FURTHER RESOLVED, that the term of the lease will be for twenty (20) years with one (1) five (5) year renewal option to be exercised at the City's sole discretion.

BE IT FURTHER RESOLVED, that under the terms of the Proposed Leases, New Generation Power, Inc., will assume all costs and expenses of designing, installing, maintaining, operating, and replacing the solar photovoltaic panels for the farming of solar electricity at the Proposed Leased Areas for the duration of the leases.

BE IT FURTHER RESOLVED, that the Chief Procurement Officer, in consultation with the City Attorney, is directed to prepare all appropriate documents for execution by the Mayor, or his authorized designee.

BE IT FURTHER RESOLVED, that the leases shall not become binding on the City and the City will incur no obligation or liability under it until it has been approved as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk and delivered to New Generation Power, Inc.

BE IT FINALLY RESOLVED, that all revenue generated from the leases of the Proposed Lease Area shall be deposited into the following Account:

For closed landfills of the Proposed Leased Areas:

5401 (Solid Waste Services Revenue Fund) 000002 (Revenue Department) 3442707 (Miscellaneous Other Revenue) (5401.000002.3442707)

For Airport parcels of the Proposed Leased Areas:

5501 (Operating Revenue Fund) 180108 (Finance & Accounting) 3810001 (Land Rentals - General) 7563000 (Aviation) (5501.180108.3810001.7563000).

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: CANDACE L. BYRD

Dept.'s Legislative Liaison: Denise Quarles

Contact Number: 404-865-8717

Originating Department: EXE - Sustainability

Committee(s) of Purview: Finance / Executive

Chief of Staff Deadline: 03/07/2014

Anticipated Committee Meeting Date(s): 03/26/2014

Anticipated Full Council Date: 04/21/2014

Legislative Counsel's Signature: [Signature]

Commissioner's Signature: [Signature]

Chief Financial Officer: [Signature]

Chief Information Officer Signature (for IT Procurements): N/A

Chief Procurement Officer Signature: [Signature]

CAPTION

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE A LEASE AGREEMENT WITH [SUCCESSFUL PROPONENT] FOR CERTAIN CITY-OWNED PROPERTIES TO ALLOW [SUCCESSFUL PROPONENT] TO INSTALL, OPERATE AND MAINTAIN SOLAR PANELS FOR THE GENERATION OF RENEWABLE ENERGY; ALL REVENUE FROM SAID LEASE SHALL BE DEPOSITED INTO THE ACCOUNTS SET FORTH HEREIN; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT: (if any)

Mayor's Staff Only

Received by CPO: _____ (date)

Received by LC from CPO: _____ (date)

Received by Mayor's Office: Janice Osei 3/14/14 (date)

Reviewed by: [Signature] (date)

Submitted to Council: _____ (date)

Attachment: Transmittal Form (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

**A RESOLUTION
BY FINANCE/EXECUTIVE COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE A LEASE AGREEMENT WITH [SUCCESSFUL PROPONENT] FOR CERTAIN CITY-OWNED PROPERTIES TO ALLOW [SUCCESSFUL PROPONENT] TO INSTALL, OPERATE AND MAINTAIN SOLAR PANELS FOR THE GENERATION OF RENEWABLE ENERGY; ALL REVENUE FROM SAID LEASE SHALL BE DEPOSITED INTO THE ACCOUNTS SET FORTH HEREIN; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) owns certain properties located within the City, commonly known as the Cascade Road Landfill, the Key Road Landfill, and the Gun Club Road Landfill, being more particularly described on Exhibit “A,” which is attached hereto and incorporated herein (“Proposed Leased Areas”); and

WHEREAS, by leasing the Proposed Leased Areas, the City can generate a stream of revenue, reduce greenhouse gas emissions, improve air quality, help distribute the generation of renewable energy, increase the reliability of the energy grid, and create an opportunity for local business development in the City; and

WHEREAS, Section 2-1547(a)(1) of the City Code of Ordinances allows the City to lease City-owned property if the sale of the property is not in the best interest of the City and the property is not currently being used by the City; and

WHEREAS, the physical condition of the Proposed Leased Areas is such that the return on any sale of the Proposed Leased Areas is likely to be minimal, particularly relative to the benefits that are expected to accrue to the Proposed Lease Areas and to the City as a whole as a result of the increase of renewable energy generation and economic development; and

WHEREAS, the Proposed Leased Areas are closed landfills that no longer accept deposits of waste and it is not necessary for the City to keep the surface of the Proposed Leased Areas in their current undeveloped conditions in order for the City to fulfill its continuing obligations to maintain the Proposed Leased Areas in accordance with its landfill permits and all other applicable laws; and

WHEREAS, the Commissioner of the Department of Public Works recognizes the benefit of leasing underused City-owned properties for the purpose of allowing the installation, operation and maintenance of solar panels thereon for the generation of renewable energy; and

WHEREAS, the City has identified the Proposed Leased Areas as suitable locations to construct solar panels and to harvest solar energy because these are underused un-shaded areas; and

WHEREAS, the City advertised for FC-7272, Land Lease for Solar Generating Projects, on behalf of the Department of Public Works, in accordance with Section 2-1547(f) of the City Code of Ordinances; and

WHEREAS, the Commissioner of the Department of Public Works and the Chief Procurement Officer recommend that FC-7272, Land Lease for Solar Generating Projects, be awarded to [SUCCESSFUL PROPONENT], the most responsible and responsive offeror, for the lease price of \$##### (\$ _____) per year.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES, that the Mayor, or his authorized designee, is authorized to negotiate and enter into a lease agreement with [SUCCESSFUL PROPONENT] for the purpose of leasing the Proposed Lease Areas to install, operate and maintain solar panels for the generation of renewable energy, said lease to be substantially similar to the lease attached hereto as Exhibit "B" (the "Proposed Lease");

BE IT FURTHER RESOLVED, that the term of the lease will be for twenty (20) years with one (1) five (5) year renewal option to be exercised at the City's sole discretion;

BE IT FURTHER RESOLVED, that under the terms of the Proposed Lease, [SUCCESSFUL PROPONENT] will cover all costs and expenses of designing, installing, maintaining, operating, and replacing the solar photovoltaic panels for the farming of solar electricity at the Proposed Leased Areas for the duration of the lease;

BE IT FURTHER RESOLVED, that the Chief Procurement Officer, in consultation with the City Attorney, is directed to prepare all appropriate documents for execution by the Mayor, or his authorized designee;

BE IT FURTHER RESOLVED, that the lease will not become binding on the City and the City will incur no obligation or liability under it until it has been approved as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk and delivered to [SUCCESSFUL PROPONENT];

BE IT FURTHER RESOLVED, that all revenue generated from the lease of the Proposed Lease Area shall be deposited into the following Account: 5401 (Solid Waste Services Revenue Fund) 000002 (Revenue Department) 3442707 (Miscellaneous Other Revenue) (5401.000002.3442707); and

BE IT FINALLY RESOLVED, all resolutions and parts of resolutions that are in conflict with the provisions of this resolution are waived to the extent of the conflict.

Attachment: Proposed Legislation, Exhibits A and B (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

EXHIBIT A

GUN CLUB ROAD LANDFILL

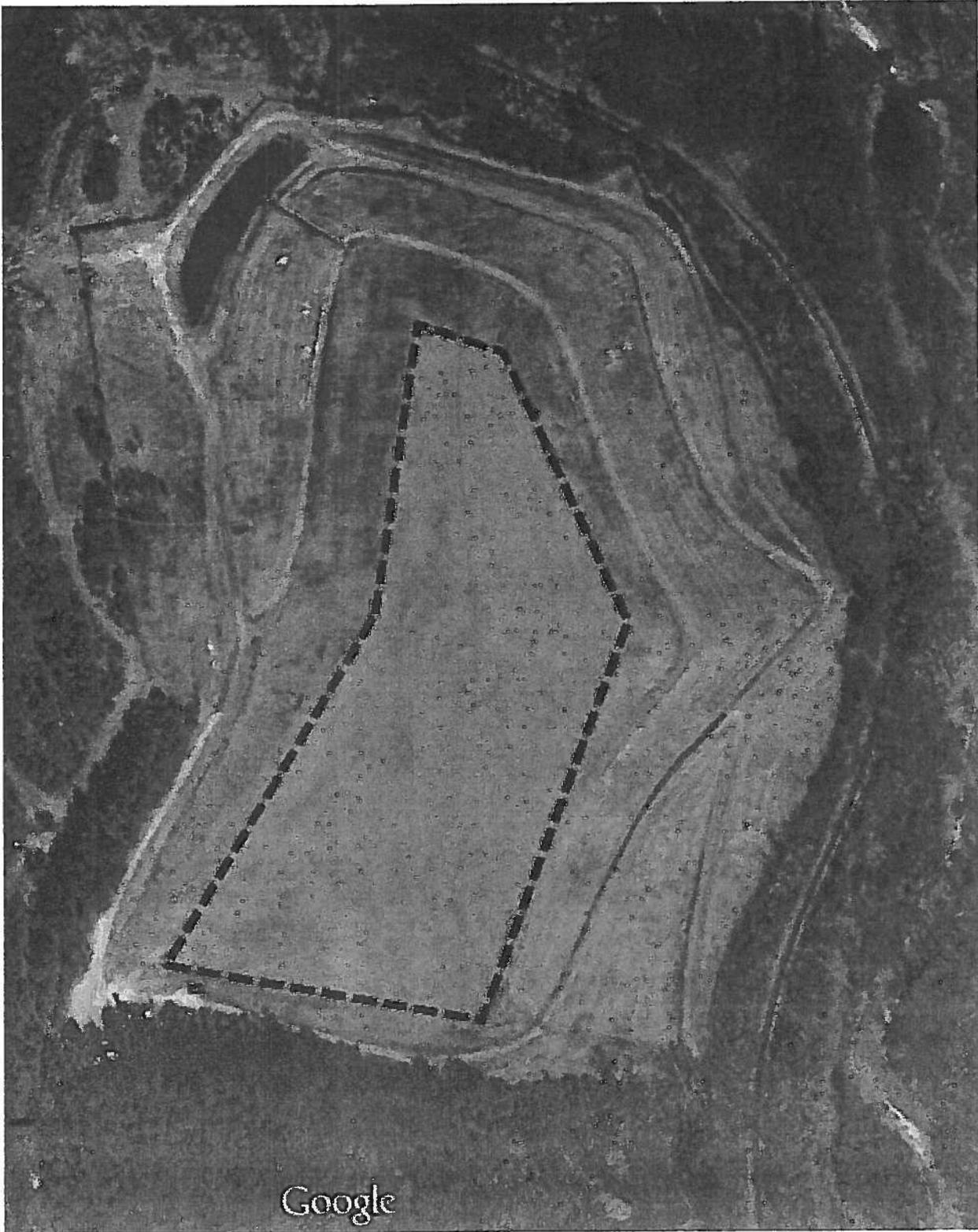
Address: 1401 Gun Club Road Atlanta, GA 30018



Attachment: Proposed Legislation, Exhibits A and B (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

