

**CONFIDENTIAL SETTLEMENT AGREEMENT**

THIS CONFIDENTIAL SETTLEMENT AGREEMENT ("Agreement") is made this 25<sup>th</sup> day of February, 2011 (the "Effective Date"), by and between GAINESVILLE RENEWABLE ENERGY CENTER, LLC ("GREC"), and THOMAS BUSSING, MICHAEL CANNEY, DIAN DEEVEY, DAVID MCSHERRY, DECEMBER MCSHERRY, KAREN ORR, AND PAULA STAHMER (collectively "Appellants"). GREC and Appellants each may be referred to as a "Party" and collectively as the "Parties."

**RECITALS**

WHEREAS, GREC proposes to construct, own and operate a biomass fired electrical power plant and associated facilities (the "Project") in Gainesville, Florida;

WHEREAS, Dian Deevey and Paula Stahmer have filed an appeal in the Florida Supreme Court (Case No. SC10-1512) of the Florida Public Service Commission's "Final Order Granting Petition for Determination of Need for Proposed Biomass Plant" for the Project;

WHEREAS, Thomas Bussing has filed an appeal in the First District Court of Appeal (Case No. 1D11-357) of the Siting Board's "Final Order Approving Certification" for the Project;

WHEREAS, Thomas Bussing, Michael Canney, David McSherry, December McSherry and Karen Orr have filed an appeal in the First District Court of Appeal (Case No. 1D11-507) of the Florida Department of Environmental Protection's ("FDEP") Final

Order issuing a Prevention of Significant Deterioration/Air Construction Permit ("PSD Permit") for the Project;

WHEREAS, Case No. SC10-1512, Case No. 1D11-357, and Case No. 1D11-507 shall collectively be referred to in this Agreement as the "Appeals";

WHEREAS, GREC and the Appellants wish to resolve all claims, issues and disputes between them related to the Appeals (the "Settled Claims"), subject to the terms and conditions set forth in this Agreement; and

WHEREAS, GREC and the Appellants agree that these recitals are true and correct.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and promises set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, GREC and the Appellants agree as follows:

**1.0 Specific Terms of Settlement.**

**1.1. Power Purchase Agreement.** GREC and its related corporate entities, including any parent companies and subsidiaries, shall provide the Appellants and the public with a completely unredacted copy of GREC's Power Purchase Agreement ("PPA"), including an unredacted copy of the appendices, schedules, and attachments to the PPA. GREC agrees to provide to Appellants as part of the unredacted PPA all documents

referenced or incorporated in the PPA or attached thereto. The PPA shall be provided to Appellants within ten (10) business days after the Appeals are dismissed.

**1.2. CEMS Data and Reports.** GREC shall install, operate and maintain continuous emissions monitoring systems ("CEMS") at the Project for the bubbling fluidized bed (BFB) boiler. GREC shall make the CEMS monitoring data available for review by the Appellants and the public within seven (7) days after the CEMS reports are prepared. The CEMS reports will be prepared on at least a quarterly basis, pursuant to the requirements of FDEP. Upon request, FDEP, the Alachua County Environmental Protection Department ("ACEPD"), and the United States Environmental Protection Agency ("EPA") may inspect the CEMS monitoring data at the GREC facility site in real time. The CEMS reports, including all of the back-up hour-by-hour daily CEMS data summaries that were used in preparing the quarterly reports, shall be made available for public inspection, during normal business hours, starting within thirty-seven (37) days after the first quarter of certified CEMS operation, at the Project site or another location in Alachua County. The CEMS reports, the daily CEMS data summaries, and all of the other CEMS data stored by GREC after the completion of the requisite quality assurance/quality control ("QA/QC") review processes, shall be provided to the public in an electronic format (e.g., compact

disk ("CD") or digital video disk ("DVD")), upon request, at the Project site or another location in Alachua County. The Project's operating records shall be available for inspection on-site by the ACEPD. GREC shall request FDEP to modify the PSD Permit in accordance with this Section 1.2. GREC shall allow ACEPD to observe the on-site Project computer monitors that receive the real time data feed from the CEMS.

