

**Resolution of the City Council
Concerning Consideration of a Ground Lease With
The United Illuminating Company to Construct 5.66MW
of Renewable Energy (Consisting of a 2.86MWdc Solar Photovoltaic Facility
and a 2.8MW Fuel Cell Facility) at or Near the Seaside Park Landfill**

WHEREAS, the United Illuminating Company (UI) has received tentative approval from the State of Connecticut Public Utilities Regulatory Authority (PURA) (Docket No. 12-01-05RE01) to construction 5.66MW of renewable energy projects;

WHEREAS, UI proposes to construct a 2.86MWdc solar photovoltaic facility on a portion of the Seaside Park Landfill and proposes to construct a 2.8MW fuel cell nearby on the access road leading to the Landfill;

WHEREAS, UI must demonstrate to PURA that it has control of the property on which such facilities will be constructed and requires that the City enter into a 20-year ground lease with two five-year renewals (Ground Lease);

WHEREAS, these renewable energy facilities are anticipated to generate approximately \$6.9 million in personal property taxes during the initial 20-year term and will also generate rent;

WHEREAS, the City supports this renewable energy facility and has given testimony before PURA of the benefits of this project to the City and its residents; and

WHEREAS, UI must still receive final approval from PURA and will be held to a very tight construction schedule to put these facilities in place so that they can begin to generate electricity to the grid.

NOW, THEREFORE, BE IT RESOLVED:

THAT the City agrees to enter into the proposed Ground Lease with UI attached hereto, subject to the further approval of PURA and authorizes the Mayor or his designee to execute all documents and take all other actions and do all other things necessary in furtherance of and consistent with this resolution in the best interests of the City of Bridgeport and its residents.

12/31/13 Draft

GROUND LEASE AGREEMENT 

by and between

CITY OF BRIDGEPORT, CONNECTICUT

as Landlord

and

THE UNITED ILLUMINATING COMPANY

as Tenant

PREMISES: [Portion of Seaside Park Landfill]

Date: [REDACTED], 2014

Term: 20 Years

Options: Two 5 Year Options

GROUND LEASE AGREEMENT

This **GROUND LEASE AGREEMENT** (this "*Lease*") is made as of the [REDACTED] day of [REDACTED], 2014 (the "*Effective Date*") by and between **City of Bridgeport, Connecticut**, having an office at Margaret E. Morton Government Center, 999 Broad Street, Bridgeport, Connecticut 06604 and its successors and assigns (collectively, "*Landlord*") and **The United Illuminating Company**, a specially chartered Connecticut corporation, with offices at 180 Marsh Hill Road, Orange, Connecticut 06477 and its successors and assigns (collectively, "*Tenant*").

RECITALS

WHEREAS, Landlord is the fee owner of the real property located at [REDACTED] in Bridgeport, Connecticut, which is more particularly described on Exhibit A attached hereto and made a part hereof ("*Land*").

WHEREAS, Tenant desires to lease that portion of the Land described on Exhibit B attached hereto and made a part hereof ("*Premises*") for purposes developing, constructing, installing, operating and maintaining certain power generating facilities as more particularly described herein; and

WHEREAS, the Parties have determined that it is in their best interests that Tenant lease the Premises from Landlord and construct such generating facilities on the Premises for Tenant's use, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual obligations of the Parties, the receipt and sufficiency of which are hereby acknowledged by each Party, the Parties hereby covenant and agree with each other as follows:

1. **Defined Terms.** As used herein, the following terms shall have the following meanings.

"*Annual Rent*" shall mean the annual rent due hereunder as set forth in Exhibit C attached hereto and made a part hereof.

"*Approval*" shall mean a consent, permission, approval and/or other authorization to be provided by an authorized executive of the referenced Party that may be withheld or conditioned in the sole discretion of such referenced Party.

"*DEEP*" shall mean the Connecticut Department of Energy and Environmental Protection and any successor agency thereto

"*DEEP Permit*" shall mean the disruption permit to be issued by CT DEEP with respect to the Solar Project, as the same may be amended from time to time.

"*Effective Date*" has the meaning set forth in the first paragraph of this Lease. [To be conformed based on timing/permitting and sequence by mutual agreement.]

"*Encumbrances*" shall mean any lien, security interest, charge, claim, mortgage, pledge, equitable interest, encumbrance, restriction on transfer, conditional sale or other title retention device or arrangement, transfer for security for the payment of any indebtedness, or other restriction or blemish on, or agreement concerning the free and full use and ownership of property.

"*Environmental Attributes*" has the meaning set forth in Section 7(b).

"*Environment*" shall mean soil, land surface or subsurface strata, real property, surface waters, groundwater, wetlands, sediments, drinking water supply, ambient air (including indoor air) and any other environmental medium or natural resource.

"*Environmental Law*" shall mean Law relating to and/or imposing liability with respect to: (a) the regulation, protection and use of the Environment including the Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Clean Water Act, 33 U.S.C. §§ 1344 et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and any other federal, state, and/or local environmental statutes, and all rules, regulations, orders, and decrees under any of the foregoing; (b) the conservation, management, development, control and/or use of land, natural resources and wildlife; (c) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, or handling of, or exposure to, any Hazardous Materials, including all applicable common law pertaining to actions for personal injury and/or property damage resulting from Hazardous Materials with respect to contamination both on and off the Land; or (d) noise.

"*Existing Encumbrances*" shall mean those Encumbrances affecting the Premises as of the Effective Date as listed on **Exhibit A** attached hereto and made a part hereof.

"*First Extension Term*" has the meaning set forth in Section 3(b).

"*Fuel Cell Project*" shall mean an approximately 2.8 megawatt electric power generating facility primarily consisting of one or more fuel cells and associated equipment and improvements, as such project may be modified from time to time, together all additions, changes, repairs, replacements, substitutions and enhancements thereto and/or all renewals, reconstruction and repowering thereof, in whole or in part.

"*Fuel Cell/Service Area*" shall mean that portion of the Premises described in Section 2 of **Exhibit B** attached hereto and made a part hereof.

"*Fundamental Alteration*" has the meaning set forth in Section 11 of **Exhibit D** attached hereto and made a part hereof.

"*Generating Facility*" shall mean each of the Fuel Cell Project or the Solar Project, and "*Generating Facilities*" shall mean both of them.

"*Governmental Authority*" shall mean any federal, state, municipal, regional, county, local or other governmental, quasi-governmental, regulatory or administrative authority, agency, body, commission, department, board, or other governmental subdivision, court, tribunal, or arbitral body, or any other governmental or quasi-government authority or any Person exercising or purporting to exercise any governmental or quasi-governmental authority or prerogative.

"*Hazardous Materials*" shall mean: (a) any petrochemical or petroleum products, oil, waste oil, asbestos in any form that is or could become friable, urea formaldehyde foam insulations, lead-based paint and polychlorinated biphenyls; (b) any products, mixtures, compounds, materials or wastes, air emissions, toxic substances, wastewater discharges or any chemical, material or substance that may give rise to liability pursuant to, or is listed or regulated under, or the human exposure to which or the release of which is controlled or limited by Environmental Law; and (c) any materials or substances defined in Environmental Law as "hazardous", "toxic", "pollutant", or "contaminant", or defined in Environmental Law using any words of similar meaning or legal or regulatory effect.

"*Indemnified Person*" shall mean any Person entitle to receive indemnification under Article 10 of this Agreement.

"*Indemnifying Party*" shall mean the Party required to provide indemnification under Article 10 of this Agreement.

"*Initial Expiration Date*" shall mean twentieth (20th) annual anniversary of the Effective Date.

"*Initial Term*" has the meaning set forth in Section 3(a).

"*Land*" has the meaning set forth in the Recitals to this Lease.

"*Landfill*" shall mean the landfill located on the Solar Area.

"*Landlord*" has the meaning set forth in the first paragraph of this Lease.

"*Landlord's Evaluation Period*" has the meaning set forth in Section 13(a).