CASCADE ROAD LANDFILL

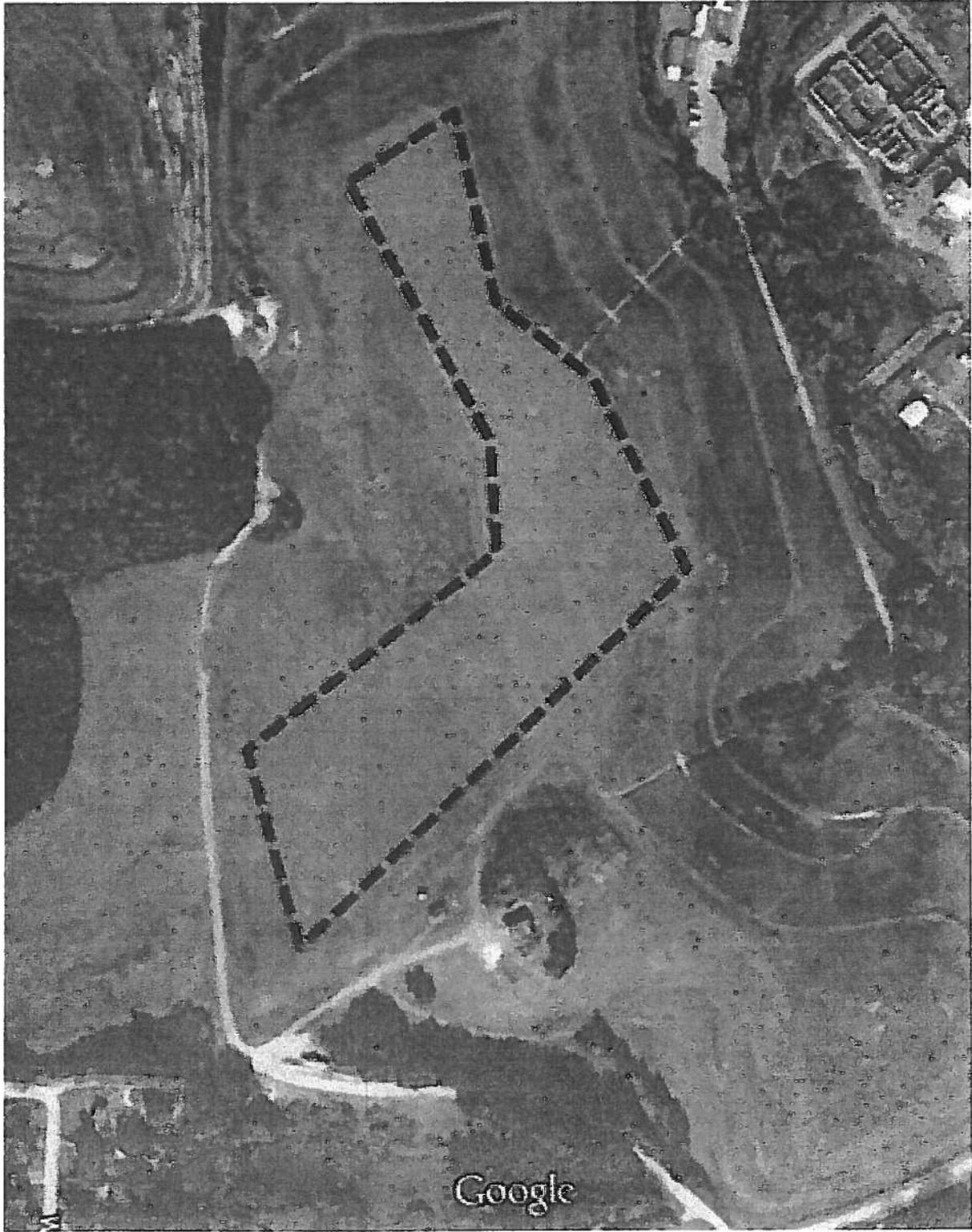
Address: 4047 Cascade Road, GA 30331



Attachment: Proposed Legislation, Exhibits A and B (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

KEY ROAD LANDFILL

Address: 1500 Key Road, Atlanta, GA 30316



Attachment: Proposed Legislation, Exhibits A and B (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY))

EXHIBIT B

DRAFT for LANDFILLS

LEASE AGREEMENT FOR A CITY OF ATLANTA LANDFILL PROPERTY

THIS LEASE AGREEMENT ("Lease") is made and entered into this ____ day of _____, 2014 ("Effective Date"), by and between the CITY OF ATLANTA, a political subdivision of the State of Georgia ("Atlanta" or "Lessor") and _____ ("_____" or "Lessee"), collectively Lessee and Lessor are referred to as the "Parties."

BACKGROUND

Atlanta owns certain property located in LL _____ of the ____ District of Fulton County, Georgia, having a tax identification number in Fulton County of _____ ("Property"). The Property is used to operate and maintain a landfill, known as the "_____" Atlanta desires to lease the Property to _____ for the purpose of installing solar panels for the generation of electricity to sell to the Georgia Power Company in accordance with the terms and conditions described below.

NOW THEREFORE in consideration of the mutual covenants contained herein as well as other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Authority.** Lessor and Lessee have the authority to enter into and perform the terms and conditions of this Lease pursuant to the legislative authority granted by the governing body of the Lessor and Lessee, which legislative authority of Lessor is attached as **Exhibit A**.
2. **Term.** The term of this Lease shall be for twenty (20) years commencing on the Effective Date of this Lease, subject to the termination provision contained in Section 10, below. At the end of such term, Lessor and Lessee may agree to renew the Lease for an additional five (5) year term.
3. **Rent.** Lessee shall pay Lessor a fee of _____ (\$_____) annually for the use of the Property payable in equal monthly installments of _____ (\$_____).
4. **Use of Property.**

4.1 Lessor hereby grants Lessee the right to use the Property in accordance with the terms and conditions of this Agreement. Lessee shall maintain the Property in its current state and maintain the integrity of the landfill cap under and around the solar panels. All uses of the Property shall not compromise the integrity of the land on which the solar panels are built. Lessor reserves the right to require Lessee to remove any portion of the solar panels that may interfere with Lessor's intended use of the Property.

4.2 Lessee shall comply with a minimum capacity of 800 kW on the Property and shall submit a monthly operational report, the format and content to be approved by the City, in soft copy. Lessor may audit the operational report, subject to the provisions contained in Section 6, and may ask the Lessee to submit the operational report in hard copy at its discretion.

4.3 No improvements, other than the solar panels, shall be permitted on the Property without the express written consent of Lessor, provided that Lessee may be permitted to repair and/or improve the solar panels to a safe and workable condition, free and clear of any defects. Lessee shall be solely

DRAFT for LANDFILLS

LEASE AGREEMENT FOR A CITY OF ATLANTA LANDFILL PROPERTY

responsible for the maintenance and security of such solar panels and shall remove such solar panels upon the termination of this Lease.

4.4 Use of Property shall not include any land disturbing activities, using mechanized or other equipment that would require a land disturbance permit. All activity by Lessee on the Property shall be consistent with and shall not interfere with Lessor's intended use of the Property.

4.5 Lessor expressly reserves all rights and interests to its ownership of the Property and superior use of the Property for its intended use and in no way relinquishes such interest by way of this Lease. Lessee expressly acknowledges that the permissions granted in this Lease are expressly conditioned and subject to Lessor's interest and uses of the Property.

4.6 Lessee shall comply with all applicable state, local and federal laws, regulations, policies and procedures in its use of the Property. Lessee is responsible for obtaining all necessary permits, inspections and documentation for installation, operation, and maintenance.

4.7 Lessee shall be responsible for all expenses for the design, installation, maintenance, and replacement of solar panels for the farming of solar electricity, according to this Lease. Lessee is responsible for delivering, assembling, installing, operating and maintaining the solar panels on the Property in accordance with Lessee's Operations and Maintenance plan, which is attached hereto and incorporated herein as **Exhibit B**.

4.8 Under no circumstances shall Lessee knowingly permit illegal activity to occur in conjunction with the use of the Property.

5. **Employees.** Any personnel employed by, volunteering on behalf of, or contracted with by Lessee shall be deemed "employees," "volunteers" or independent contractors respectively of Lessee, and shall not be deemed employees or volunteers of Lessor.

6. **Records, Audit and Inspection.** Lessee shall maintain records and accounts in direct connection with the performance of this Lease for a period of three (3) years from the expiration or termination of this Lease. Lessor and its designated agents and representatives shall have the right to examine and copy such records and accounts at all reasonable times, with advance notification, and such right shall survive for up to three (3) years following the expiration or termination of this Lease. Lessor further shall have the right to access and inspect the Property at any time and without notice for the purpose of ensuring compliance with this Lease.

7. **Benefits to the Parties.** Lessor acknowledges and the Parties agree that the use of the Property, as contemplated by this Lease, will substantially benefit Lessor through Lessee's use of the Property to generate electricity from a renewable resource thereby reducing greenhouse gas emissions and improving air quality.

8. **As-is.** Lessor shall tender the Property for Lessee's use in an "as-is" condition. Lessor shall not be responsible for any improvements to the Property that Lessee may deem necessary for Lessee's use of the Property.

9. **Insurance, Bonding and Indemnification.**

DRAFT for LANDFILLS

LEASE AGREEMENT FOR A CITY OF ATLANTA LANDFILL PROPERTY

9.1 Lessee shall provide the insurance and bonding deemed necessary by Lessor's Office of Enterprise Risk Management as further described in the Insurance and Bonding Requirements attached hereto and incorporated herein as **Exhibit C**;

9.2 Lessee shall agree to defend, indemnify and hold harmless Lessor, its agents, successors and assigns from and against any and all demands, claims, payments, obligations, actions or causes of action, losses, damages, penalties, fines, liabilities, costs and expenses, including without limitation, all claims, loss and damage arising from any property damage, injury or claim of injury to, or death of, any person arising from the use of the Property. In addition, Lessee agrees to obtain the same indemnification from any independent contractors operating the Property on its behalf in favor of Lessor.

10. Termination. This Lease shall terminate in the event any material breach of this Lease is not cured by Lessee within thirty (30) days following receipt of notice from Lessor of such breach. Lessor may terminate this Lease for convenience upon providing Lessee with ninety (90) days written notice to Lessee upon Lessor's determination that Lessor has a need to utilize the Property for its intended purpose which, in Lessor's sole determination and discretion, would require Lessee to discontinue its use. Upon such determination that the uses and permissions granted herein are inconsistent with Lessor's uses of the Property, and after Lessor provides notice to Lessee, Lessee shall cease all use of the Property, vacate the Property and remove all facilities, equipment and belongings of Lessee from the Property. At such time, Lessee shall leave the Property in as good condition as existed at the time it assumed use of the Property. Lessor may terminate the Lease immediately upon discovery of any activity on the Property that poses a direct and imminent threat to the health, safety, general welfare of Lessor's citizens or the security and critical operations of the Property. Lessee may terminate this Lease for convenience upon providing Lessor with ninety (90) days written notice.

11. Notices. All notices, requests, demands or other communications required or permitted to be given hereunder shall be in writing and shall be addressed and delivered by hand or by certified mail, return receipt requested, or by UPS Next Day Air Note or overnight courier, or by hand delivery by reputable courier, to each Party at the addresses set forth below. Any such notice, request, demand or other communication shall be considered given or delivered, as the case may be, on the date of receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice, request, demand or other communication. By giving prior written notice thereof, any Party may from time to time and at any time change its address for notices hereunder. Legal counsel for the respective Parties may send to the other Parties any notices, requests, demands or other communications required or permitted to be given hereunder by such Party.