**1.3. ACEPD Inspections.** GREC shall give ACEPD access to the Project site for the purpose of determining whether GREC is in compliance with GREC's Conditions of Certification and the PSD Permit, as well as the terms of this Agreement. Among other things, the ACEPD may conduct surveys for protected wildlife species; inspect the biomass fuel; inspect and sample environmental media; review the Project's monitoring data; and inspect the Project's boiler and air pollution control systems. The inspections by ACEPD may be conducted at any reasonable time selected by ACEPD, after giving reasonable notice to GREC. When ACEPD conducts its inspections, ACEPD's employees may be accompanied by consultants (other than Appellants) who have been selected by ACEPD to assist ACEPD with its inspections of the Project and who are deemed by the ACEPD to have the necessary professional education, training, or other qualifications. ACEPD, its employees and its consultants shall: (i) comply with GREC's health and safety procedures that are required by law or

permit or are reasonable while conducting inspections or other activities on the GREC site; (ii) not unreasonably interfere with the operation of the Project; and (iii) maintain the confidentiality of any information obtained during such inspections that is legally protected as confidential, proprietary or trade secret. ACEPD shall have no right under this Agreement to inspect GREC's financial or personnel records. GREC shall request FDEP to modify the PSD Permit in accordance with this Section 1.3. If the PSD Permit has not been modified in accordance with this Section 1.3 by the time GREC is ready to clear the Project site, GREC shall nonetheless give ACEPD at least ten (10) days advance notice before GREC clears the Project site, and GREC shall allow ACEPD to inspect the Project site in accordance with the requirements in this Section 1.3. GREC shall provide thirty (30) days' advance notice to ACEPD before GREC conducts stack tests at the Project.

**1.4. Grants to ACEPD.** GREC shall give an annual grant in the amount of Twenty-Five Thousand Dollars (\$25,000.00) to the ACEPD for each of the first six (6) years after the Parties sign the Agreement. These funds shall be used by ACEPD to (i) pay the costs ACEPD incurs when inspecting and monitoring the construction and operation of the Project, and (ii) pay qualified professional consultants to assist ACEPD with its inspections and monitoring of the Project. The first payment

shall be delivered to ACEPD within thirty (30) days after GREC issues its Final Notice to Proceed. For purposes of this Agreement, the term "Final Notice to Proceed" shall mean the document issued by GREC that formally notifies and authorizes GREC's general contractor to commence full construction of the Project. An additional payment shall be delivered to ACEPD each year thereafter, for a total of six (6) years, on or before the anniversary of the first payment. ACEPD shall be provided a copy of the portions of this Agreement relevant to ACEPD's role under this Agreement. Should ACEPD decline to accept the funds referenced herein for the purposes stated herein, those funds shall be provided as additional contributions to the four (4) non-profit organizations designated by Appellants as described in Section 1.14 herein below.

1.5. **MACT Requirements**. GREC shall comply with any new MACT requirements that are promulgated by U.S. EPA and are applicable to the Project. GREC will comply with the MACT requirements that are imposed by EPA on the Project, regardless of whether EPA considers the Project as a stand-alone facility or whether EPA considers the Project as a component of the GRU Deerhaven facility. GREC agrees that the Project shall be subject to and shall comply with EPA's national MACT standards for a major source under either the EPA rules for Industrial Boilers or for Utility Boilers, whichever is applicable to the

Project based on the language of EPA's rules. GREC shall request FDEP to modify the PSD Permit in accordance with this Section 1.5.

**1.6. Penalties for Noncompliance.** If GREC fails to comply with the requirements in the PSD Permit, GREC shall pay the penalties deemed appropriate by FDEP, provided such penalties are calculated in compliance with the requirements in Chapter 403, Florida Statutes, the FDEP's rules, and the FDEP's enforcement policies. In addition, GREC agrees to pay Ten Thousand Dollars (\$10,000.00) to ACEPD for each enforcement case in which GREC pays such penalties to FDEP under a final, non-appealable order, and GREC agrees to pay Twenty-Five Thousand Dollars (\$25,000.00) to a non-profit organization designated by Appellants for each enforcement case in which FDEP concludes in a final, non-appealable order that GREC's violation of the PSD Permit was "significantly detrimental to the environment," as that term is used in FDEP's penalty policies (FDEP Guidelines for Characterizing Air Violations). The additional payments described above to ACEPD and/or the designated non-profit organization(s) shall cumulatively not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in any one year.

**1.7. Dioxin Emission Limit.** GREC shall comply with an emission limit for "dioxin" (polychlorinated dibenzo-p-dioxins and furans) from the Project's BFB boiler. Specifically, GREC

shall comply with a dioxin emission limit of 0.15 toxic equivalent nanograms per dry standard cubic meter at 7% oxygen (0.15 TEQ ng/dscm @ 7% O<sub>2</sub>), the emission limit that FDEP previously proposed for a biomass facility in Port St. Joe, Florida. GREC shall request FDEP to modify the PSD Permit in accordance with this Section 1.7.