"*Law*" shall mean any and all constitution, charter, act, statute, law, ordinance, code, rule, regulation, order, consent decree, specified standard or objective criterion of any Governmental Authority, whether or not contained in any Permit; any other legislative or administrative action of the United States of America, the State of Connecticut, any county or municipality having jurisdiction, or any other Governmental Authority; and any and all operative decree, judgment or order of any court.

"Lease" shall mean this Ground Lease Agreement, including all exhibits hereto, as well as any and all items specifically incorporated by reference herein or therein, and any and all amendments hereto agreed to in writing by the Parties.

"Lease Year" shall have the meaning set forth in Section 4.

"Mortgage" shall mean any mortgage, deed of trust and other such Encumbrance now or hereafter placed upon the Land, under which Landlord is the mortgagor and the holder of the mortgage is the mortgagee, including any renewal, modification, consolidation, replacement or extensions thereof, and all indebtedness now or hereafter secured thereby and all interest thereon.

"Party" shall mean each of Landlord and Tenant, and "Parties" shall mean both of them.

"PCU Permit" shall mean the post-closure use permit to be issued to Landlord by DEEP with respect to the Premises, as the same may be amended from time to time.

"Permits" shall mean collectively all approvals, certificates, permits, agreements, orders, consents, and licenses as may be required by any Governmental Authority or by Law in connection with a Permitted Use.

"Permitted Uses" has the meaning specified in **Exhibit D** attached hereto and made a part hereof.

"Person" shall mean a natural person, a corporation, a partnership, a limited liability company, a limited liability partnership or any other entity.

"Pre-existing Hazardous Materials" shall mean Hazardous Materials existing at the Premises, *excluding* any and all Hazardous Materials brought onto the Premises by, or on behalf of, Tenant after the Effective Date.

"Premises" has the meaning set forth in the Recitals to this Lease.

"PURA" shall mean the Connecticut Public Utilities Regulatory Authority and any successor agency thereto.

"PURA Approval" shall mean any approval, order and/or other authorization issued to Tenant by PURA in connection with the Generating Facilities.

"Second Extension Term" has the meaning specified in Section 3(b).

"Shadow Restriction" shall have the meaning specified in **Exhibit D** attached hereto and made a part hereof.

"Shared Area" shall mean that portion of the Premises described in Section 3 of **Exhibit B** attached hereto and made a part hereof.

"*Siting Council*" shall mean the Connecticut Siting Council and any successor agency thereto.

"*Siting Council Decision*" shall mean any of the following issued by the Siting Council: (a) a Certificate of Environmental Compatibility and Public Need along with the accompanying Findings of Fact, Opinion and Decision and Order and Development and Management Plan for the Project; (b) any approval issued pursuant to a Petition for Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required for the Project; or (c) any other written approval or authorization issued by the Siting Council concerning a Generating Facility.

"*SNDA*" shall mean a subordination, non-disturbance and attornment agreement.

"*Solar Area*" shall mean that portion of the Premises described in Section 1 of **Exhibit B** attached hereto and made a part hereof.

"*Solar Project*" shall mean an approximate 2.2 megawatt solar power generating facility primarily consisting of photovoltaic panels and associated equipment and improvements, as such project may be modified from time to time, together all additions, repairs, replacements, substitutions and enhancements thereto and/or all renewals, reconstruction and repowering thereof, in whole or in part.

"*Tenant*" has the meaning set forth in the first paragraph of this Lease.

"*Term*" shall mean the term of this Lease, as determined in accordance with Section 3 and includes the Initial Term and any First Extension Term and Second Extension Term.

"*Third Party*" shall mean any Person other than the Parties or any of their respective Affiliates.

"*Third Party Agreement*" has the meaning specified in Section 8(d).

"*Transfer*" shall mean, whether used in noun or verb form, a transaction by which a Party directly or indirectly sells, leases, assigns, conveys, transfers, disposes of, mortgages, pledges or otherwise alienates or encumbers all or any portion of its rights, obligations and/or other interests in this Lease (or agrees or is required to do any of the foregoing). Any variant of Transfer shall have a similar meaning as the context requires.

2. Entire Agreement; Interpretation.

(a) **Entire Agreement.** This Lease contains the entire agreement between the Parties pertaining to the Premises and supersedes any and all prior oral or written agreements, terms, understandings, conditions, proposals, negotiations and representations with respect to such subject matter.

(b) Amendments. No amendments or modifications of this Lease shall be valid unless evidenced in writing, and signed and delivered by duly authorized officers or agents of both Parties.

(c) Interpretation. The terms "hereof", "herein", "hereto", "hereunder" and "herewith" refer to this Lease as a whole. Except where otherwise expressly provided or unless the context otherwise necessarily requires in this Lease: (i) "include(s)", "including" or any other variant thereof means "include(s), without limitation" or "including, without limitation," or any other variant thereof as the context requires; (ii) the phrase "and/or" shall be deemed to mean the words both preceding and following such phrase, or either of them; (iii) reference to a Person includes its heirs, executors, administrators, successors and permitted assigns; (iv) any pronoun includes the corresponding masculine, feminine or neuter forms; and (v) singular terms shall include the plural and vice versa as the context may require. The words "will" and "shall" are used interchangeably throughout this Lease; the use of either connotes a mandatory requirement; and the use of one or the other will not mean a different degree of right or obligation for either Party. The headings and captions for the articles and sections contained in this Lease have been inserted for convenience only and form no part of this Lease and shall not be deemed to affect the meaning or construction of any of the terms or conditions of this Lease.

(d) Construction. This Lease shall be construed as being jointly drafted by the Parties, and any ambiguities or uncertainties in the wording of this Lease shall be construed in the manner that most accurately reflects the Parties' intent as of the Effective Date.

(e) Approvals. Any Party that requires an Approval from the other Party hereunder shall not act, effect and/or otherwise implement the matter, decision, and/or other action requiring such Approval, or fail to act in any manner the effect of which reasonably could be expected to create a result that would have required such Approval, in each case without having first obtained such Approval. If a dispute exists between the Parties with regard to an Approval, such dispute shall be fully resolved by appropriate means (including judicial action) in accordance with Section 20 before the requesting Party may take any action with respect to the matter requiring such Approval.

3. Lease; Term.

(a) Grant of Lease; Initial Term. Landlord hereby leases and demises to Tenant, and Tenant hereby takes and leases from Landlord, the Premises, subject to the terms and conditions of this Lease, together with (i) all present and future improvements, easements, and appurtenances thereon and thereto; (ii) the appurtenances and all the estate, rights, and privileges of Landlord in and to the Premises; (iii) all right, title and interest of Landlord in and to any strips or gores of land adjoining or included within the Premises; and (iv) any and all rights of access to and from the Premises and any other appurtenant rights of Landlord. Tenant shall have the exclusive use of the Solar Area and the Fuel Cell/Service Area, and without limiting the generality of the foregoing, Landlord shall not lease and/or otherwise permit any other Person to use the Solar Area and the Fuel Cell/Service Area. The Parties shall reasonably coordinate Tenant's common use of the Shared Area to fully support Tenant's exclusive use of the Solar Area and the Fuel Cell/Service Area. The initial term of this Lease (the "*Initial Term*") shall

commence on the Effective Date and end on the Initial Expiration Date, unless sooner terminated by Tenant as provided herein. Possession of the Premises shall be delivered to Tenant on the Effective Date.

(b) Extensions. Unless Tenant has notified Landlord at least one hundred eighty (180) days before the expiration of the Initial Term that Tenant does not wish to continue this Lease (in which case this Lease shall terminate upon the expiration of the Initial Term), the Term shall be extended for an initial renewal term of five (5) consecutive Lease Years after the Initial Term (the "*First Extension Term*"). Thereafter, unless Tenant has notified Landlord at least one hundred eighty (180) days before the expiration of the First Extension Term that Tenant does not wish to continue this Lease (in which case this Lease shall terminate upon the expiration of the First Extension Term), the Term shall be extended for a second renewal term of five (5) consecutive Lease Years after the First Extension Term (the "*Second Extension Term*"). The terms, covenants and conditions as set forth herein with respect to the Initial Term shall apply to any and all extensions thereto.