In the case of Lessor to:

City of Atlanta
55 Trinity Avenue, Suite 5400
Atlanta, Georgia 30303
Attn: Commissioner

And

City Attorney
68 Mitchell St., Suite 4100
Atlanta, Georgia 30303

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LEASE AGREEMENT
FOR A CITY OF ATLANTA
LANDFILL PROPERTY

In the case of the Lessee to:

12. Miscellaneous Provisions.

ENTIRE AGREEMENT

This Lease supersedes all prior discussions and agreements among the Parties with respect to the subject matter hereof. This Lease shall not be modified or amended in any respect except by written instrument executed by or on behalf of the Parties in the same manner as this Lease is executed and specifically referencing such a modification or amendment.

BINDING EFFECT

This Lease shall inure to the benefit of and be binding upon the Parties hereto, their heirs, successors, executors and assigns.

SEVERABILITY

In the event any provision or portion of this Lease is held by any Court of competent jurisdiction to be invalid or unenforceable, such holding shall not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provisions or portion never been a part hereof.

FURTHER ASSURANCES

On and after the Effective Date, each Party shall at the request of any other, make, execute and deliver or obtain and deliver all such certificates, resolutions and other instruments and documents, and shall do or cause to be done all such other things which any Party may reasonably require to effectuate the provisions and the intentions of this Lease.

CAPTIONS

All captions, headings, paragraphs, subparagraphs, letters and other reference captions are solely for the purpose of facilitating convenient reference to this Lease, shall not supplement, limit or otherwise vary the text of this Lease in any respect, and shall be wholly disregarded when interpreting the meaning of any terms or provisions hereof. All references to particular paragraphs and subparagraphs by number refer to the text of the paragraphs or subparagraphs so numbered in this Lease.

GENDER

Words of any gender used in this Lease shall be held and construed to include any other gender, and words of a singular number shall be held to include the plural, and vice-versa, unless the context requires otherwise.

Attachment: Proposed Legislation, Exhibits A and B (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

DRAFT for LANDFILLS
LEASE AGREEMENT
FOR A CITY OF ATLANTA
LANDFILL PROPERTY

EXHIBITS

Each and every exhibit referred to or otherwise mentioned in this Lease is attached to this Lease and is, and shall be, construed to be made a part of this Lease by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full at length every time it is referred to or otherwise mentioned.

REFERENCES

All references to paragraphs or subparagraphs shall be deemed to refer to the appropriate paragraph or subparagraphs of this Lease. Unless otherwise specified in this Lease, the terms "herein," "hereof," "hereinafter," "hereunder" and other terms of like or similar import shall be deemed to refer to this Lease as a whole, and not to any particular paragraph or subparagraph hereof.

RIGHTS CUMULATIVE

Except as expressly limited by the terms of this Lease, all rights, powers and privileges conferred hereunder shall be cumulative and not restrictive of those provided at law or in equity.

AMENDMENT AND ASSIGNMENT

The interest of the parties may not be assigned without prior written consent from the other party. This Lease shall not be amended except in writing by both parties.

GOVERNING LAW

This Lease, and the rights and obligations of the parties hereunder, shall be governed by and construed in accordance with the laws of the State of Georgia, without giving effect to principles of conflicts of laws thereof. The Parties hereby fix jurisdiction and venue for any action brought with respect to this Lease in Fulton County, Georgia.

NO PARTNERSHIP

This Lease shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, nor to impose any partnership obligations or liabilities on any Party. Furthermore, no Party shall have any right, power or authority to enter into any Lease or undertaking of or on behalf of, to act as or be an agent or representative of, or to otherwise bind any other Party.

TIME OF ESSENCE

Time is and shall be of the essence in this Lease.

WAIVER

DRAFT for LANDFILLS
LEASE AGREEMENT
FOR A CITY OF ATLANTA
LANDFILL PROPERTY

The failure of any Party to seek redress for any violation of, or to insist upon the strict performance of, any term of this Lease will not prevent a subsequent violation of this Lease from being actionable by such Party.

DRAFT

Attachment: Proposed Legislation, Exhibits A and B (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

DRAFT for LANDFILLS
LEASE AGREEMENT
FOR A CITY OF ATLANTA
LANDFILL PROPERTY

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be executed by their duly authorized officials, the day and year first above written.

LESSOR

CITY OF ATLANTA

Mayor

ATTEST:

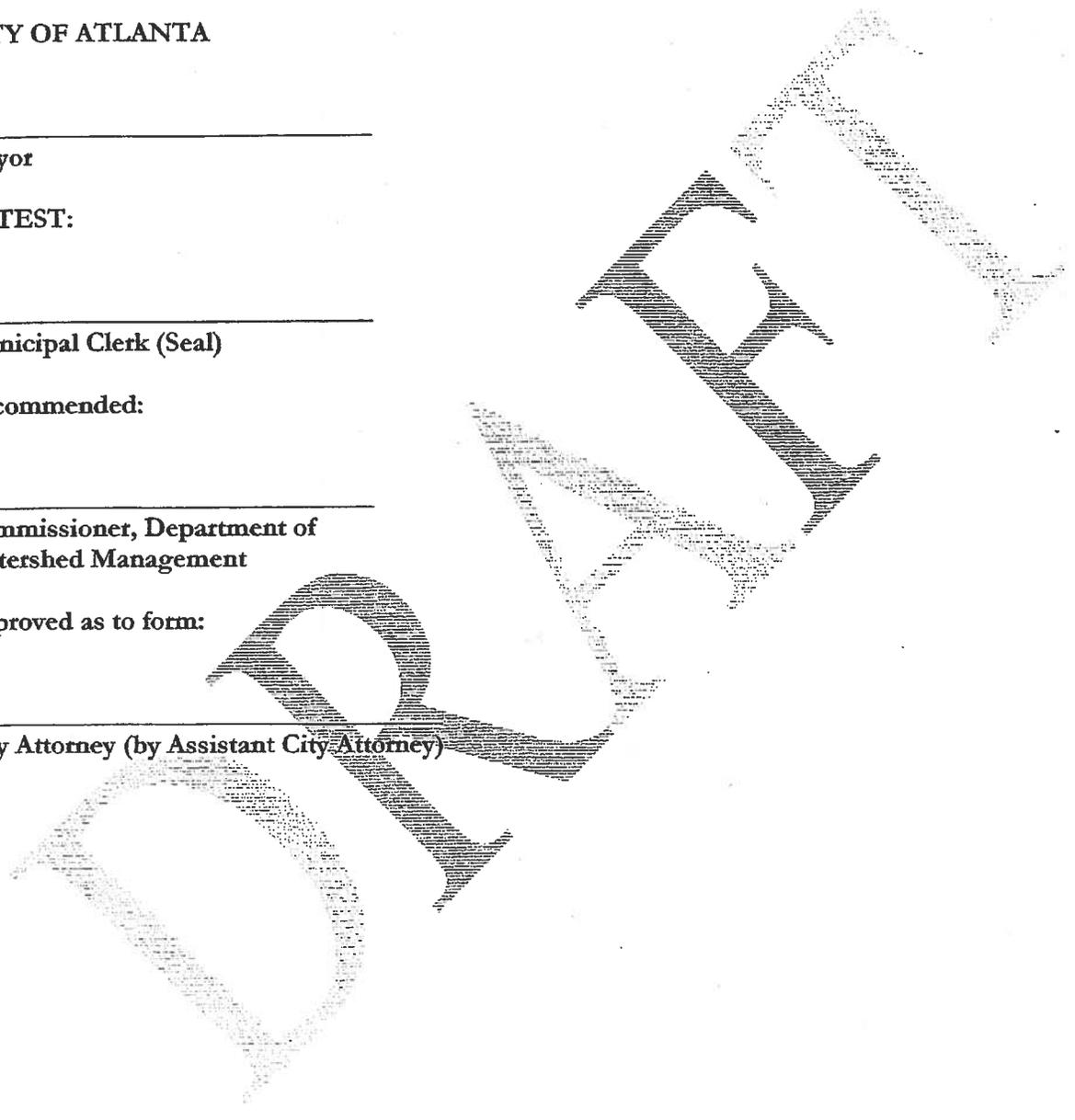
Municipal Clerk (Seal)

Recommended:

Commissioner, Department of
Watershed Management

Approved as to form:

City Attorney (by Assistant City Attorney)



Attachment: Proposed Legislation, Exhibits A and B (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

DRAFT for LANDFILLS

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LESSEE

Company

Name

Its

Print

ATTEST:

Notary Public (Seal)

DRAFT

Attachment: Proposed Legislation, Exhibits A and B (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview:

Caption:

Council Meeting Date:

Requesting Dept.:

FAC Confirmed by:

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

Example: The purpose of this legislation is to anticipate funds from a local assistance grant to purchase child safety seats.

The purpose of this legislation is to authorize the Mayor to negotiate and execute a lease agreement for City-owned properties (Landfill Property and Airport plots) for the purpose of installing solar panels for the generation of renewable energy (i.e., solar farming) and selling to the Georgia Power Company.

2. Please provide background information regarding this legislation.

Example: The task force of homelessness conducted a study regarding homelessness, its impact and consequences on the City. This resolution reflects the Mayor's desire to open a twenty-four hour center that will respond to the needs of the homelessness in Atlanta.

The City is seeking proposals from private and public entities interested in leasing land from the City for solar farming purposes (the Project). The City intends to lease the space at one or more properties that include three of the City's closed landfills and two at the Hartsfield-Jackson Atlanta International Airport. The City has identified Cascade Road Landfill, Gun Club Landfill, and Key Road Landfill as potential landfill locations and two parcels on the south side of the security identification display area at the Airport for the proponents to construct solar panels

Attachment: Legislative White Paper (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

and to harvest solar energy -- the sites are unshaded areas that are currently underutilized. All projects on the Airport parcels will coordinate with DOA and projects on one or more of the landfills will coordinate with DPW. This resolution authorizes the lease agreements with the successful proponent and reflects the Mayor's desire to increase the renewable energy technologies available in the City.

3. If Applicable/Known:

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):**
- (b) **Source Selection:** RFP Sec. 2-1189
- (c) **Bids/Proposals Due:** 03/24/2014
- (d) **Invitations Issued:**
- (e) **Number of Bids:**
- (f) **Proposals Received:**
- (g) **Bidders/Proponents:**
- (h) **Term of Contract:** 20 years

4. Fund Account Center (Ex. Name and number):

Fund: _____ Account: _____ Center: _____

5. Source of Funds: Example: Local Assistance Grant

6. Fiscal Impact: TBD but will be revenue generating

Example: This legislation will result in a reduction in the amount of _____ to Fund Account Center Number _____.