**1.8. Initial Stack Test for Dioxin.** GREC shall conduct an initial compliance test for dioxin emissions in stack gases from the Project's BFB boiler. The initial compliance test shall be conducted by an independent third party hired by GREC and it shall be performed in accordance with the applicable EPA Reference Test Methods. ACEPD, including any qualified professional consultant hired by ACEPD (other than the Appellants), may attend and observe the stack test. The test methods used and the test results will be provided to FDEP and ACEPD. The initial compliance test for dioxin shall be conducted at or promptly after the time when GREC conducts the initial compliance tests for other parameters pursuant to the PSD Permit. GREC shall request FDEP to modify the PSD Permit in accordance with this Section 1.8.

**1.9. Annual Stack Tests for Dioxin.** GREC shall conduct annual stack tests for dioxin from the Project's BFB boiler. The annual tests will be conducted by an independent third party hired by GREC and they shall be performed in accordance with the



applicable EPA Reference Test Methods. ACEPD, including any qualified professional consultant hired by ACEPD (other than the Appellants), may attend and observe the annual stack tests. The test methods used and the test results shall be provided to FDEP and ACEPD. The annual stack tests for dioxin shall be conducted at or promptly after the time when GREC conducts the annual stack tests for other parameters pursuant to the PSD Permit. GREC shall request FDEP to modify the PSD Permit in accordance with this Section 1.9.

**1.10. Annual Stack Tests for PM2.5.** GREC shall conduct annual stack tests for PM2.5 emissions from the Project's BFB Boiler. The annual tests will be conducted by an independent third party hired by GREC and they shall be performed in accordance with the applicable EPA Reference Test Methods. ACEPD, including any qualified professional consultant hired by ACEPD (other than the Appellants), may attend and observe the annual stack tests. The test methods used and the test results will be provided to FDEP and ACEPD. The annual stack tests for PM2.5 will be conducted at or promptly after the time when GREC conducts the annual stack tests for other parameters pursuant to the PSD Permit. GREC shall request FDEP to modify the PSD Permit in accordance with this Section 1.10.

**1.11. New Requirements for PM2.5.** GREC shall implement and comply with any and all new FDEP or U.S. EPA requirements

for PM2.5 that are promulgated and become applicable to the Project. GREC will comply with the requirements that are imposed by EPA on the Project, including any applicable regulation that requires a BACT analysis for PM2.5 and design, operational controls, and pollution controls constituting BACT for PM2.5. GREC acknowledges that FDEP is obligated to adopt certain U.S. EPA standards for PM2.5 in 2011. If FDEP fails to do so, U.S. EPA will have options including enforcing a Federal Implementation Plan for PM2.5 in Florida, and Appellants reserve their rights to petition U.S. EPA to take any action within EPA's authority to address any FDEP failure to implement U.S. EPA's standards for PM2.5 in 2011.

1.12. **No Sanctions for Settlement.** GREC agrees that it shall not pursue sanctions, fees, or expenses against any of the Appellants or their attorneys for or related to any of the Appeals being settled or any underlying litigation or proceedings, provided that the Appellants and their attorneys comply with the requirements in this Agreement.

1.13. **Attorneys' Fees.** GREC agrees to pay attorney fees for attorney and paralegal tasks performed related to each of these three appeals, as well as all appeal related expenses, in the sum of Six Hundred Thousand Dollars (\$600,000.00). Appellants and their attorneys shall allocate these fees in the manner they deem appropriate. The First Payment of Attorneys'

Fees shall be equal to one-quarter of the total fees (\$150,000.00) and it shall be paid within five (5) business days after the Appellants file motions to dismiss their Appeals in compliance with Section 1.18 of this Agreement. The Second Payment of Attorneys' Fees shall be equal to one-quarter of the total fees (\$150,000.00) and it shall be paid within five (5) business days after the Appellants' Appeals are dismissed. The Third Payment of Attorneys' Fees shall be equal to one-quarter of the total fees (\$150,000.00) and it shall be paid within five (5) business days after GREC issues its Final Notice to Proceed. If GREC issues a Final Notice to Proceed in 2011, as expected, the Final Payment of Attorneys' Fees shall be equal to one-quarter of the total fees (\$150,000.00) and it shall be paid after January 1, 2012, but no later than January 15, 2012. If GREC issues a Final Notice to Proceed in 2012 or later, the Third Payment of Attorneys' Fees and the Final Payment of Attorneys' Fees shall be paid within five (5) business days after GREC issues its Final Notice to Proceed.