(c) Tenant's Termination Right. Tenant shall have the right, exercisable in its sole discretion, to terminate this Lease at any time, with or without cause or other reason whatsoever. If Tenant elects, in its sole discretion, to exercise such termination right, then Tenant shall give a notice of termination to Landlord. Such termination shall be effective on the date specified in Tenant's notice; *provided* that such termination date shall not be less than ninety (90) days after the giving of such notice. Notwithstanding any provision of this Lease to the contrary, this Section 3(c) sets forth the exclusive conditions under which Tenant's rights set forth in this Lease may be terminated before the expiration of the Term.

4. Rent. Tenant shall make the initial Annual Rent payment within sixty (60) days after the Effective Date, for the period commencing on the Effective Date through the first anniversary of the Effective Date. Thereafter, during the Term, Tenant shall pay, in advance, the Annual Rent for each twelve (12) consecutive month period after such first anniversary of the Effective Date (each such twelve month period being a "*Lease Year*"). Tenant shall pay the applicable Annual Rent within sixty (60) days after the commencement of each such Lease Year. Tenant shall pay the Annual Rent to Landlord at the address listed in Section 21(a), or to such other Person and/or address as Landlord may designate in writing at least thirty (30) days before the due date of such payment. Tenant shall not be required to (a) provide any security deposit and/or any other form of financial assurance to Landlord in connection with this Lease; and/or (b) pay any other payment, contribution and/or compensation of whatever nature to Landlord on account of, and/or arising out of, this Lease, the Premises and/or the transactions contemplated hereby (other than as a result of Landlord's exercise of remedies pursuant to Section 14(a)).

5. Taxes. Tenant shall pay any personal property taxes that are assessed, levied, charged, confirmed, or imposed by any Governmental Authority on Tenant's personal property located on the Premises, including the Generating Facilities; *provided* that Tenant shall have no liability and/or other obligation for (a) taxes attributable to any improvements now or hereinafter on the Premises that are owned by an entity other than Tenant; (b) taxes computed upon the basis of the payment derived from this Lease by Landlord (including any income taxes); and (c) taxes, fees, service payments, excises, assessments, bonds, levies, fees or charges of any kind that are

adopted by any Governmental Authority after the Effective Date. Landlord shall solely bear and pay any and all other taxes and amounts attributable to, and/or arising out of the Land, including all real property taxes relating to the Premises, and all amounts in connection with clauses (a), (b) and (c) of this Section 5. Nothing in this Lease shall impair or otherwise affect the right of any Party to appeal, contest and/or otherwise seek relief with respect to any tax and/or other imposition.

6. Representations and Warranties.

(a) Title. Landlord represents, covenants and warrants that Landlord is the exclusive owner in fee simple of the Land.

(b) No Brokers. Each Party represents and warrants to the other that such Party did not contract with or engage a broker or agent in connection with, or arising out of, this Lease. Each Party agrees to indemnify the other Party against, and hold the other Party harmless from, any and all claims or liabilities for all brokerage fees, commissions and finder's fees incurred by reason of any action taken by the indemnifying Party in connection with this Lease.

(c) Authority. Each Party represents, covenants and warrants to the other that (i) it is duly authorized to execute and deliver this Lease, (ii) it has obtained all necessary consents, waivers and approvals under its organizational documents and under applicable Law to execute, deliver and perform under this Lease; and (iii) this Lease is enforceable against such Party in accordance with its terms and does not violate any provision of any agreement to which such Party is a party or to which it is subject.

(d) Land Use. Landlord hereby represents to the best of its knowledge and belief that creation and use of the parcels constituting the Premises does not constitute a subdivision requiring approval thereof under applicable Law.

(e) Landmark. Landlord hereby represents that to the best of its knowledge and belief the Premises have not been designated, nor do any plans exist to designate the Premises as a landmark, nor are the Premises within a historical district or otherwise entitled to landmark protection. To Landlord's best knowledge and belief, the Premises have not been listed in any national, state or local register of historic places.

(f) [To be completed, if appropriate, after discussion re: existing drainage structure]

(g) Landfill. Landlord shall be solely responsible (at Landlord's sole cost and expense) to operate, maintain, repair and otherwise care for, the Landfill in accordance with applicable Laws (including permits, approvals and other orders issued by any Governmental Authority regarding the closure of the Landfill) and any applicable contractual or other commitments. Landlord represents, warrants and covenants that to Landlord's best knowledge and belief:

(i) the Landfill is in compliance with all applicable Laws, including all requirements of DEEP. Without limiting the generality of the foregoing, the Landfill has been closed

and capped in accordance with applicable Laws, including compliance with the plans and specifications approved by DEEP. Since being closed, the Landfill has been maintained and otherwise used in accordance with applicable Laws;

(ii) the condition of the Landfill does not differ from that characterized in submissions to Governmental Authorities, including DEEP;

(iii) the Landfill is not subject to any restriction, limitation and/or other covenant regarding use, other than the application of the Existing Encumbrances and Laws applicable to activities conducted on similar landfill sites after closure. Landlord is not a party to any agreement, instrument and/or other contractual arrangement of whatever nature (written or oral) pertaining, in whole or in part, to operation, maintenance and other work in connection with the Landfill;

(iv) Landlord is not conducting, and has to plans to conduct, any maintenance on, repair of, alteration to and/or other change affecting all or any portion of the Premises that could reasonably be expected to interfere with and/or otherwise adversely affect any of the Permitted Uses and/or any other exercise of rights granted hereunder by Tenant;

(v) there are no plans and/or circumstances that would require Landlord to alter, relocate and/or otherwise revise the condition and/or location of any of the access roads to or on the Premises; and

(vi) Landlord has not taken and/or failed to take any action that could affect the issuance of any Permit for the Generating Facilities.

In addition to Tenant's rights and remedies hereunder (including those under Section 14 of this Lease), at law and in equity, if any representation and/or warranty of Landlord is incorrect in any material respect and/or Landlord breaches any of the Landlord's covenants, Tenant reserves the right, but not the obligation, to take corrective actions, at Landlord's sole cost, to cause the Landfill to be in compliance with such representation, warranty and/or covenant. Landlord shall reimburse Tenant for all cost and expenses so incurred by Tenant within sixty (60) days after Tenant submits a request for payment therefor.

7. Permitted Uses.

(a) Tenant shall be entitled to use the Premises and the remaining portions of the Land for the Permitted Uses described in **Exhibit D** attached hereto and made a part hereof, consistent with the terms and conditions of this Lease. Without prejudice to, and/or any limitation of, Tenant's rights and remedies hereunder, Tenant shall bear all costs and expenses incurred by Tenant in connection with the construction, operation and maintenance of the Generating Facilities, including permitting fees and public utility charges.

(b) Without limiting the generality of the Permitted Uses, Landlord acknowledges that Tenant is the exclusive owner of (a) electricity generated by, and capacity and other products associated with, each Generating Facility; and (b) the Environmental Attributes of each

Generating Facility. "Environmental Attributes" include any and all credits, benefits, emissions reductions, environmental air quality credits, and emissions reduction credits, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substances attributable to a Generating Facility. Without the prior written Approval of Tenant, Landlord shall not make or publish any public statement or notice which claims ownership of, or entitlement to, any Environmental Attributes of a Generating Facility or the electric power and other products generated thereby.

8. Covenants.

(a) Landlord shall not erect any building or structure on, place or store any materials on, park or store any vehicles on, grade, excavate, fill or flood the Land, or otherwise use the Land, in any manner which (i) may interfere with the exercise of any of the Permitted Uses, rights and/or leases herein granted to Tenant, or (ii) which may create a hazard, in each case without prior written notice to and receipt of the written Approval from Tenant. If Landlord desires to take any of such actions, Landlord shall notify Tenant of such intent, and Tenant shall advise Landlord, within a reasonable period, of any concerns with respect to interference and/or hazards. The Parties shall negotiate in good faith to address and resolve Tenant's concerns and otherwise effect Landlord's compliance with this Section 8(a).

(b) Landlord shall not attach anything to the property of Tenant installed by virtue of this Lease.