7. Method of Cost Recovery: N/A

Examples:

- a. *Revenues generated from the permits required under this legislation will be used to fund the personnel needed to carry out the permitting process.*
- b. *Money obtained from a local assistance grant will be used to cover the costs of this Summer Food Program.*

This Legislative Request Form Was Prepared By: Juanmanuel Garcia-Sanchez

<p>(Do Not Write Above This Line)</p> <p>A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE A LEASE AGREEMENT WITH [SUCCESSFUL PROPONENT] FOR CERTAIN CITY-OWNED PROPERTIES TO ALLOW [SUCCESSFUL PROPONENT] TO INSTALL, OPERATE AND MAINTAIN SOLAR PANELS FOR THE GENERATION OF RENEWABLE ENERGY; ALL REVENUE FROM SAID LEASE SHALL BE DEPOSITED INTO THE ACCOUNTS SET FORTH HEREIN, AND FOR OTHER PURPOSES.</p>	<p style="text-align: center;">First Reading</p> <p>Committee _____ Date _____ Chair _____ Referred To _____</p>		<p style="text-align: center;">FINAL COUNCIL ACTION</p> <p><input type="checkbox"/> 2nd <input type="checkbox"/> 1st & 2nd <input type="checkbox"/> 3rd Readings <input type="checkbox"/> Consent <input type="checkbox"/> V Vote <input type="checkbox"/> RC Vote</p> <p style="text-align: center;">CERTIFIED</p>
<p><input type="checkbox"/> CONSENT REFER</p> <p><input type="checkbox"/> REGULAR REPORT REFER</p> <p><input type="checkbox"/> ADVERTISE & REFER</p> <p><input type="checkbox"/> 1st ADOPT 2nd READ & REFER</p> <p><input type="checkbox"/> PERSONAL PAPER REFER</p>	<p style="text-align: center;">Committee</p> <p>Date _____ Chair _____ Action Fav, Adv, Hold (see rev. side) Other _____ Members _____</p>		<p style="text-align: center;">Committee</p> <p>Date _____ Chair _____ Action Fav, Adv, Hold (see rev. side) Other _____ Members _____</p>
<p>Date Referred _____</p> <p>Referred To: _____</p> <p>Date Referred _____</p> <p>Referred To: _____</p> <p>Date Referred _____</p> <p>Referred To: _____</p>	<p style="text-align: center;">Committee</p> <p>Date _____ Chair _____ Action Fav, Adv, Hold (see rev. side) Other _____ Members _____</p>	<p style="text-align: center;">Committee</p> <p>Date _____ Chair _____ Action Fav, Adv, Hold (see rev. side) Other _____ Members _____</p>	<p style="text-align: center;">MAYOR'S ACTION</p>

DEPARTMENTAL AUTHORIZATION

Attachment: Blueback (14-R-3383 : (Authorization for Solar Farm Lease - SUSTAINABILITY)

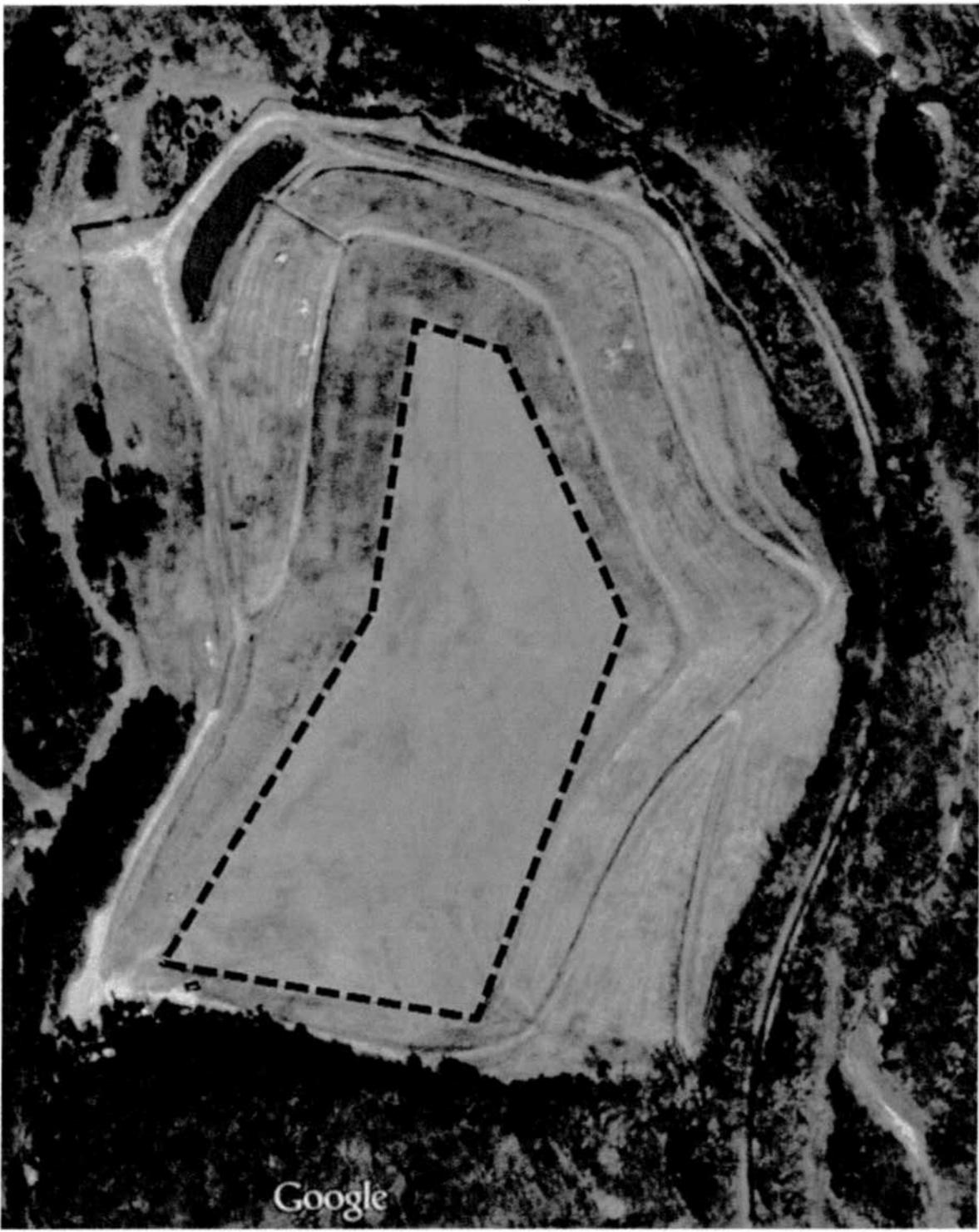
Examples:

- a. *Revenues generated from the permits required under this legislation will be used to fund the personnel needed to carry out the permitting process.*
- b. *Money obtained from a local assistance grant will be used to cover the costs of this Summer Food Program.*

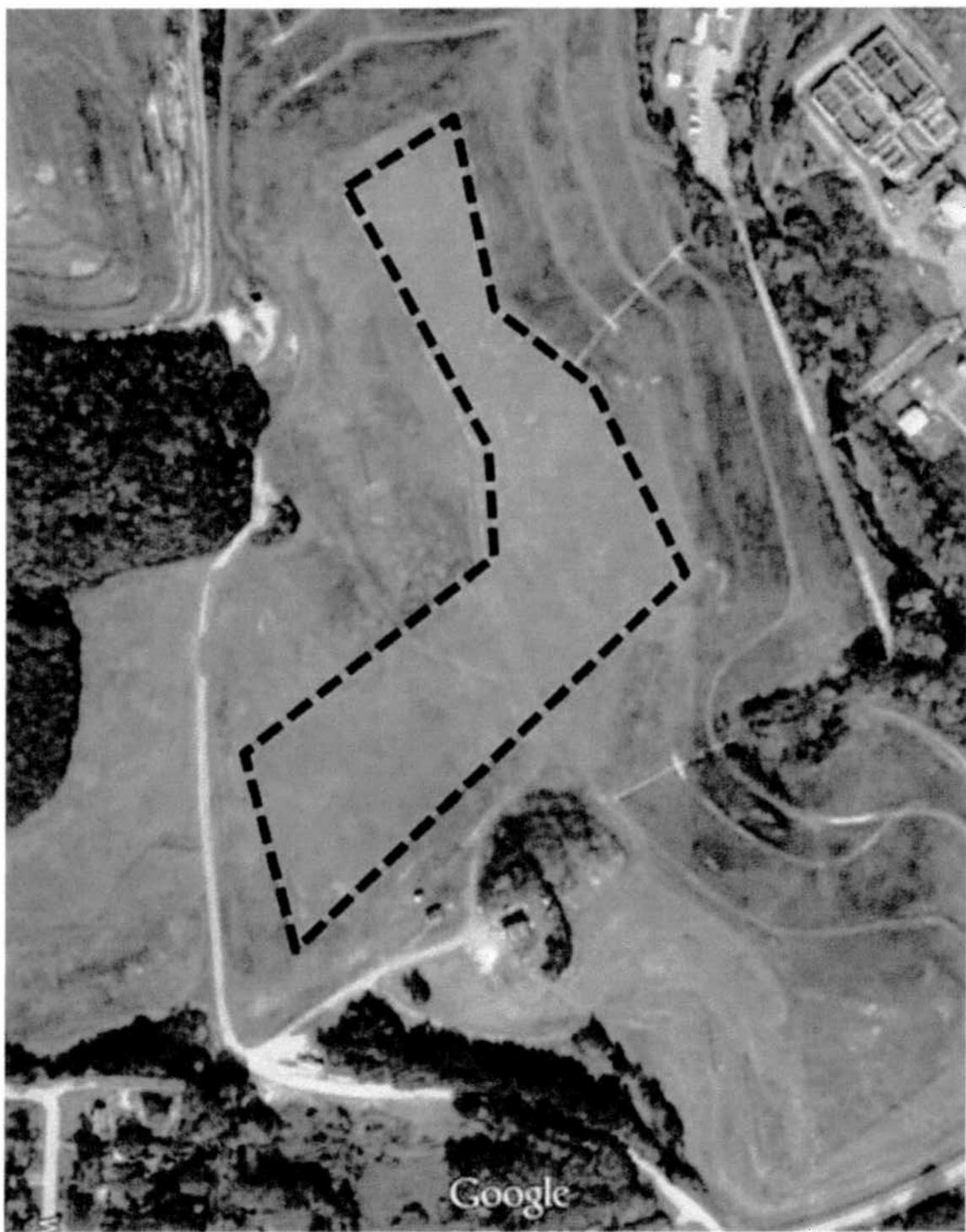
This Legislative Request Form Was Prepared By: Juanmanuel Garcia-Sanchez