**1.14. Contributions to Non-Profit Organizations.** GREC shall contribute Eighty-Seven Thousand Five Hundred Dollars (\$87,500.00) to each of up to four (4) non-profit organizations (for a total of Three Hundred Fifty Thousand Dollars (\$350,000.00)) that conduct work in Florida or on Florida related goals, including one such organization to be designated

by Site Certification Appellant Bussing, one such organization to be designated by the group of five (5) PSD Permit Appellants (Dr. Bussing, Mr. Canney, Ms. McSherry, Mr. McSherry, and Ms. Orr), one such organization to be designated by Public Service Commission Appellants Stahmer and Deevey, and one such organization being the Biomass Accountability Project ("BAP"). All Appellants and the officers of BAP agree that these funds will be used for environmental protection and other community service and public interest projects and shall not be used in any part for any legal, political or other action related to GREC or the Project with the sole exception that any of these non-profit organizations may, in their discretion, contribute funds to the ACEPD in additional support of the ACEPD's monitoring and oversight role as provided for in this Agreement. An annual accounting of the expenditure of these funds by each recipient non-profit organization will be provided to an independent, mutually agreed upon third party for review and determination of compliance with this Section 1.14 upon GREC's request. The First Payment to Non-Profit Organizations shall be equal to one-half of the total funds (\$175,000.00), and it shall be paid to the designated non-profit organizations within thirty (30) days after the Appeals are dismissed. The Second Payment to Non-Profit Organizations shall be equal to one-half of the total funds (\$175,000.00), and it shall be paid by GREC to the

four designated non-profit organizations within thirty (30) days after GREC issues its Final Notice to Proceed. In addition to the First and Second Payments to the four Non-Profit Organizations, GREC shall make two (2) supplemental payments to BAP. The First Supplemental Payment to BAP shall be in the amount of Fifty Thousand Dollars (\$50,000.00) and it shall be paid within thirty (30) days after the Appeals are dismissed. The Second Supplemental Payment to BAP shall be in the amount of Fifty Thousand Dollars (\$50,000.00) and it shall be paid within thirty (30) days after GREC issues its Final Notice to Proceed.

**1.15. No Sanctions by Agencies.** Appellants shall request the other parties to Appellants' Appeals (GRU, FDEP and the PSC) to agree to not seek sanctions, fees, or costs from the Appellants if the Appellants move to dismiss their three appeals. GREC agrees to support in good faith Appellants' request of these other parties that these parties agree to not seek sanctions, fees, or costs from the Appellants if the Appellants move to dismiss their Appeals, and should any of the other parties indicate reluctance to agree to not seek such sanctions or fees against Appellants, GREC shall, on Appellants request, join with Appellants in a letter to such other party seeking that party's agreement to not seek any such fees and sanctions. If GRU, the PSC, or FDEP seek and obtain a final non-appealable order imposing costs or fees on Appellants as a

result of the dismissal of the three pending appeals or the underlying proceedings, GREC shall reimburse Appellants for the full amount of such costs or fees, up to a maximum of One Million Dollars (\$1,000,000.00).

**1.16. PSD Permit Requirements.** The requirements of this Agreement between GREC and Appellants which are, pursuant to this Agreement, to be incorporated into the PSD Permit will take effect via the PSD Permit when the PSD Permit is modified to incorporate those provisions. Whether or not FDEP declines to approve a PSD Permit modification that fully incorporates any of these provisions into the PSD permit issued to GREC by FDEP, or fails to do so within forty-five (45) days of the Effective Date, such requirements of this Agreement will nonetheless take effect upon the Effective Date and be enforceable as a material contract term of the Parties' Agreement. Should a Party seek enforcement of a contract term of this Agreement between GREC and Appellants and prevail in a breach of contract action in a court, the prevailing Party will be entitled to attorney fees and costs, as provided in Section 2.13, below.

**1.17. Release of PSC Documents.** GREC shall work in good faith with Appellants to identify any documents in the record of the prior proceedings before the PSC related to GREC that formerly were considered confidential but now can be released to Appellants and the public by GREC. This offer

applies to documents that previously were subject to a claim of confidentiality by GREC. If any documents in the PSC record in the GREC matter are subject to a claim of confidentiality by a third party, GREC agrees to not oppose any motion or request by Appellants to have those documents released to Appellants and the public. Note that the term "GREC" as used in this Section 1.17 and Section 1.1, supra, includes GREC, LLC, American Renewables, and affiliated corporate entities, acting through their officers, employees, and agents.

**1.18. Dismissal of Appeals.** Appellants shall file motions to dismiss their Appeals, with prejudice, within three (3) business days after the Effective Date.

**1.19. No Further Litigation.** Appellants shall not participate in or assist others with (i.e. pursue indirectly) any activities or proceedings that Appellants themselves would be prohibited from pursuing directly under this Agreement between GREC and Appellants, including but not limited to (a) any effort to enjoin construction of the Project based on any claims brought or that could have been brought in any of the three pending appeals, or (b) any effort to enjoin construction of the Project based on any claims that could have been brought under any laws or legal theories before the Effective Date of this Agreement.