(c) Landlord acknowledges, covenants and agrees that no cessation of use or operation of all or any portion of a Generating Facility, the Premises or the rights set forth in this Lease by Tenant shall be deemed an abandonment thereof resulting in the termination of any aspect of this Lease or any rights granted herein, *unless* Tenant, at the time of such cessation of use or operation, terminates this Lease pursuant to Section 3(c).

(d) Without prior written consent of Tenant (which may not be unreasonably withheld, conditioned or delayed), Landlord shall not:

- (i) authorize or permit all or any portion of the Land to be used in connection with a solar and/or fuel cell generating facility (*except* the Generating Facilities), and/or
- (ii) convey any new or additional agreements, leases, licenses or permits (including any new amendments to existing agreements, easements, leases, licenses and/or permits) to any Third Parties on the Premises within or across the Premises, or on any other property owned by Landlord that is adjacent to, abuts and/or is within one hundred (100) feet of the Solar Area (each a "*Third Party Agreement*"),

in each case that may (A) interfere with the exercise of any of the rights and/or privileges granted herein; and/or (B) which may create a hazard. If Landlord desires to take any of such actions, Landlord shall notify Tenant of such intent, and Tenant shall advise Landlord, within sixty (60) days after receipt of relevant information requested by Tenant from Landlord, of any concerns with respect to interference and/or hazards. The Parties shall negotiate in good faith to address and resolve Tenant's concerns and otherwise effect Landlord's compliance with this Section 8(d).

If Tenant consents in writing to any Third Party Agreement, then the text of such Third Party Agreement shall state that such Third Party Agreement is subordinate to, and subject to, this Lease.

(e) Landlord shall not Transfer any interest in, use or take any action (including seeking a subdivision or similar change to existing property boundaries) with respect to, and/or authorize or permit any activities on the Land that that could (i) result in noncompliance with land use, zoning or other Laws, whether as a result of such action, authorization and/or permission itself, or in conjunction with the rights and/or privileges granted herein; and/or (ii) in any manner interfere with the exercise of any of the rights and/or privileges granted herein, in each case without Tenant's prior written Approval. Before taking any action of whatever nature with respect to the Land, Landlord shall submit a detailed plan to Tenant, including Landlord's compliance with this Section 8(e). Tenant shall provide comments on such plan, including any concerns regarding compliance with this Section 8(e), and Landlord shall not take any action with respect to such plan without first addressing Tenant's concern and obtaining Tenant's prior written Approval.

(f) Landlord will promptly cause to be subordinated or released any Encumbrance, whether in existence before or after the Effective Date, that Tenant reasonably determines interferes with, jeopardizes or adversely impacts Tenant's Permitted Uses of the Premises or the remaining portions of the Land that are subject to Permitted Uses; *provided* that if such Encumbrance (i) exists due to the unilateral action of a Third Party, or without the consent, agreement, authorization or other direct or indirect acquiescence of Landlord, and (ii) does not relate to any failure by Landlord to comply with any term and/or condition of this Lease, then Landlord shall (A) pursue such subordination or release with reasonable diligence, *provided* that the foregoing shall not require Landlord to settle and/or otherwise compromise any claim to obtain such subordination or release; and (B) take such action and provide such assurances as Tenant may reasonably request to preserve and protect Tenant's rights and interest hereunder pending such subordination or release.

(g) In response to a request for cooperation and assistance from Tenant in connection with Tenant's development, permitting, construction, operation, maintenance, replacement, repowering and/or upgrading of a Generating Facility, Landlord shall provide such cooperation and assistance in order to effectuate such efforts by Tenant with respect to such Generating Facility at no Third Party cost or expense to Landlord. Such cooperation and assistance shall include signing (in the capacity as a land owner) any applications, requests, notices, extensions, or similar documentation submitted by Tenant to any Governmental Authority (including with respect to the PURA Approval, the DEEP Permit and/or a Siting Council Decision), and providing documentation available to Landlord regarding the Premises (including the Landfill).

(h) If Pre-existing Hazardous Materials are encountered or generated at the Site, Tenant (and/or its contractor(s)) shall use the EPA ID number of the Landlord for the Premises when transporting such Hazardous Materials off-Site for management, storage, recycling, treatment and/or disposal. Landlord shall coordinate and cooperate with Tenant and its contractor(s) in such regard, and Landlord, as generator or otherwise, shall timely execute manifests and other documentation required in connection with such management, storage,

recycling, treatment and/or disposal, as well as any other actions required to be taken by Landlord as the registrant of such EPA ID number. Depending on the results of testing being conducted by Tenant to characterize the certain areas of the Premises, the Parties will negotiate in good faith the responsibility for the costs associated with recycling, treatment and/or disposal of Pre-existing Hazardous Materials.

(i) Tenant, at its sole cost and expense, shall prepare a draft application for the PCU Permit with the Generating Facilities as a permitted post-closure use, and Tenant shall submit such application to Landlord for its review and comment before filing with DEEP. Landlord shall provide any comments within fifteen (15) days after such submission by Tenant, and the Parties shall review and reconcile Landlord's comments in a manner that preserves Tenant's schedule for the permitting and construction of the Generating Facilities. Within five (5) days after receiving the final version of such application, Landlord shall file such application with DEEP. Landlord shall provide to Tenant a copy of such application as filed with DEEP simultaneously with its submission, and shall promptly furnish Tenant with copies of all correspondence, comments and other written interactions with DEEP relating to the PCU Permit. Nothing in this Section 8(i) or elsewhere in this Lease shall constitute an assumption of any obligations and/or liabilities of Landlord or any Third Party with respect to, associated with, or arising out of, the PCU Permit and/or any other permits, approvals and other orders issued by any Governmental Authority regarding the Land (including the stewardship permit). Landlord shall not take any other action with respect to any Permits without obtaining prior written Approval from Tenant.

9. Access and Security.

(a) Public Safety. Landlord is responsible for, and shall solely retain, the cost of maintaining any site security requirements under applicable Law (including compliance with the terms of the PCU Permit), other than those arising out of the Permitted Uses. The Parties shall establish a mutually acceptable protocol for the use and integrity of Landlord's security installations (including gates installed near, and/or at access points to, the Premises (including the Shared Area)) that Tenant will encounter in connection with the Permitted Uses and the exercise of other rights granted hereunder.

(b) Tenant Security Measures. Landlord acknowledges that the Premises may be secured because of the operation of the Generating Facilities, and access to the Premises will be limited due to public safety reasons. Tenant shall install, at Tenant's expense, gates to secure the entrances to the Solar Area and the Fuel Cell/Service Area. Tenant shall have the right, but not the obligation (unless required by applicable Law), to install, at Tenant's expense, other security improvements on the Premises; *provided* that the Parties shall coordinate if Tenant desires to install any security measures for the Shared Area. Tenant shall be responsible for the operation, maintenance and repair of all security improvements installed by Tenant.

(c) Improvements. Tenant shall have no responsibility for the operation, maintenance and repair of any improvement of the Premises by Landlord or Third Parties, whether now existing or installed in the future; *provided* that (i) Tenant shall repair any damage to such improvements in the Shared Area caused by, or on behalf of, Tenant in connection with the

construction of the Generating Facilities; and (ii) Tenant shall have the right, but not the obligation, to repair and/or maintain any of such improvements in the Shared Area (including snow removal) in Tenant's sole discretion and at Tenant's sole cost.