EXHIBIT A

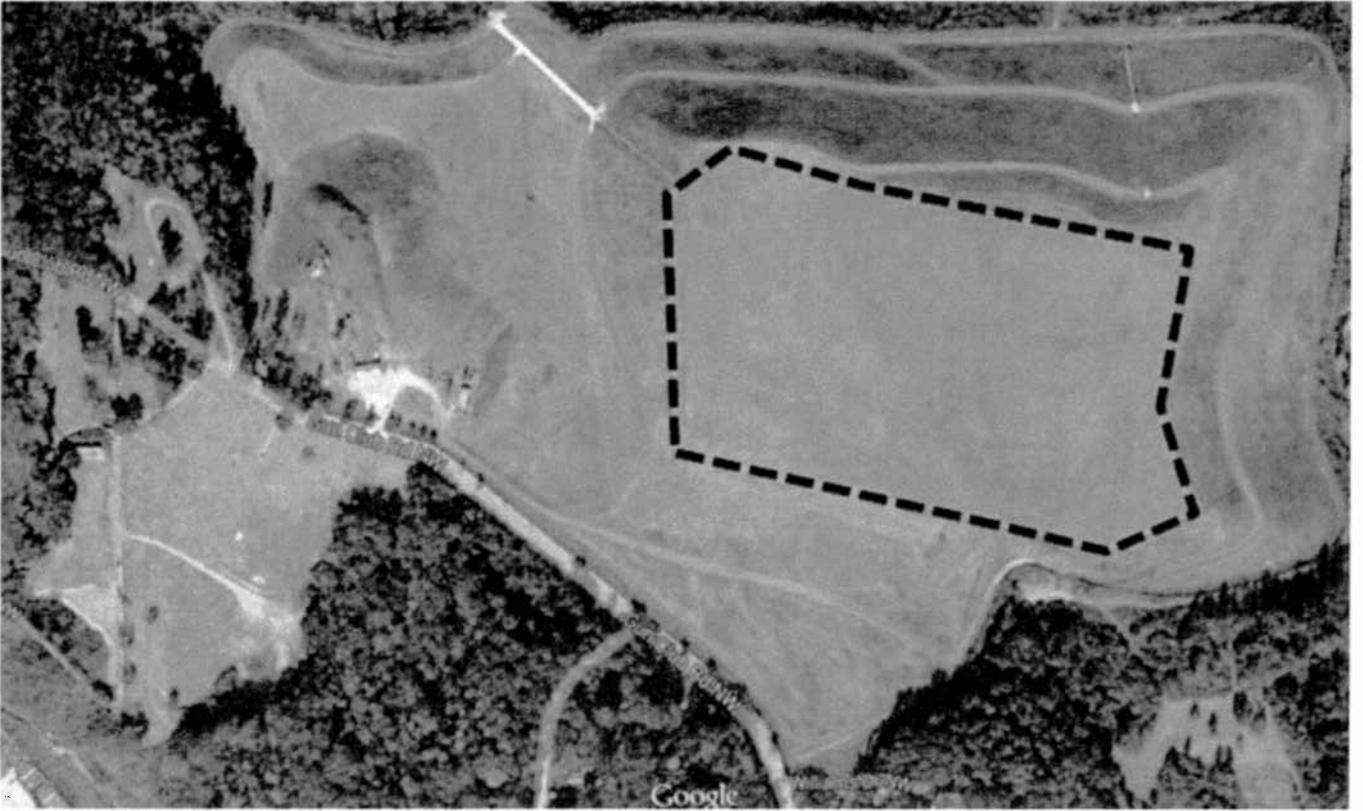
Cascade Road Landfill (4047 Cascade Road, GA 30331)



Key Road Landfill (1500 Key Road, Atlanta, GA 30316)



Gun Club Road Landfill (1401 Gun Club Road Atlanta, GA 30018)



Airport Parcels I & II

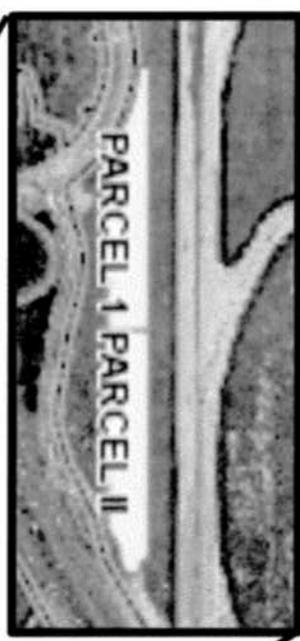
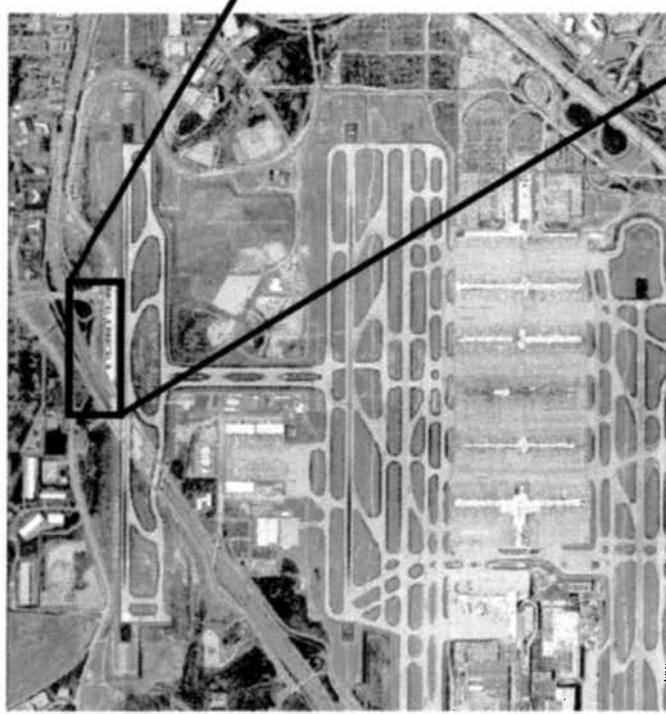


EXHIBIT B

DRAFT for LANDFILLS

LEASE AGREEMENT FOR A CITY OF ATLANTA LANDFILL PROPERTY

THIS LEASE AGREEMENT ("Lease") is made and entered into this ____ day of _____, 2014 ("Effective Date"), by and between the CITY OF ATLANTA, a political subdivision of the State of Georgia ("Atlanta" or "Lessor") and _____ ("_____" or "Lessee"), collectively Lessee and Lessor are referred to as the "Parties."

BACKGROUND

Atlanta owns certain property located in LL _____ of the ____ District of Fulton County, Georgia, having a tax identification number in Fulton County of _____ ("Property"). The Property is used to operate and maintain a landfill, known as the "_____" Atlanta desires to lease the Property to _____ for the purpose of installing solar panels for the generation of electricity to sell to the Georgia Power Company in accordance with the terms and conditions described below.

NOW THEREFORE in consideration of the mutual covenants contained herein as well as other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Authority.** Lessor and Lessee have the authority to enter into and perform the terms and conditions of this Lease pursuant to the legislative authority granted by the governing body of the Lessor and Lessee, which legislative authority of Lessor is attached as **Exhibit A**.
2. **Term.** The term of this Lease shall be for twenty (20) years commencing on the Effective Date of this Lease, subject to the termination provision contained in Section 10, below. At the end of such term, Lessor and Lessee may agree to renew the Lease for an additional five (5) year term.
3. **Rent.** Lessee shall pay Lessor a fee of _____ (\$_____) annually for the use of the Property payable in equal monthly installments of _____ (\$_____).
4. **Use of Property.**
 - 4.1 Lessor hereby grants Lessee the right to use the Property in accordance with the terms and conditions of this Agreement. Lessee shall maintain the Property in its current state and maintain the integrity of the landfill cap under and around the solar panels. All uses of the Property shall not compromise the integrity of the land on which the solar panels are built. Lessor reserves the right to require Lessee to remove any portion of the solar panels that may interfere with Lessor's intended use of the Property.
 - 4.2 Lessee shall comply with a minimum capacity of 800 kW on the Property and shall submit a monthly operational report, the format and content to be approved by the City, in soft copy. Lessor may audit the operational report, subject to the provisions contained in Section 6, and may ask the Lessee to submit the operational report in hard copy at its discretion.
 - 4.3 No improvements, other than the solar panels, shall be permitted on the Property without the express written consent of Lessor, provided that Lessee may be permitted to repair and/or improve the solar panels to a safe and workable condition, free and clear of any defects. Lessee shall be solely

DRAFT for LANDFILLS

LEASE AGREEMENT FOR A CITY OF ATLANTA LANDFILL PROPERTY

responsible for the maintenance and security of such solar panels and shall remove such solar panels upon the termination of this Lease.

4.4 Use of Property shall not include any land disturbing activities, using mechanized or other equipment that would require a land disturbance permit. All activity by Lessee on the Property shall be consistent with and shall not interfere with Lessor's intended use of the Property.

4.5 Lessor expressly reserves all rights and interests to its ownership of the Property and superior use of the Property for its intended use and in no way relinquishes such interest by way of this Lease. Lessee expressly acknowledges that the permissions granted in this Lease are expressly conditioned and subject to Lessor's interest and uses of the Property.

4.6 Lessee shall comply with all applicable state, local and federal laws, regulations, policies and procedures in its use of the Property. Lessee is responsible for obtaining all necessary permits, inspections and documentation for installation, operation, and maintenance.

4.7 Lessee shall be responsible for all expenses for the design, installation, maintenance, and replacement of solar panels for the farming of solar electricity, according to this Lease. Lessee is responsible for delivering, assembling, installing, operating and maintaining the solar panels on the Property in accordance with Lessee's Operations and Maintenance plan, which is attached hereto and incorporated herein as Exhibit B.

4.8 Under no circumstances shall Lessee knowingly permit illegal activity to occur in conjunction with the use of the Property.

5. Employees. Any personnel employed by, volunteering on behalf of, or contracted with by Lessee shall be deemed "employees," "volunteers" or independent contractors respectively of Lessee, and shall not be deemed employees or volunteers of Lessor.

6. Records, Audit and Inspection. Lessee shall maintain records and accounts in direct connection with the performance of this Lease for a period of three (3) years from the expiration or termination of this Lease. Lessor and its designated agents and representatives shall have the right to examine and copy such records and accounts at all reasonable times, with advance notification, and such right shall survive for up to three (3) years following the expiration or termination of this Lease. Lessor further shall have the right to access and inspect the Property at any time and without notice for the purpose of ensuring compliance with this Lease.

7. Benefits to the Parties. Lessor acknowledges and the Parties agree that the use of the Property, as contemplated by this Lease, will substantially benefit Lessor through Lessee's use of the Property to generate electricity from a renewable resource thereby reducing greenhouse gas emissions and improving air quality.

8. As-is. Lessor shall tender the Property for Lessee's use in an "as-is" condition. Lessor shall not be responsible for any improvements to the Property that Lessee may deem necessary for Lessee's use of the Property.

9. Insurance, Bonding and Indemnification.

DRAFT for LANDFILLS

LEASE AGREEMENT FOR A CITY OF ATLANTA LANDFILL PROPERTY

9.1 Lessee shall provide the insurance and bonding deemed necessary by Lessor's Office of Enterprise Risk Management as further described in the Insurance and Bonding Requirements attached hereto and incorporated herein as Exhibit C:

9.2 Lessee shall agree to defend, indemnify and hold harmless Lessor, its agents, successors and assigns from and against any and all demands, claims, payments, obligations, actions or causes of action, losses, damages, penalties, fines, liabilities, costs and expenses, including without limitation, all claims, loss and damage arising from any property damage, injury or claim of injury to, or death of, any person arising from the use of the Property. In addition, Lessee agrees to obtain the same indemnification from any independent contractors operating the Property on its behalf in favor of Lessor.

10. **Termination.** This Lease shall terminate in the event any material breach of this Lease is not cured by Lessee within thirty (30) days following receipt of notice from Lessor of such breach. Lessor may terminate this Lease for convenience upon providing Lessee with ninety (90) days written notice to Lessee upon Lessor's determination that Lessor has a need to utilize the Property for its intended purpose which, in Lessor's sole determination and discretion, would require Lessee to discontinue its use. Upon such determination that the uses and permissions granted herein are inconsistent with Lessor's uses of the Property, and after Lessor provides notice to Lessee, Lessee shall cease all use of the Property, vacate the Property and remove all facilities, equipment and belongings of Lessee from the Property. At such time, Lessee shall leave the Property in as good condition as existed at the time it assumed use of the Property. Lessor may terminate the Lease immediately upon discovery of any activity on the Property that poses a direct and imminent threat to the health, safety, general welfare of Lessor's citizens or the security and critical operations of the Property. Lessee may terminate this Lease for convenience upon providing Lessor with ninety (90) days written notice.