1.20. Waiver of Claims. Appellants waive their rights to pursue the Appeals being settled in this Agreement and waive their rights to pursue any claims brought in these Appeals or that could have been brought in these Appeals. Appellants do not waive any of their rights under the Florida Constitution or the Constitution of the United States including their free speech rights or the right to petition their government for redress. Nor do Appellants waive their claims under any law the material facts of which are currently unknown to them or any claim that has yet to accrue.

1.21. Confidentiality of Settlement. Appellants, officers of BAP, and Appellants' attorneys shall maintain the confidentiality of certain financial terms in the Agreement. Appellants may discuss the terms of the Agreement with each other and their attorneys, but Appellants, their attorneys, and the officers of BAP shall not tell anyone else about (a) GREC's payments of attorneys' fees and (b) GREC's payments to BAP. The existence of these payments, and the amount of these payments, shall be kept confidential. On the other hand, Appellants and GREC may publicly discuss the payments from GREC to ACEPD and the three designated non-profit groups (but not BAP), and they may discuss the other non-financial terms of the settlement that are not specifically mentioned in this Section 1.21.



1.22. Non-disparagement Agreement. Appellants and BAP officers agree that in any future communications regarding GREC or the Project that they will make a good faith effort to reference GREC or the Project in a professional and respectful manner even if a statement is being made in disagreement with or in criticism of GREC or the Project, and will make a good faith effort to offer any criticism of GREC or the Project or of GRU related to GREC or the Project in a constructive manner. GREC acknowledges that any statements made by Appellants or actions taken by Appellants prior to the Effective Date of this Agreement shall not be used as the basis for a claim that Appellants failed to comply with the requirements of Sections 1.19, 1.20, or this Section 1.22. Moreover, the Parties to this Agreement understand that this Agreement does not create any potential remedy or right beyond those already provided by law (such as causes of action for defamation, interference with business, and breach of contract) for any statements made by GREC or Appellants regarding the other. Nothing in this Section 1.22 shall be construed to prevent Appellants from making comments to the effect that GREC has failed to comply with the requirements of this Agreement, the PSD Permit, Conditions of Certification, or applicable laws if Appellants have a reasonable belief that such non-compliance has occurred.

1.23. **Press Release.** If the Parties or their attorneys wish to issue a press release concerning this Agreement, the Parties shall make a good faith effort to prepare a mutually acceptable press release concerning the Agreement. In the absence of an agreed to press release, the Parties agree to limit their press release regarding the settlement to factual descriptions of the non-confidential terms of this Agreement. This Agreement itself shall not be released.

1.24. **Proposed Modifications to PSD Permit.** GREC shall request FDEP to modify the PSD Permit in accordance with the provisions in Sections 1.2, 1.3, 1.5, 1.7, 1.8, 1.9, and 1.10 of this Agreement within thirty (30) days of the Effective Date. If a third party files a petition for an administrative hearing to challenge GREC's request for a modification, GREC shall have the right to withdraw its request from FDEP. If GREC exercises this right, GREC shall nonetheless comply with the requirements contained in the proposed modification to the PSD Permit, and Appellants shall have the right to enforce such requirements pursuant to this Agreement.

## **2.0 General Terms of the Settlement**

2.1 **Binding Effect.** This Agreement shall inure to the benefit of and be fully binding upon the Parties and their respective successors, heirs, and assigns.

**2.2 Governing Law and Venue.** This Agreement shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida without regard to the principles or provisions of its laws relating to conflicts with the laws of other states. The Parties hereby submit to the jurisdiction of the state and federal courts for Alachua County, Florida for the purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby. The Parties irrevocably waive, to the fullest extent permitted by law, (a) any objection which they may now or hereafter have to the laying of venue in such courts and (b) any claim that any proceeding brought in such courts has been brought in an inconvenient forum.

**2.3 No Oral Representations.** In executing this Agreement, neither Party has relied upon any oral representations, understandings, terms or conditions, expressed or implied, that are not contained in and expressly set out in this Agreement.

**2.4 Entire Agreement.** This Agreement sets forth the entire agreement and understanding of the Parties as to the subject matter hereof, and supersedes all prior negotiations, agreements, understandings and communications as to the subject matter hereof. Only the representations and promises included in this Agreement are binding on the Parties to this Agreement

or on anyone acting for, associated with or employed by any Party to this Agreement.

**2.5 Amendments.** No change, amendment, or modification of this Agreement shall be valid or binding upon the Parties unless such change, amendment, or modification is in writing and duly executed by all Parties.

**2.6 No Waiver.** The failure of any Party to (i) enforce any of the provisions of this Agreement, or (ii) require compliance with any of its terms at any time during the term of this Agreement, shall in no way affect the validity of this Agreement, or any part hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any such provision.