(d) Access. Landlord reserves the right to access the Premises for the purpose of inspecting, operating, maintaining and repairing the Landfill; *provided* that Landlord's exercise of this right of access shall not unreasonably interfere with Tenant's Permitted Uses. Landlord shall coordinate its exercise of such right of access with Tenant; *provided* that (i) Landlord provides Tenant with seven (7) days' prior written notice of any such request or such lesser notice as shall be reasonably practicable and necessitated by the access request, to Tenant's representative listed below, and/or such other contact as may be designated by Tenant in writing; and (ii) Landlord shall not access to the Premises without being physically escorted by Tenant or Tenant's authorized agent. All such notices to Tenant shall be sent to the following (or such other address as Tenant may designate from time to time):

[TBD]

with a copy to:

[TBD]

Landlord's point of contact for routine communications between the Parties, including coordination of activities affecting the Shared Area, shall be the following (or such other Person as Landlord may designate from time to time):

Utilities Manager
City of Bridgeport
Margaret E. Morton Government Center
999 Broad Street
Bridgeport, CT 06604

10. Indemnification.

(a) General Indemnity. Each Party agrees to indemnify the other Party, its contractors, employees, agents and affiliates against, and defend and hold each of them harmless from all liabilities, obligations, claims, losses, damages, injuries, costs, penalties, fines, judgments and/or expenses (including attorneys' fees) sustained by, incurred by, or assessed to, any of such Indemnified Person resulting from, or attributable to, in whole or in part, the acts, omissions and/or negligence of the Indemnifying Party, its employees and/or agents, *except* to the extent that any such liability, obligation, loss, damage, injury, cost, penalty, fine, judgment or expense resulted solely from the gross negligence or intentional misconduct of the Indemnified Person. For purposes of this Section 10(a), "*gross negligence*" means conscious, reckless and voluntary disregard of the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both.

(b) Environmental Indemnity. Landlord agrees to indemnify Tenant its contractors, employees, agents and affiliates against, and defend and hold each of them harmless from (i) any claims made by, and all obligations and/or other liabilities of whatever nature to, any Third Party (including any Governmental Authority) in connection with injury to persons (including death), damage to property and/or natural resources, requirements of applicable Law and/or contractual commitments of Landlord concerning the environmental condition of, and/or any Pre-existing Hazardous Materials located on, in, over, under or emanating from, the Premises, the Land and/or other land of Landlord; and (ii) all liabilities, obligations, claims, losses, damages, injuries, costs, penalties, fines, judgments and/or expenses (including reasonable attorneys' fees) sustained by, incurred by, or assessed to, any Person (including Tenant, its contractors, employees, agents and affiliates) resulting from, or attributable to, in whole or in part, the environmental condition of, and/or any Pre-existing Hazardous Materials located on, in, over, under or emanating from, the Premises, the Land and/or other land of Landlord. The foregoing indemnity provisions shall apply irrespective of any fault, act or omission of Landlord or by its employees or agents and regardless of negligence, intention, willfulness, and/or illegality, it being the intent of the Parties that Landlord shall be strictly liable to Tenant for such indemnities.

(c) Indemnification Notice. Whenever a claim for indemnification shall arise under Sections 10(a) and/or 10(b), the Indemnified Person(s) shall give notice to the Indemnifying Party of such claim, including reasonable detail about the facts and circumstances thereof. Such notice shall be given as soon as reasonably practical following the time that such Indemnified Person realized its entitlement to indemnification under such Section(s). Notwithstanding the foregoing, the failure to provide such notice shall not prejudice, impair or otherwise adversely affect in any manner whatsoever the rights of the Indemnified Persons and the obligations of the Indemnifying Party, and such Indemnified Person(s) shall have no liability to the Indemnifying Party as a result of the failure to provide such notice and such Indemnified Person(s) shall have all of the rights and benefits provided for in this Lease, notwithstanding failure to provide such notice.

(d) Third Party Indemnification Procedure.

(i) Assumption of Defense. If the Indemnifying Party has acknowledged, by notice given to the affected Indemnified Person(s) within a reasonable period after receiving the notice from such Indemnified Person(s) (based on the circumstances, but no more than thirty (30) days after receipt of such notice), its indemnification obligation with respect to a particular claim in accordance with the terms of Sections 10(a) and/or 10(b), the Indemnifying Party, upon giving such notice to such Indemnified Person(s), may assume, at its sole cost and expense, the defense of any Third Party claim. Pending receipt of such notice from the Indemnifying Party, the affected Indemnified Person(s), at its option, may take appropriate actions in the defense of such Third Party claim, and the costs and expenses associated with such actions shall be an indemnified expense. Counsel selected for such defense of any Third Party claim shall be reasonably acceptable to such Indemnified Person(s), and such Indemnified Person(s) shall be entitled to participate in (but not control) such defense through its/their own counsel and at its own expense; *provided* that if the counsel selected by the Indemnifying Party advises that, due to actual or potential conflicts, separate counsel should represent such Indemnified Person(s), the expense of such separate counsel shall be an indemnified expense in accordance with the terms

and conditions hereof, the full cost of which shall be borne by the Indemnifying Party. Such Indemnified Person(s) shall reasonably cooperate with the Indemnifying Party in connection with the defense of such Third Party claim. Notwithstanding anything to the contrary in this Lease, each Indemnified Person shall have the right to retain separate counsel to represent such Indemnified Person, at the sole cost and expense of such Indemnified Person concerning such Third Party claim, *except* to the extent such cost and expense are subsequently determined to be an indemnified expense.

(ii) Indemnified Persons' Rights. If the Indemnifying Party does not acknowledge its indemnification obligation for a particular Third Party claim, or does not timely assume the defense thereof, such Indemnified Person may defend such claim in such manner as it may deem appropriate. The Indemnifying Party shall bear all of the costs and expenses, including attorneys' fees, incurred by each Indemnified Person in connection with such defense all of which shall be paid from time to time thirty (30) days after the Indemnifying Party receives a written request from any Indemnified Person for reimbursement (including reasonably detailed documentation in support of any such request), and the Indemnifying Party shall be entitled to participate (but not control) such defense through its own counsel and at its own expense. The Indemnifying Party shall reasonably cooperate with each Indemnified Person in connection with the defense of such Third Party claim.

(iii) Limitation. Notwithstanding its control of a defense of any Third Party claim, the Indemnifying Party shall not (A) make any admission or take any other action that is binding on, or otherwise attributable to any Indemnified Person; and/or (B) consent to any settlement, entry of judgment or other disposition, in any or all instances without the prior written consent of the affected Indemnified Person(s), which shall not be unreasonably withheld, conditioned or delayed.

(e) No Assumption of Liability. Tenant, by its acceptance of this Lease, does not agree to perform, and does not agree to assume or otherwise be liable for, any obligations and/or liabilities of Landlord or any Third Party with respect to, associated with, or arising out of, the environmental condition of, and/or any Pre-existing Hazardous Materials located on, in, over, under or emanating from, the Premises, the Landfill, the Land and/or other land of Landlord. Without limiting the generality of the foregoing, any repair and/or modification of the Landfill by, and/or on behalf of, Tenant, including in connection with compliance with any Permit, and/or the construction, maintenance, operation, replacement, repowering and/or upgrading of a Generating Facility, shall not result in, and/or otherwise constitute the assumption of, any responsibility, liability and/or other obligation whatsoever by Tenant with respect to all or any portion of the Landfill.

11. Transfer, Assignment and Subletting.

(a) Generating Facilities. Tenant is the exclusive owner and operator of the Generating Facilities. Without prejudice to positions taken by taxing authorities, as between the Parties, the Generating Facilities (including the component parts thereof) are personal property and not fixtures. Landlord shall not sell, lease, assign, mortgage, pledge or otherwise alienate or

encumber any Generating Facility (or any interest therein) with the fee interest or other property rights to the Premises and/or other portions of the Land.

(b) Transfers by Landlord. Without prior written consent of Tenant (which may not be unreasonably withheld, conditioned or delayed), Landlord shall not Transfer all or a portion of the real property constituting all or any portion of the Premises or any other portion of the Land subject to Permitted Uses and/or any interest therein. Landlord shall give Tenant at least sixty (60) days written notice prior to any proposed Transfer of all or a portion of the real property constituting all or any portion of the Premises or any other portion of the Land subject to Permitted Uses and/or any interest therein, identifying the transferee, the portion of said real property to be transferred, and the proposed date of Transfer. Landlord shall require any transferee of a proposed Transfer to acknowledge and consent to the terms of this Lease by instrument in a form and content reasonably acceptable to Tenant, and any transferee of all or any portion of said real property shall take title to said real property subject to, and subordinate to, this Lease. Landlord agrees that this Lease and the rights granted hereunder shall run with the Land, and survive any Transfer of such property, or any portion thereof, until this Lease terminates as expressly provided herein. In the case of any Mortgage recorded on the Land after the Effective Date, such Mortgage shall be subordinate to this Lease, and Tenant shall be entitled to require Landlord to secure and deliver to Tenant (within sixty (60) days after Tenant's request therefor) a SNDA reasonably acceptable to Tenant. In no event shall Landlord and/or anyone claiming by, through, or under Landlord (including any present or future mortgagee of the Land) have any rights in or to the Generating Facilities at any time. This Section 11(b) shall supplement any other applicable provision of this Lease (including Section 8(e)).