11. **Notices.** All notices, requests, demands or other communications required or permitted to be given hereunder shall be in writing and shall be addressed and delivered by hand or by certified mail, return receipt requested, or by UPS Next Day Air Note or overnight courier, or by hand delivery by reputable courier, to each Party at the addresses set forth below. Any such notice, request, demand or other communication shall be considered given or delivered, as the case may be, on the date of receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which proper notice was not given shall be deemed to be receipt of the notice, request, demand or other communication. By giving prior written notice thereof, any Party may from time to time and at any time change its address for notices hereunder. Legal counsel for the respective Parties may send to the other Parties any notices, requests, demands or other communications required or permitted to be given hereunder by such Party.

In the case of Lessor to:

City of Atlanta
55 Trinity Avenue, Suite 5400
Atlanta, Georgia 30303
Attn: Commissioner

And

City Attorney
68 Mitchell St., Suite 4100
Atlanta, Georgia 30303

DRAFT for LANDFILLS

LEASE AGREEMENT FOR A CITY OF ATLANTA LANDFILL PROPERTY

In the case of the Lessee to:

12. Miscellaneous Provisions.

ENTIRE AGREEMENT

This Lease supersedes all prior discussions and agreements among the Parties with respect to the subject matter hereof. This Lease shall not be modified or amended in any respect except by written instrument executed by or on behalf of the Parties in the same manner as this Lease is executed and specifically referencing such a modification or amendment.

BINDING EFFECT

This Lease shall inure to the benefit of and be binding upon the Parties hereto, their heirs, successors, executors and assigns.

SEVERABILITY

In the event any provision or portion of this Lease is held by any Court of competent jurisdiction to be invalid or unenforceable, such holding shall not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provisions or portion never been a part hereof.

FURTHER ASSURANCES

On and after the Effective Date, each Party shall, at the request of any other, make, execute and deliver or obtain and deliver all such certificates, resolutions and other instruments and documents, and shall do or cause to be done all such other things which any Party may reasonably require to effectuate the provisions and the intentions of this Lease.

CAPTIONS

All captions, headings, paragraphs, subparagraphs, letters and other reference captions are solely for the purpose of facilitating convenient reference to this Lease, shall not supplement, limit or otherwise vary the text of this Lease in any respect, and shall be wholly disregarded when interpreting the meaning of any terms or provisions hereof. All references to particular paragraphs and subparagraphs by number refer to the text of the paragraphs or subparagraphs so numbered in this Lease.

GENDER

Words of any gender used in this Lease shall be held and construed to include any other gender, and words of a singular number shall be held to include the plural, and vice-versa, unless the context requires otherwise.

DRAFT for LANDFILLS

LEASE AGREEMENT FOR A CITY OF ATLANTA LANDFILL PROPERTY

EXHIBITS

Each and every exhibit referred to or otherwise mentioned in this Lease is attached to this Lease and is, and shall be, construed to be made a part of this Lease by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full at length every time it is referred to or otherwise mentioned.

REFERENCES

All references to paragraphs or subparagraphs shall be deemed to refer to the appropriate paragraph or subparagraphs of this Lease. Unless otherwise specified in this Lease, the terms "herein," "hereof," "hereinafter," "hereunder" and other terms of like or similar import shall be deemed to refer to this Lease as a whole, and not to any particular paragraph or subparagraph hereof.

RIGHTS CUMULATIVE

Except as expressly limited by the terms of this Lease, all rights, powers and privileges conferred hereunder shall be cumulative and not restrictive of those provided at law or in equity.

AMENDMENT AND ASSIGNMENT

The interest of the parties may not be assigned without prior written consent from the other party. This Lease shall not be amended except in writing by both parties.

GOVERNING LAW

This Lease, and the rights and obligations of the parties hereunder, shall be governed by and construed in accordance with the laws of the State of Georgia, without giving effect to principles of conflicts of laws thereof. The Parties hereby fix jurisdiction and venue for any action brought with respect to this Lease in Fulton County, Georgia.

NO PARTNERSHIP

This Lease shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, nor to impose any partnership obligations or liabilities on any Party. Furthermore, no Party shall have any right, power or authority to enter into any Lease or undertaking of or on behalf of, to act as or be an agent or representative of, or to otherwise bind any other Party.

TIME OF ESSENCE

Time is and shall be of the essence in this Lease.

WAIVER

DRAFT for LANDFILLS
LEASE AGREEMENT
FOR A CITY OF ATLANTA
LANDFILL PROPERTY

The failure of any Party to seek redress for any violation of, or to insist upon the strict performance of, any term of this Lease will not prevent a subsequent violation of this Lease from being actionable by such Party.

DRAFT

DRAFT for LANDFILLS
LEASE AGREEMENT
FOR A CITY OF ATLANTA
LANDFILL PROPERTY

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be executed by their duly authorized officials, the day and year first above written.

LESSOR

CITY OF ATLANTA

Mayor

ATTEST:

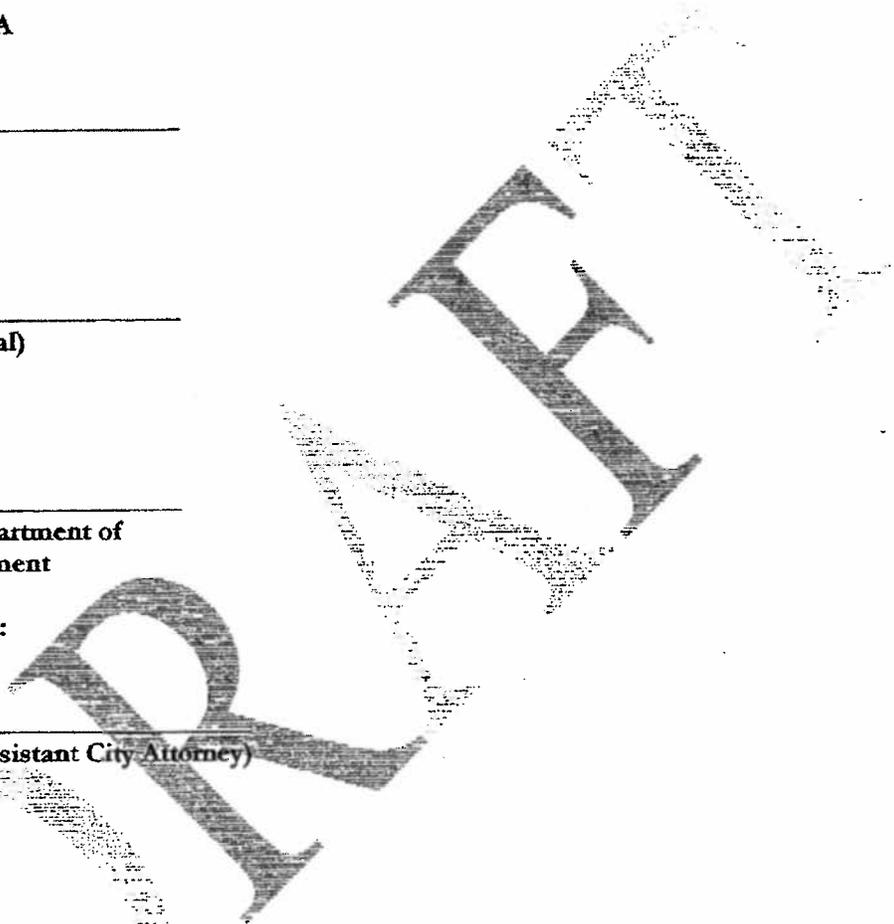
Municipal Clerk (Seal)

Recommended:

**Commissioner, Department of
Watershed Management**

Approved as to form:

City Attorney (by Assistant City Attorney)



DRAFT for LANDFILLS
LEASE AGREEMENT
FOR A CITY OF ATLANTA
LANDFILL PROPERTY

LESSEE

Company

Name

Its

Print

ATTEST:

Notary Public (Seal)

DRAFT

DRAFT for AIRPORT PARCELS I and II

PART 5: LEASE REQUIREMENTS

Hartsfield-Jackson Atlanta International Airport

1. **Approval by the FAA and The City Of Atlanta:** Parties acknowledge that the terms contained herein and other terms as may be included in a written lease agreement ("Lease Agreement") are conditioned upon obtaining written approval from the Federal Aviation Administration ("FAA") and the City of Atlanta ("City") as may become necessary.

Lessee must present its design to the City's Department of Aviation ("DOA") Planning and Development ("P&D") for review, comment and final approval prior to submitting to the FAA and Georgia Department of Transportation ("GDOT") for FAA approval. As indicated further herein, Lessee must demonstrate to the FAA that final PV placement will not degrade the signal quality of the Runway 10 glide slope antenna or the Runway 28 localizer outside of CATII/III tolerances. Further, the placement of these arrays will not impact activities conducted in the Air Traffic Control Tower ("ATCT") nor pilots utilizing Hartsfield-Jackson Atlanta International Airport ("Airport"). Lastly, Lessee must obtain GDOT approval to ensure no concerns are present for glare impacts on I-285 or Riverdale Road.

2. **Property:** Lessee desires to lease _____ ("Property" or "Leased Premises") from the City for the purpose of installing solar panels for the generation of electricity to sell to the Georgia Power Company.
3. **Glare Analysis:** Lessee is responsible for filing and acquiring approval of all FAA Form 7460-1's required for development of the property. FAA approval of the 7460-1 is approximately 90 days. The City will assist with the coordination of submittals of the 7460 to the FAA.

Lessee is responsible for providing a glare analysis that will be reviewed by DOA prior to being sent to GDOT and the FAA for approval. The DOA will provide assistance to Lessee as they complete the FAA 7460-1 form for submission to the FAA. For the glare analysis, the Sandia National Laboratories' Solar Glare Hazard Analysis Tool (SGHAT) will be utilized.

- a. Glare from the panels shall not create a hazard for drivers on Riverdale Road.
- b. Glare from the panels shall not create a hazard for drivers on I-285
- c. Glare analysis shall not create a hazard for airport operations.

4. **Minimum Requirements:** Lessee must comply with each of the Minimum Requirements as listed in this Request for Proposals.
5. **Lease Term:** The term of this Lease Agreement will be for twenty (20) years commencing from the date of signature by the City's Mayor, attestation by the City's Municipal Clerk and approval as to form by the City Attorney.
6. **Security:** Lessee must comply with the Airport Security Requirements, attached herein as Exhibit "A".
7. **Bankruptcy:** In the event that Lessee files a petition for bankruptcy, this Lease shall immediately convert to a month-to-month lease subject to termination upon 30 days prior written notice.
8. **Right to Develop the Airport:** The City hereby reserves the right to further develop and improve the Airport and all roadways, parking areas, terminal facilities, landing areas, and Taxi-lanes, as it may deem reasonably necessary and desirable in order to serve the best interests of the City and the traveling public, regardless of the desires or views and without hindrance or interference of Lessee. Under this provision, the Lease can be terminated by the City with 365 days written notice to Lessee, in order to facilitate further development of the Airport.
9. **Rent:** Lessee shall pay the City a fee of _____ annually for the use of the Property, subject to a late payment charge in the amount of 1.5% per month.
10. **Reporting:** Lessee shall comply with a minimum capacity of 800kW on the Property and shall submit a monthly operational report, the format and content to be approved by the City. The City may audit the report as well as Lessee's records and accounts in direct connection with the performance of the Lease Agreement.
11. **Site and Facilities Conditions:** The City makes no warranty either expressed or implied as to the condition of the Leased Premises or that the Leased Premises will be suitable for Lessee's purpose or needs. Lessee has made itself fully aware of the existing site conditions and accepts the Leased Premises as-is, including any existing environmental conditions. Lessee shall be responsible for complying with all environmental laws, regulations, and rules. Lessee shall be responsible for the remediation of any environmental contamination arising from their tenancy of the Leased Premises.