**2.7 No Admission.** The Parties understand and acknowledge that this Agreement is a compromise of disputed claims and not to be construed as an admission of guilt, liability, or the correctness of any other Party's claims in the Appeals. It is further understood and agreed that this Agreement shall not be admissible in evidence by one Party against another Party, in any action, cause of action, or proceeding, except in an action to enforce the terms of this Agreement.

**2.8 Confidentiality.** Subject to the provisions in Section 1.21 herein, the terms of this Agreement are confidential.

Appellants and their attorneys shall not provide a copy of this Agreement to anyone that is not a Party to this Agreement.

**2.9 Headings.** Captions and headings used in this Agreement are for ease of reference only and do not constitute a part of this Agreement.

**2.10 Counterparts.** This Agreement may be executed in counterparts, each one of which shall be deemed an original.

**2.11 Power & Authority.** Each Party represents and warrants to each other that: (i) it has the power and authority necessary to execute this Agreement and to consummate all transactions contemplated herein whether by authorization of its respective officers, directors, shareholders, or partners; (ii) this Agreement constitutes its legal, valid, and binding obligation, enforceable against it in accordance with its terms; and (iii) the terms and conditions herein have been completely read by it and that it has sought out and received advice of counsel and that those terms are fully understood and voluntarily accepted by it.

**2.12 Notices.** All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and be: (i) delivered in person; (ii) sent by United States mail (certified with return receipt requested), or (iii) sent by overnight courier

such as United Parcel Service or FedEx, and addressed to the intended recipient at the address set forth below:

If to GREC:

James S. Gordon  
Chief Executive Officer  
75 Arlington Street  
5<sup>th</sup> Floor  
Boston, MA 02116

If to Thomas Bussing:

Dr. Thomas Bussing  
1832 NW 11th Road  
Gainesville, FL 32605

If to Michael Canney:

Michael Canney  
P.O. Box 190  
Alachua, FL 32616

If to Dian Deevey:

Dian Deevey  
702 SW 35th Place  
Gainesville, Florida 32608

If to David McSherry:

David McSherry  
15212 SW 79 Avenue  
Archer, FL 32618

If to December McSherry:

December McSherry  
15212 SW 79 Avenue  
Archer, FL 32618

If to Karen Orr:

Karen Orr  
2546 SW 14th Drive  
Gainesville, FL 32608

If to Paula Stahmer:

Paula Stahmer  
4621 Clear Lake Drive  
Gainesville, Florida 32607

or, as to any Party, at such other address as shall be designated by such Party in a written notice delivered to the other Party in compliance with the terms of this Section 2.12. All such notices, requests, demands and other communications shall be deemed to have been duly given or made, in the case of personal delivery, when actually delivered, or, in the case of registered or certified mail or overnight courier, when received, or if sent by first class U.S. Mail, on the third business day after the day on which mailed. General correspondence is not considered notice under this Agreement.

**2.13 Remedies.** The Parties may enforce this Agreement by using any and all remedies available at law and in equity, including but not limited to specific performance and injunctive relief. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the Parties. In any litigation concerning the interpretation, application, or enforcement of this Agreement, the prevailing Party shall recover its costs and reasonable attorneys fee from the non-prevailing Party.

**2.14 Reserved.**

**2.15 Limitation of Liability.** In no event shall a Party be liable to any other Party for indirect, incidental, punitive or consequential damages, resulting from a Party's performance, nonperformance or delay in performance of its obligations under this Agreement, whether arising in contract, tort (including negligence) or strict liability, even if a Party was advised of the possibility of such damages. In addition, no Appellant shall be jointly or severally liable for a breach by another Appellant.

**2.16 No Construction Against Drafter.** This Agreement is and shall be deemed jointly drafted and written by all of the Parties. This Agreement shall not be construed or interpreted against the Party that originated or prepared it.



**2.16 Additional Representations and Covenants.** Each Party hereto represents and agrees that he, she or it has had the opportunity to seek and has sought from lawyers any such advice as he, she or it deems appropriate with respect to signing this Agreement or the meaning of it. Each Party has undertaken such independent investigation and evaluation as he, she or it deems appropriate and is entering into this Agreement in reliance on that, and not in reliance on any advice, disclosure, representation or information provided by or expected from the other Party or the other Party's lawyers. This Agreement is made in recognition that the Parties to this Agreement may have different understandings, information and contentions as to the relevant facts and law affecting the Settled Claims, and each Party is compromising their position to resolve the Parties' differences concerning the Settled Claims, and therefore no Party's misunderstandings or misinformation shall be a ground for rescission of this Agreement.

**2.17 Severability.** If a court of competent jurisdiction finally determines that any provision of this Agreement is invalid or unenforceable, then that provision shall be ineffective to the extent of such invalidity or unenforceability only, and the remaining provisions shall nevertheless continue in full force and effect.