(c) Transfers by Tenant. This Lease is for the benefit of Tenant, its successors and assigns, and is fully apportionable and fully assignable or otherwise Transferable, all or in part, including through sublease or license, without the need of any consent of Landlord or Landlord's successors and assigns (i) to any Person controlled by, or under common control or ownership with Tenant (including any direct or indirect subsidiary of Tenant); (ii) in connection with the sale of all or substantially all of the assets of Tenant; (iii) as part of any mortgage, pledge or other Encumbrance granted by Tenant, including as a result of the exercise of rights by any Person under such Encumbrance; (iv) as a result of the transfer of a controlling interest in Tenant by its parent and/or other Person possessing control over Tenant; (v) pursuant to any approval, order and/or other authorization issued by a Governmental Authority, including PURA; and (vi) to any assignee or other transferee regularly engaged in the ownership and/or operation of power generating facilities similar to the Generating Facilities (or in the case of a partial assignment, the Generating Facility subject to such assignment or transfer). Tenant shall notify Landlord within a reasonable period after the consummation of any such Transfer not requiring Landlord's consent. Any other Transfer, in whole or in part, of this Lease by Tenant shall require the prior written consent of Landlord (which may not be unreasonably withheld, conditioned or delayed), in which case Tenant shall give Landlord at least sixty (60) days written notice prior to any such Transfer identifying the transferee and the proposed date of Transfer. In the case of any such Transfer by Tenant, Landlord, at the request of Tenant, shall execute and deliver to Tenant and such transferee an SNDA (or such other documentation as Tenant may reasonably request), containing terms reasonably acceptable to Tenant, within sixty (60) days after Tenant's request therefor.

(d) Voided Transfers. Any Transfer in violation of the terms of this Article 11 shall be null and void and without legal effect.

(e) Binding Effect. This Lease shall be binding upon the Parties and their respective successors and permitted assigns.

12. Eminent Domain.

(a) Award. If any portion of the Premises or any other portion of the Land subject to Permitted Uses is taken by condemnation or any other manner for any public or quasi-public purpose, then: (i) Tenant shall be entitled to fully participate and otherwise protect its rights under this Lease in such condemnation proceeding; and (ii) upon a taking, the proceeds of any award or judgment payable by the condemning authority shall be allocated by the court having jurisdiction over the condemnation proceeding between the Parties based on said court's determination of the impact of said condemnation on the Parties' respective interests in the Premises or any other portion of the Land subject to Permitted Uses, including the damage caused to the Generating Facilities and the loss of revenue to Tenant resulting from any removal or relocation of a Generating Facility or any part thereof. Neither Party shall be entitled to settle with the condemning authority without the joint participation and prior written Approval of the other Party.

(b) Rent Adjustment. In the event that the condemning authority is successful in any such condemnation proceeding, then, as of the date of vesting of title in such condemning authority, the Annual Rent shall be prorated to such date based on the portion of the Generating Facilities affected by such taking.

13. Surrender of Premises upon Termination or Expiration.

(a) Abandonment. In connection with the expiration of the Term, Tenant shall elect, by notice given to Landlord, to exercise either of the following two alternatives: (i) abandon in place either or both of the Generating Facilities (or that portion thereof that remains on the Premises at such expiration), or (ii) remove the Generating Facilities at Tenant's expense. If Tenant decides to abandon any Generating Facilities at the expiration of the Term, Landlord shall have sixty (60) days after receipt of such notice ("*Landlord's Evaluation Period*") to exercise either of the following two alternatives: (A) allow Tenant to abandon in place the Generating Facilities (or such remaining portion) in which case the Generating Facilities (or such portion) shall automatically become the property of Landlord at the end of the Term, and Tenant shall execute documentation confirming said transfer of title to the Generating Facility to Landlord, or (B) direct Tenant to remove the Generating Facilities at Tenant's expense. The Landlord's Evaluation Period may be extended upon mutual agreement of the Parties. If Landlord fails to elect either alternative within the Landlord's Evaluation Period, then, at the expiration of the Landlord's Evaluation Period, Landlord shall be deemed to have directed Tenant to remove the Generating Facilities in place pursuant to clause (B) of this Section 13(a).

(b) Holding Over. Should Tenant, without Landlord's written consent, hold over after termination or expiration of the Term, Tenant shall become a tenant from month-to-month, and any such holding over shall not constitute an extension of this Lease. Tenant shall pay Landlord rent determined in accordance with Exhibit C attached hereto and made a part hereof for each day Tenant shall retain possession of the Premises or any part thereof after expiration or earlier termination of this Lease; *provided, however*, that Tenant shall not be obligated to make any of the hold-over rental payments required by this Section 13(b) during the six (6) month period immediately following the expiration of the Term so long as during said six (6) month period Tenant is negotiating in good faith with Landlord to extend this Lease (or execute a new lease of the Premises), or removing the Generating Facilities. If the Landlord's Evaluation Period has been extended and Landlord shall direct Tenant to remove the Generating Facilities, then the Term of this Lease shall be extended for a period of six (6) months after Tenant's receipt of such direction and during such period, Tenant shall not be obligated to make any of the hold-over rental payments required by this Section 13(b).

(c) Release. On the expiration of the Term, Landlord may request that Tenant provide a recordable Release of the Notice of Lease and said release shall be delivered to Landlord within ninety (90) days of Landlord's request therefor. Landlord is responsible for recording said Release of Notice of Lease.

14. Remedies.

(a) Remedies for Default. Subject to the limitation on remedies set forth in Sections 14(b) and 14(c) hereof, upon the occurrence of any default, the non-defaulting Party shall provide written notice thereof to the defaulting Party, the defaulting Party shall have thirty (30) days to cure the default and the non-defaulting Party may pursue one or more of the following remedies after the expiration of the defaulting Party's cure period:

(i) The non-defaulting Party may initiate a court proceeding to seek actual damages sustained by the non-defaulting Party.

(ii) If Landlord is the defaulting Party, in addition to the remedy available to Tenant under subsection 14(a)(i) hereof, Tenant may (A) withhold payments of Annual Rent and other amounts owed to Landlord hereunder until the earlier of the date on which Landlord's default is cured or the dispute is resolved; and (B) exercise self-help by performing any of Landlord's unperformed obligations, and Landlord shall reimburse Tenant (within thirty (30) days of Tenant's written request for reimbursement) for all actual costs incurred by Tenant to perform Landlord's unperformed obligations; *provided, however*, notwithstanding any provision hereof to the contrary, if Tenant reasonably determines that Landlord's default results in or creates an emergency situation, then Tenant shall be entitled to exercise its remedy of self-help at any time including during Landlord's thirty day cure period.

(iii) If Tenant is the defaulting Party, in addition to the remedy available to Landlord under subsection 14(a)(i) hereof, but subject to Section 14(b), Landlord may exercise self-help by performing any of Tenant's unperformed obligations, and Tenant shall

reimburse Landlord (within thirty (30) days of Landlord's written request for reimbursement) for all actual costs incurred by Landlord to perform Tenant's unperformed obligations; *provided, however*, notwithstanding any provision hereof to the contrary, if Landlord reasonably determines that Tenant's default results in or creates an emergency situation, then Landlord shall be entitled to exercise its remedy of self-help at any time including during Tenant's thirty day cure period.