Lessee is responsible for the maintenance and repair of the photovoltaic ("PV") system(s) as well as maintaining the integrity of the Airport land under and around the solar panels. Lessee must make sure its PV offering does not compromise the integrity of the land on which the solar arrays are built. The cost to redo the structural analysis shall be at the expense of Lessee.

Lessee must protect the integrity of the slope on which the PV panels are built and the airfield above it.

12. **Inspection of Premises Prior to Initiation of the Term:** A walk through inspection of the Leased Premises shall be made by the Aviation General Manager or his designee and a representative of Lessee for the purpose of noting the condition of the Leased Premises at the time of execution of this Lease.
13. **Inspection of Premises Prior to Expiration of the Term:** A walk through inspection of the premises shall be made by the Aviation General Manager or his designee and a representative of the Lessee prior to the expiration of the Lease for the purpose of noting deficiencies in the maintenance or damage of the Leased Premises. Lessee shall be responsible for correcting any and all deficiencies noted during such inspection.
14. **Construction and Alteration:** No improvements, other than solar panels, shall be permitted on the Property without the express written consent of the City, provided that Lessee may be permitted to repair and/or improve the solar panels to a safe and workable condition, free and clear of any defects. Prior to commencement of construction of such alterations or improvements, plans and specifications for the same must be approved in writing by the City's Aviation General Manager, not to be unreasonably withheld. Title to all leasehold Improvements shall vest with the City upon completion of construction. All development, construction and use of improvements on the Leased Premises shall be in account with the applicable provisions of the "Building Development and Operations Standards" for the Airport, a copy of which is on file in the Facilities Division of the Department of Aviation of the City. Lessee is responsible for meeting the minimum P&D DOA Engineering Guidelines (<http://apps.atlanta-airport.com/engineeringguidelines/index.asp>). Lessee must be prepared to perform installation work at night or during limited runway closures.

The plans and specifications for such improvements and alterations shall be prepared by a licensed architect and mailed to the following official for approval on behalf of the City:

City of Atlanta
Department of Aviation - Planning & Development Division
ATTN: Manager – Facilities
P.O. Box 20509
Atlanta, GA 30320

15. **Safety and Health Plan:** Lessee is required to submit the Security and Safety Plans as required by the City's DOA. The Security Plan must be submitted to DOA Security Division a minimum of sixty (60) days in advance of proposed change's effective date. Lessee must comply with the Construction Safety and Health Plan (Non-OCIP), attached herein as Exhibit "B".

16. **Permits, Easements and Encroachments:** Lessee is responsible for obtaining all necessary permits, inspections and documentation for installation, operation, and maintenance. Lessee is responsible for obtaining easements and encroachments for the City of College Park sanitary sewer lines and a Georgia Power duct bank .
17. **Removal of Personal Property and Fixtures:** All machinery and equipment, trade fixtures, movable partitions, furniture and furnishings, and other personal property, installed in or on the Leased Premises at the expense of Lessee, shall remain the property of Lessee with the right of removal whether or not fixed or attached to the Leased Premises, and Lessee shall be obligated to remove the same, or any part thereof, during the Lease Term, or within a reasonable time thereafter; provided, however, that Lessee shall, at its own cost and expense, repair any and all damage to the Leased Premises resulting from or caused by such removal and return the Leased Premises to working condition. Lessee is responsible for removing all material at the end of the Lease Agreement unless a follow-up agreement between Lessee and the City is negotiated.
18. **Surety Bond or Letters of Credit:** A surety bond or an irrevocable letter of credit shall be posted to guarantee rental payments in the amount of twelve (12) months rentals and charges ("Rental Guarantee Bond"). The Rental Guarantee Bond or Irrevocable Letter of Credit shall be updated every two years as the rental rates escalate. A surety bond in an amount of One Million Five Hundred Thousand (\$1,500,000.00) shall be provided at the beginning of Start Up to guarantee performance of the construction of improvements ("Performance Bond").
19. **Performance and Payment Bond for Construction over \$20,000:** Contractor/Consultant shall furnish a Payment Bond and a Performance Bond to the City in an amount equal to 100 percent of the total contract value and for the duration of the entire term.
- a. The Bonds shall name the City as the Obligee, be in a form approved by the City Attorney and shall remain in full force and effect until completion and acceptance of the project by the City.
 - b. The bonds must be issued as security for the faithful performance of this Agreement, including, maintenance and guarantee provisions, its covenants, stipulations and agreements of the Agreement, the payment of all bills and obligations arising out of the performance its obligations under the Agreement, which bills and obligations might or would in any manner become a claim against the City, and guaranteeing all services and work set forth in the Agreement against faulty materials or poor workmanship, or both, in accordance with any warranty provisions of the Agreement.

- c. The surety company issuing the bonds must give the Aviation General Manager notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bonds of its intention not to renew or to terminate the bonds.
- d. A Corporate Surety that is satisfactory to City, authorized to do business in the State of Georgia, and listed in the latest issue of U.S. Treasury Circular 570 must execute the bonds.
- e. An agent of the Surety residing in the State of Georgia must execute the bonds. The date of the Bonds must be the same as the date of execution of the Agreement by City. The Surety must appoint an agent for service in Atlanta, Georgia upon whom all notices must be shown on each Bond. The person executing the Bonds on behalf of the Surety must file with the Bonds a general power of attorney unlimited as to amount and type of Bonds covered by such power of attorney, and certified to by an official of said Surety. The Bonds must be on forms provided by City. The Agreement will not be executed by City until after the approval of the Bonds by City's Attorney.

20. **Limitations on Assignment, Transfer, and Subletting:** Except as otherwise provided herein, Lessee shall not assign or transfer the Lease without the prior written consent of the City. Lessee shall not sublease the Premises, or any portion thereof, without the prior written consent of the Airport General Manager.
21. **Responsibility for Maintenance of the Leased Premises:** Lessee shall, throughout the Term of the Lease, and at no expense to the City, be responsible for the maintenance and repairs of the Leased Premises and all costs associated therewith, keeping and maintaining said Leased Premises, and all improvements, landscaping, fixtures, and equipment, which may now or hereafter exist thereon, in good, sanitary order and repair, and in good safe, and presentable condition, consistent with the highest form of business practices.
22. **Utility Services:** Lessee shall contract for all separately metered utilities and pay all shared meter utility charges billed by the City for utilities used by it at and upon the Leased Premises.
23. **Trash Removal:** Lessee shall contract for the quick and efficient removal and disposal of trash, clippings, refuse, garbage, and other debris from the Leased Premises and Lessee shall arrange for such removal and disposal of same at no cost or expense to the City and in accordance with applicable laws and ordinances.
24. **Security:** Lessee shall contract for and pay for all security services used by it at and upon the Leased Premises. Lessee also is responsible for securing all vehicles and equipment temporarily parked or stored in the surface parking lot.

25. **Fire Alarm:** Lessee shall contract and pay for the monitoring of the fire alarm system within the Lease Premises. Lessee shall be responsible for any required modifications to the fire alarm system based on the approved use of the Leased Premises.
26. **Hold Harmless and Indemnification:** Release and Indemnification: The Lessee expressly agrees as a condition of the Agreement, to defend, indemnify and hold harmless the City, its officers, agents, officials and employees (collectively the "Indemnified Parties") from and against any and all claims, debts, demands, liabilities (including reasonable attorneys fees), or causes of action of every kind or character, whether in law or in equity, for liability regarding bodily injuries to or deaths of persons or damage to or destruction of property of the Lessee, its employees, agents, or to any third person, arising from an act or omission of the Lessee, his agents, employees or third persons (including trespassers) while on or about the Premises or any part thereof during the term of this Agreement. The Lessee also agrees to defend, indemnify and hold harmless the Indemnified Parties for injuries, death, property damage, or liabilities sustained or alleged to have been sustained in connection with or to have arisen out of or resulting from the performance pursuant to this Agreement by the Lessee, or its employees, agents, contractors, third persons or subcontractors or performance pursuant to this Agreement. The Lessee further agrees that its obligation to indemnify and hold harmless the Indemnified Parties shall not be limited to the limits or terms of the liability insurance, required pursuant to this Agreement. Each party hereto shall give to the other prompt and timely written notice of any claim made or suit instituted coming to its knowledge which is anyway directly or indirectly, contingently or otherwise affects or might affect either, and each shall have the right to participate in the defense of the same to the extent of its own interest.
27. **Negligence and Waiver:** The Lessee's aforesaid release, indemnity and hold harmless obligations, or portions or applications thereof, shall apply even in the event of the fault or negligence, whether active or passive, or strict liability of the parties released, indemnified or held harmless to the fullest extent permitted by law, but in no event shall they apply to liability caused by the willful misconduct or sole negligence of the party released, indemnified or held harmless. The Lessee specifically waives any immunity provided against this indemnity by an industrial insurance or workers' compensation statute. The Lessee further agrees that this obligation to indemnify and hold harmless the parties released shall not be limited to the limits or terms of the liability insurance, if any, required under this Agreement.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be executed by their duly authorized officials, the day and year first above written.