**2.18 Effective Date.** This Agreement shall take effect and become enforceable on the Effective Date. The Effective Date is the day when the Agreement is delivered by the Appellants to GREC, after (a) the Agreement has been signed and fully executed by all of the Appellants and (b) the Confidentiality Agreement (attached hereto as Exhibit "A") has been signed and fully executed by all of the officers of BAP. The Effective Date shall be written on page one of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the Parties intending to be legally bound, have duly executed this Agreement, as of the Effective Date.

For Gainesville Renewable Energy Center:

By: James S. Gordon

Printed Name: James S. Gordon

Title: Chief Executive Officer

Date: 2/28/2011

STATE OF MASSACHUSETTS

COUNTY OF SUFFOLK

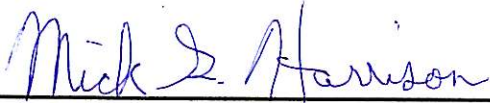
BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgements, personally appeared James S. Gordon, as CEO of Gainesville Renewable Energy Center, LLC ("GREC"), an organization authorized to do business in the State of Florida, and he acknowledged and executed the foregoing Agreement as the proper official of GREC for the use and purposes mention in it, and he affixed the official seal of the corporation. He is personally known to me or has produced his drivers' license as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal in the state and county aforesaid on this 28<sup>TH</sup> day of February, 2011.

Notary Public Laura Martin

My Commission Expires: July 4, 2014

For the Appellants (Thomas Bussing, Michael Carney, Dian Deevey,  
David McSherry, December McSherry, Karen Orr, and Paula Stahmer)  
in their capacity as legal counsel:



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Mick G. Harrison, Esq.  
205 N. College Ave., Suite 311  
Bloomington, IN 47404  
812-361-6220

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Horace Moore, Sr., Esq.  
P.O. Box 2146  
Gainesville, FL 32602-2146  
352-371-2300

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Ray Washington, Esq.  
P.O. Box 6008  
Gainesville, FL 32627  
352-337-2700

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Sarah Hayter, Esq.  
704 NE 1st St  
Gainesville, Florida 32601  
352-283-0921



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Richard E. Condit, Esq.  
1612 K Street, NW, Suite 1100  
Washington, DC 20006  
202-465-0515

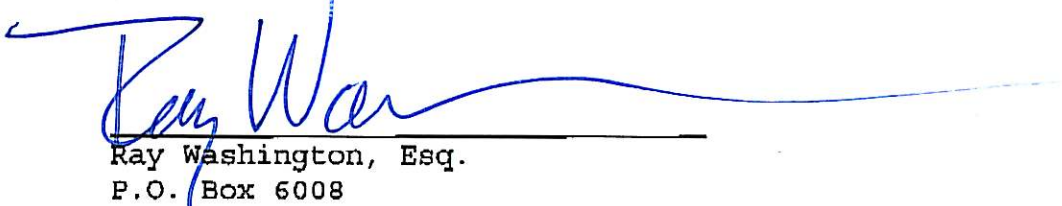
For the Appellants (Thomas Bussing, Michael Carney, Dian Deevey,  
David McSherry, December McSherry, Karen Orr, and Paula Stahmer)  
in their capacity as legal counsel:

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Mick G. Harrison, Esq.  
205 N. College Ave., Suite 311  
Bloomington, IN 47404  
812-361-6220

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Horace Moore, Sr., Esq.  
P.O. Box 2146  
Gainesville, FL 32602-2146  
352-371-2300



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Ray Washington, Esq.  
P.O. Box 6008  
Gainesville, FL 32627  
352-337-2700

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Sarah Hayter, Esq.  
704 NE 1st St  
Gainesville, Florida 32601  
352-283-0921

---

Richard E. Condit, Esq.  
1612 K Street, NW, Suite 1100  
Washington, DC 20006  
202-465-0515

For the Appellants (Thomas Bussing, Michael Carney, Dian Deevey,  
David McSherry, December McSherry, Karen Orr, and Paula Stahmer)  
in their capacity as legal counsel:

---

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*Horace Moore, Sr.*

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352-283-0921

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Richard E. Condit, Esq.  
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Washington, DC 20006  
202-465-0515

Thomas Bussing *Bussing*

Date: 2/23/11

STATE OF FLORIDA

COUNTY OF ALACHUA

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Thomas Bussing. He is personally known to me or has produced his driver's license as identification and has/has not taken an oath.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Seaside, Florida, this 23 day of February, 2011.

*Morie McCray*

NOTARY PUBLIC  
State of Florida at Large

Print Name *Morie McCray*

My Commission Number  
Expires:

NOTARY PUBLIC-STATE OF FLORIDA  
Morie McCray  
Commission # DD673590  
Expires: MAY 13, 2011  
BONDED THRU ATLANTIC BONDING CO., INC.