In addition to any other remedy specifically set forth in this Lease, Tenant has the right to enforce the provisions of this Lease (including Section 8(e)) through an action for specific performance and/or injunctive relief as contemplated in Section 21(f). The election of any one remedy available under this Lease shall not constitute a waiver of any other available remedies, including those available at law or in equity, *except* as set forth in Section 14(b). The prevailing Party shall pay for all reasonable costs of collection and enforcement, including reasonable attorneys' fees, which may be incurred by the other Party in enforcing and/or attempting to enforce its rights and remedies under this Lease.

(b) No Termination for Default by Tenant. Notwithstanding anything to the contrary in this Lease, in recognition of the fact that Tenant has incurred substantial expense to purchase, install and operate the Generating Facilities on the Premises, Landlord cannot terminate this Lease due to an uncured default by Tenant.

15. Force Majeure. The Parties shall not be in default of this Lease if either is unable to fulfill, or is delayed in fulfilling, any of its obligations hereunder, in spite of its employment of commercially reasonable efforts and due diligence to fulfill, as a result of:

- (a) natural disasters and/or catastrophic events;
- (b) casualties to persons or properties required to fulfill such obligations;
- (c) war or terrorism;
- (d) governmental preemption in a national emergency, enactment of a Law or a change in existing Laws which prevents any Party's ability to perform its respective obligations under this Lease that, in each case, has general applicability throughout the State of Connecticut and specifically excluding any action taken by Landlord and/or any of its agencies and/or instrumentalities in their respective capacities as a Governmental Authority; and/or
- (e) any actions by Third Parties and other outside events beyond the exclusive control of the Party claiming hindrance or delay.

If a Party believes that such a hindrance or delay has occurred, it shall give prompt written notice to the other Party of the nature of such hindrance or delay, its effect upon such Party's performance under this Lease, the action needed to avoid the continuation of such hindrance or delay, and the adverse effects that such hindrance or delay then has or may have in the future on such Party's performance. The claiming Party shall use commercially reasonable efforts to eliminate the hindrance or delay condition as quickly as possible. Notwithstanding notification of a claim of hindrance or delay by one Party, such notice shall not affect, impair or excuse the other Party from the performance of its obligations hereunder unless its performance is impossible, impractical or unduly burdensome or expensive, or cannot effectively be accomplished without the cooperation of the Party claiming delay or hindrance.

16. Quiet Enjoyment. Landlord covenants and agrees with Tenant that Tenant shall lawfully, peaceably and quietly hold and enjoy the Premises during the Term, and Tenant's possession shall not be disturbed, hindered or other molested by Landlord, or by any Person(s) lawfully claiming by, through, or under Landlord.

17. Landlord's Deliverables to Tenant on the Effective Date. On the Effective Date, simultaneously with the execution and delivery of this Lease:

(a) Landlord shall deliver to Tenant the following:

(i) an executed, witnessed and acknowledged original Notice of Lease using the form in **Exhibit E** attached hereto and made a part hereof;

(ii) a SNDA (the form and substance of which shall be reasonably acceptable to Tenant) for the Existing Encumbrances listed in **Exhibit A**; [To be confirmed after title work identifies any Existing Encumbrances that require subordination]

(iii) proof, the form of which must be reasonably acceptable to Tenant, that Landlord has obtained all necessary federal, state and local approvals to execute, deliver and perform under this Lease;

(iv) owner's affidavits and any other documents required by any title insurance companies to remove the standard title policy exceptions; and

(v) [insert any other deliverables (including from title work)]

(b) Tenant shall deliver to Landlord an executed, witnessed and acknowledged original Notice of Lease using the form in **Exhibit E** attached hereto and made a part hereof.

18. Estoppel Certificates. Each Party shall execute and deliver to the other, promptly upon request, its certificate certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications); (b) whether to the certifying Party's knowledge there are then existing any charges, offsets or defenses against the enforcement by Landlord or Tenant of any agreement, covenant or condition of this Lease on the part of Landlord or Tenant to be performed or observed (and, if so, specifying the same); and (c) whether to the certifying Party's knowledge there are then existing any defaults by Tenant or Landlord in or with respect to the performance or observance by Tenant or Landlord of any agreement, covenant or condition of this Lease on the part of Tenant or Landlord to be performed or observed, and whether any notice has been given to Tenant or Landlord of any default which has not been cured (and, if so, specifying the same).

19. Publicity; Public Communications. The Parties shall coordinate all public relation communications, including press releases and conferences, public announcements and published materials (including advertisements, brochures, electronic or video communications or

presentations, and other promotional materials) by Landlord concerning any Generating Facility and this Lease to assure accuracy before public dissemination.

20. Dispute Resolution.

(a) Negotiation. In the event a dispute arises with respect to this Lease, the individuals directly involved in such dispute shall meet to negotiate and attempt to resolve the dispute. If such dispute cannot be resolved at that level within thirty (30) days after the initial negotiation session, then executives of each Party shall meet to negotiate and attempt to resolve such dispute. If such dispute cannot be resolved at this level within thirty (30) days after the initial meeting, then the Parties may proceed to litigation.

(b) Equitable Remedies. Nothing herein shall prejudice, impair or otherwise prevent either Party from applying for and receiving equitable relief, including an order for specific performance and/or an injunction, from an appropriate Governmental Authority pending the conclusion of any negotiation, mediation or litigation proceeding.

21. Miscellaneous Provisions.

(a) Notices. All communications required or permitted to be given under this Lease shall be in writing and shall be hand delivered or sent by registered or certified mail, return receipt requested or by an overnight delivery service to the Party receiving such communication at the address specified below:

Landlord:

City of Bridgeport
Margaret E. Morton Government Center
999 Broad Street
Bridgeport, CT 06604
Facsimile: 203.675.8129
Attention: Utilities Manager

Tenant:

[TBD]

Facsimile: []
Attention: []

with a copies to:

UIL Holdings Corporation
157 Church Street
P.O. Box 1564
New Haven, Connecticut 06506-0901
Facsimile: 203.782.2889

Attention: Linda L. Randell, Senior Vice President and General Counsel

provided that all payments of Annual Rent due to Landlord shall be submitted to the following address:

Director of Finance
City of Bridgeport
Margaret E. Morton Government Center
999 Broad Street
Bridgeport, CT 06604

Either Party may change the address to which notices and other communications under this Lease are to be delivered by giving the other Party notice at the address and in the manner set forth in this Section 21(a). Nothing contained in this Section 21(a) shall be construed to restrict the transmission of routine communications between representatives of the Parties.

(b) Relationship of the Parties. Nothing contained in this Lease shall be construed by the Parties, or by any Third Party, as constituting the Parties as principal and agent, partners or joint venturers, nor shall anything herein render either Party liable for the debts and obligations of any other Party, it being understood and agreed that the only relationship between Landlord and Tenant is that of landlord and tenant.

(c) Recording. Tenant may elect to record this Lease and/or the Notice of Lease executed pursuant to Section 17(a). Each Party shall execute and deliver such additional documents, and take such other actions as shall be necessary, or otherwise reasonably requested by the other Party, to clarify, confirm and assure the rights and obligations provided for in this Lease.

(d) Waiver. No provision of this Lease may be waived, except by an instrument in writing executed by both Parties. Failure of a Party to insist upon strict compliance of any condition or provision of this Lease shall not be deemed a waiver by said Party of that condition. No waiver of any provision of this Lease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by a breaching or defaulting party of the same or any other provision.

(e) Governing Law. This Lease and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the State of Connecticut, without regard to conflict of laws principles thereof.

(f) Specific Performance. Landlord acknowledges and agrees that Tenant would be damaged irreparably in the event any of the provisions of this Lease are not performed in accordance with their specific terms and conditions or otherwise are breached. Accordingly, Landlord agrees that Tenant shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Lease and to enforce specifically this Lease and the terms and conditions hereof in any action instituted in connection therewith in addition to any other remedy to which it may be entitled thereunder at law and/or in equity.

(g) Severability. If any provision of this Lease is adjudged by a court of competent jurisdiction to be illegal, invalid or unenforceable under present or future Laws for any reason, the same shall be modified, if possible, to the extent necessary to make it legal, valid and enforceable, or, if not possible, such provision shall be deleted. The remaining provisions of this Lease shall remain enforceable notwithstanding the illegality, invalidity or unenforceability of any individual provision. The Parties also shall negotiate an equitable adjustment to this Lease with a view toward effecting, to the extent possible, the original purpose and intent of the severed provision.