LESSOR

CITY OF ATLANTA

Mayor

ATTEST:

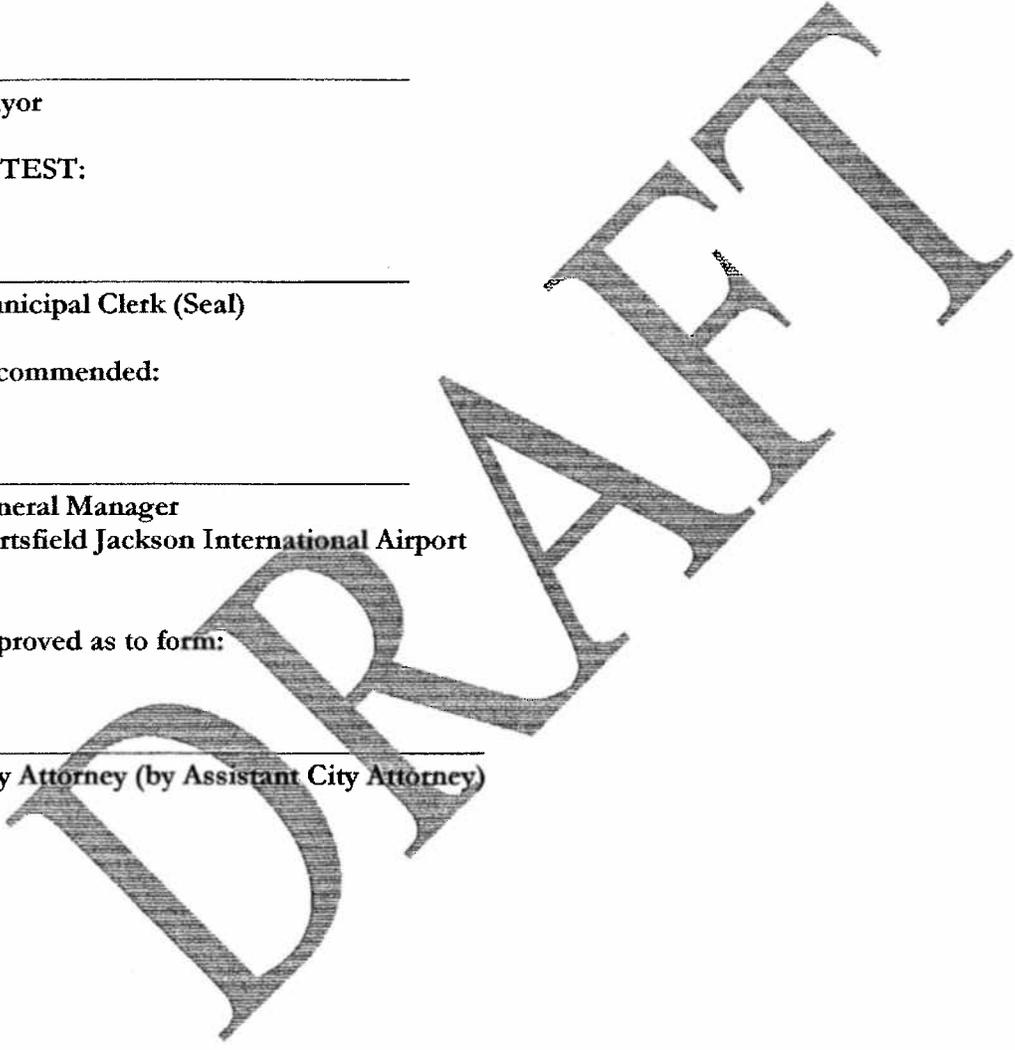
Municipal Clerk (Seal)

Recommended:

**General Manager
Hartsfield Jackson International Airport**

Approved as to form:

City Attorney (by Assistant City Attorney)



LEGISLATIVE SUMMARY
(FC-7272, Land Lease(s) for Solar Generating Projects)

TO: FINANCE/EXECUTIVE COMMITTEE

CAPTION

**A RESOLUTION BY
 FINANCE/EXECUTIVE COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE A LEASE AGREEMENT WITH NEW GENERATION POWER, INC. FOR CERTAIN CITY-OWNED PROPERTIES TO ALLOW NEW GENERATION POWER, INC. TO INSTALL, OPERATE AND MAINTAIN SOLAR PANELS FOR THE GENERATION OF RENEWABLE ENERGY; ALL REVENUE FROM SAID LEASE SHALL BE DEPOSITED INTO THE ACCOUNTS SET FORTH HEREIN; AND FOR OTHER PURPOSES.

Committee Meeting Date: March 26, 2014

Council Meeting Date: April 15, 2014

Legislation Title: A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND EXECUTE A LEASE AGREEMENT WITH NEW GENERATION POWER, INC. FOR CERTAIN CITY-OWNED PROPERTIES TO ALLOW NEW GENERATION POWER, INC. TO INSTALL, OPERATE AND MAINTAIN SOLAR PANELS FOR THE GENERATION OF RENEWABLE ENERGY; ALL REVENUE FROM SAID LEASE SHALL BE DEPOSITED INTO THE ACCOUNTS SET FORTH HEREIN; AND FOR OTHER PURPOSES.

Requesting Dept.: Office of the Mayor - Sustainability

Contract Type: land lease

Advertisement: on-line

Bids/Proposals Due: March 24, 2014

Invitations Mailed: N.A.

Bids/Proposals Received:	2
Bidders:	Greenlife Energy Solutions, LLC and New Generation Power, Inc.
Contractor:	New Generation Power, Inc.
Estimated Value:	An annual lease price will be negotiated upon acceptance into Georgia Power's Advance Solar Initiative program.
Scope Summary:	Land lease for the placement of solar panels on City-owned land that will generate energy that will be sold to Georgia Power
Background:	The Mayor's office of Sustainability is looking for ways to ensure the City reduces its carbon foot-print and to produce renewable energy in underutilized city-owned land where possible.
Evaluation Team:	Mayor's Office of Sustainability, Office of Contract Compliance, Office of Enterprise Risk Management, and Department of Public Works.
Term of Contract:	Twenty (20) years
Fund Account Centers:	For closed landfills of the Proposed Leased Areas: 5401 (Solid Waste Services Revenue Fund) 000002 (Revenue Department) 3442707 (Miscellaneous Other Revenue) (5401.000002.3442707) For Airport parcels of the Proposed Leased Areas: 5501 (Operating Revenue Fund) 180108 (Finance & Accounting) 3810001 (Land Rentals – General) 7563000 (Aviation) (5501.180108.3810001.7563000).
Prepared By:	Wendell A. M. Bryant
Contact Number:	404.330.6127



CITY OF ATLANTA

KASIM REED
MAYOR

55 TRINITY AVE. S.W
ATLANTA, GEORGIA 30335-0300
TEL (404) 330-6100

March 25, 2014

Chief Adam L. Smith,

After careful review of all proposals for FC-7272, Land Lease for Solar Generating Projects, the Mayor's Office of Sustainability is making the recommendation to award New Generation Power, Inc for all five sites listed in the RFP. We congratulate the winning proponent and look forward to implementing solar in the City of Atlanta.

Regards,

A handwritten signature in black ink, appearing to read "Denise Quarles".

Denise Quarles, Director
Mayor's Office of Sustainability
City of Atlanta



CITY OF ATLANTA

Kasim Reed
Mayor

SUITE 1700
55 TRINITY AVENUE, SW
ATLANTA, GA 30303
(404) 330-6010 Fax: (404) 658-7359
Internet Home Page: www.atlantaga.gov

OFFICE OF CONTRACT COMPLIANCE
Hubert Owens
Director
howens@atlantaga.gov

M E M O R A N D U M

TO: Adam L. Smith, Chief Procurement Officer
Department of Procurement

FROM: Hubert Owens, Director *HO*
Mayor's Office of Contract Compliance

RE: **Bid Recommendation for FC 7272, Land Lease for Solar Generating Projects**

DATE: March 25, 2014

The Mayor's Office of Contract Compliance has reviewed the two proposals for small business enterprise (SBE) participation. Only one of the two proponents has been deemed responsive by the Mayor's Office of Contract Compliance. For your information they have utilized SBEs as indicated below:

<u>New Generation Power, Inc.</u>	(15 Pts.)
SGP-Energy Fund, LLC	SBE 24.5%
Multi-Energy Group, LLC	SBE 24.5%
Participation Total	49%
<u>GreenLife Energy Solutions, LLC</u>	(0 Pts.)
Contractor failed to submit certified SBE subcontractors or documented good faith efforts	0%
Participation Total	0%
Non Responsive	

If you have questions, please contact me at (404) 330-6010 or Bruce T. Bell at (404) 330-6009.

cc: File
Wendell A. M. Bryant, DOP

City of Atlanta
Enterprise Risk Management
Contract Evaluations

Analysis of the Financial Statements of the Proponents

From: Jimmy Porter

To: Wendell Bryant

Project: FC-7272

Contracting Officer: Wendell Bryant

Data Summarized by: Jimmy Porter

Reviewed and Approved by: Jerry DeLoach, Director of ERM

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#	Company	Rating	Description
1	Greenlife Energy	10.0	
2	New Generation Power	2.7	

Note:

(1) NR = Non Responsive

(2) The evaluations were based on the proponents' financial statements using various financial ratios.

New Generation Power Inc
 DUNS: 078626888 CAGE Code: 6KN62
 Status: Active

39 S LaSalle St, Ste 600
 Chicago, IL, 60603-1622,
 UNITED STATES

Entity Overview

Entity Information

Name: New Generation Power Inc
Business Type: Business or Organization
POC Name: Nisha Joshi
Registration Status: Active
Activation Date: 12/13/2013
Expiration Date: 12/13/2014

Exclusions

Active Exclusion Records? No

SAM | System for Award Management 1.0

IBM v1.1618.20140321-1442

WWW3

Note to all Users: This is a Federal Government computer system. Use of this system constitutes consent to monitoring at all times.



Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview:

Caption:

Council Meeting Date:

Requesting Dept.:

FAC Confirmed by:

B. To be completed by the department:

1. Please provide a summary of the purpose of this legislation (Justification Statement).

Example: The purpose of this legislation is to anticipate funds from a local assistance grant to purchase child safety seats.

The purpose of this legislation is to authorize the Mayor to negotiate and execute a lease agreement with New Generation Power, Inc., for City-owned properties (Landfill Property and Airport plots) for the purpose of installing solar panels for the generation of renewable energy (i.e., solar farming) and selling to the Georgia Power Company.

2. Please provide background information regarding this legislation.

Example: The task force of homelessness conducted a study regarding homelessness, its impact and consequences on the City. This resolution reflects the Mayor's desire to open a twenty-four hour center that will respond to the needs of the homelessness in Atlanta.

The City advertised for FC-7272, Land Lease for Solar Generating Projects, on behalf of the Department of Public Works and the Department of Aviation, in accordance with the City Code of Ordinances, from private and public entities interested in leasing land from the City for solar farming purposes (the Project). The City intends to lease space at five properties that include three of the City's closed landfills and two parcels at the Hartsfield-Jackson

Atlanta International Airport. The City has identified Cascade Road Landfill, Gun Club Landfill, and Key Road Landfill as potential landfill locations and two parcels on the south side of the security identification display area at the Airport for the proponents to construct solar panels and to harvest solar energy -- the sites are unshaded areas that are currently underutilized. All projects on the Airport parcels will coordinate with DOA and projects on one or more of the landfills will coordinate with DPW. New Generation Power, Inc., was the most responsible and responsive offeror. This resolution authorizes the lease agreements with the successful proponent and reflects the Mayor's desire to increase the renewable energy technologies available in the City.

3. If Applicable/Known:

- (a) **Contract Type (e.g. Professional Services, Construction Agreement, etc):** Land Lease
- (b) **Source Selection:** RFP Sec. 2-1189
- (c) **Bids/Proposals Due:** 03/24/2014
- (d) **Invitations Issued:**
- (e) **Number of Bids:**
- (f) **Proposals Received:** 2
- (g) **Bidders/Proponents:** Greenlife Energy Solutions, LLC and New Generation Power, Inc.
- (h) **Term of Contract:** 20 years

4. Fund Account Center (Ex. Name and number):

For closed landfills of the Proposed Leased Areas:

5401 (Solid Waste Services Revenue Fund) 000002 (Revenue Department) 3442707 (Miscellaneous Other Revenue) (5401.000002.3442707)

For Airport parcels of the Proposed Leased Areas:

5501 (Operating Revenue Fund) 180108 (Finance & Accounting) 3810001 (Land Rentals – General) 7563000 (Aviation) (5501.180108.3810001.7563000).

Fund: _____ **Account:** _____ **Center:** _____

5. Source of Funds: Example: Local Assistance Grant

6. Fiscal Impact: TBD but will be revenue generating

Example: This legislation will result in a reduction in the amount of _____ to Fund Account Center Number _____.

7. Method of Cost Recovery: N/A