Michael Canney Michael S. Canney

Date: 2/25/11

STATE OF FLORIDA

COUNTY OF ALACHUA

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Michael Canney. He is personally known to me or has produced his driver's license as identification and has/has not taken an oath.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Alachua, Florida, this 25 day of February, 2011.

*Marilyn Vanover*

NOTARY PUBLIC  
State of Florida at Large

MARILYN VANOVER

Print Name

My Commission Number  
Expires: 4-29-14



29 30 JTL



Dian Deevey Dian Deevey

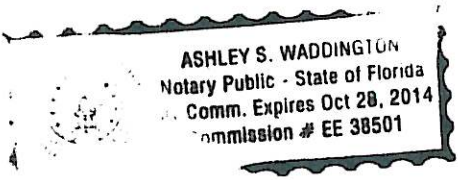
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H322-176-30-963-0

STATE OF FLORIDA

COUNTY OF ALACHUA

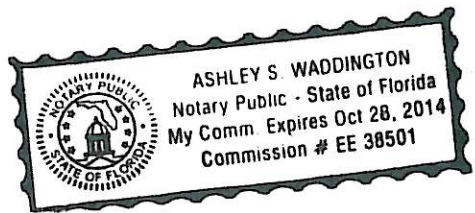
I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Dian Deevey. She is personally known to me or has produced her driver's license as identification and has/has not taken an oath.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Wachovia Bank, this 24 day of February, 2011.



*Ashley Waddington*

NOTARY PUBLIC  
State of Florida at Large



*Ashley Waddington*

Print Name

My Commission Number  
Expires: Oct 28, 2014

David McSherry *David McSherry*  
Date: Feb 24 2011

STATE OF FLORIDA  
COUNTY OF ALACHUA

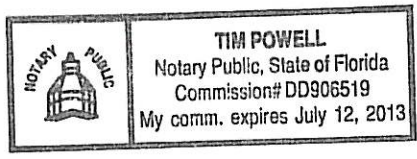
I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, David McSherry. He is personally known to me or has produced his driver's license as identification and has/has not taken an oath.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Gainesville FL, this 24 day of Feb, 2011.

NOTARY PUBLIC  
State of Florida at Large  
*T. Powell*

Print Name Tim Powell

My Commission Number  
Expires: 7/12/13



*32*  
*JTL*

December McSherry December McSherry  
Date: February 24, 2011

STATE OF FLORIDA  
COUNTY OF ALACHUA

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, December McSherry. She is personally known to me or has produced her driver's license as identification and has/has not taken an oath.

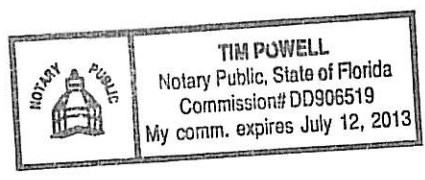
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Gainesville, FL, this 24 day of Feb, 2011.

NOTARY PUBLIC  
State of Florida at Large

T. Powell

Print Name Tim Powell

My Commission Number  
Expires: 7/12/13



3  
32  
JTL

Karen Orr Karen Orr

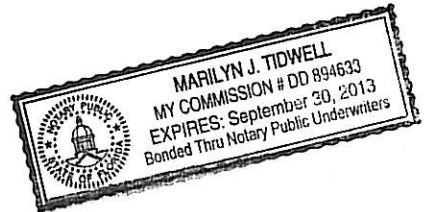
Date: Feb. 24, 2011

STATE OF FLORIDA

COUNTY OF ALACHUA

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Karen Orr. She is personally known to me or has produced her driver's license as identification and has/has not taken an oath.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Gainesville, Florida, this 24<sup>th</sup> day of February, 2011.



*Marilyn J. Tidwell*

NOTARY PUBLIC  
State of Florida at Large

Marilyn Tidwell

Print Name

My Commission Number  
Expires: 9/30/13

4  
33 JTL

Paula Stahmer Paula H. Stahmer

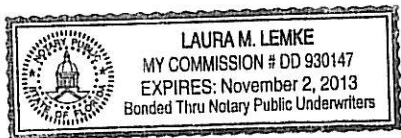
Date: 2.24.2011

STATE OF FLORIDA

COUNTY OF ALACHUA

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Paula Stahmer. She is personally known to me or has produced her driver's license as identification and has/has not taken an oath.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at 1900SW 34th St Gainesville FL this 24 day of February, 2011.



NOTARY PUBLIC  
State of Florida at Large

Laura M. Lemke

Print Name  
Laura M Lemke  
My Commission Number DD 930147  
Expires: 11-02-13

5  
34 JTL