(h) Survival. All requirements, terms, conditions and provisions that by their nature are incapable of being fully performed within the term of this Lease shall survive cancellation, termination or expiration of this Lease for so long as is necessary to fulfill the intent thereof.

(i) Multiple Counterparts. This Lease may be executed in two or more originals and/or counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Lease or the terms hereof to produce or account for more than one of such counterparts; *provided* that the counterpart produced bears the signature of the Party sought to be bound. Signatures delivered by facsimile, "portable document format" (PDF) or other means of electronic transmission of signatures shall be deemed to have the same legal effect as original signatures.

[Signature pages follow]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties have duly executed this Lease with the Exhibits attached hereto, as of the Effective Date.

Name of Witness 1:

**LANDLORD: CITY OF BRIDGEPORT,
CONNECTICUT**

Signature of Witness 1

By: _____

Name of Witness 2:

Name: _____

Signature of Witness 2

Title: _____

ACKNOWLEDGEMENT

STATE OF CONNECTICUT)

ss: Town/City of _____

COUNTY OF _____)

On this ____ day of _____, 2014, before me, the undersigned notary public, personally appeared _____, and acknowledged to me that he/she signed it voluntarily for its stated purpose as the _____ of the City of Bridgeport, Connecticut.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public
My Commission Expires:

Name of Witness 1:

**TENANT: THE UNITED ILLUMINATING
COMPANY**

Signature of Witness 1

By: _____

Name of Witness 2:

Name: _____

Signature of Witness 2

Title: _____

ACKNOWLEDGEMENT

STATE OF CONNECTICUT)

ss: Town/City of _____

COUNTY OF _____)

On this ____ day of _____, 2014, before me, the undersigned notary public,
personally appeared _____, and acknowledged to me that he/she signed it
voluntarily for its stated purpose as the _____ of THE UNITED
ILLUMINATING COMPANY.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public
My Commission Expires:


EXHIBIT A
DESCRIPTION OF THE LAND

[In addition to description, need to identify Existing Encumbrances (which will be subordinated)]



EXHIBIT B
DESCRIPTION OF THE PREMISES

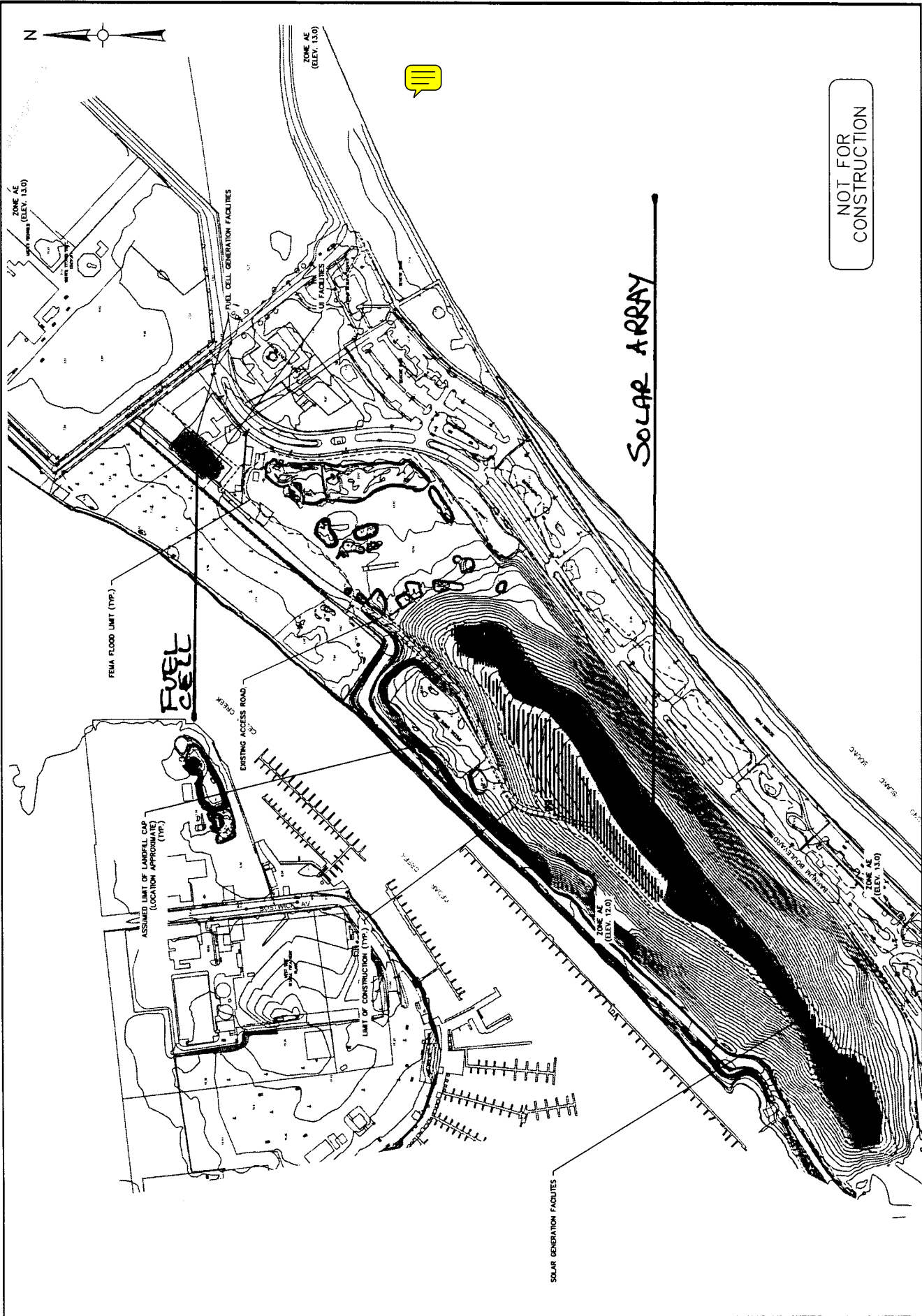
[To be completed based upon an A-2 survey]

1. Solar Area.

2. Fuel Cell/Service Area.

3. Shared Area.

FILE NO.	SCALE:	CONTRACT:	JOB NO.	DATE:	DATE:	DATE:	DATE:	DATE:	DATE:	DATE:
PRELIMINARY SITE PLAN										
REGISTERED PROFESSIONAL ENGINEER DATE: _____ WESTON & SAMPTON Prepared for UI Corporation by										



**EXHIBIT C
ANNUAL RENT**

[To be completed. The rent will be subject to PURA approval. The City proposed annual rent of \$350,000, offset by taxes on the UI installations (which UI has estimated at \$6,900,000 over the life of the projects). OCC and PURA objected to the City's proposal. Therefore, the City and UI are negotiating a revised rent proposal for submission to PURA.]

1. Initial Term.

2. First Extension Term.



3. Second Extension Term.

4. Holding Over.

EXHIBIT D PERMITTED USES

During the Term of this Lease, Tenant shall be entitled to develop, erect, install, construct, reconstruct, repair, maintain, replace, repower, upgrade, relocate, inspect, patrol, expand, operate and remove each Generating Facility, and in connection therewith engage in the activities described in, and/or implied by, this **Exhibit D** (collectively, "*Permitted Uses*").

1. Capitalized Terms. Capitalized terms used but not defined herein have the meaning assigned to such terms in this Lease to which this **Exhibit D** is attached to.

2. Generating Facilities. Tenant has the right, from time to time, to:
 - (a) develop, erect, install, construct, reconstruct, repair, maintain, replace, relocate, inspect, patrol, expand, operate, repower, upgrade and remove upon, over, under, along and across the entire Premises:
 - (i) the Solar Project and/or any other solar power generating facility, including solar panels, mounting substrates and/or supports, wiring and connections, power inverters, and communication, service, metering and other equipment;
 - (ii) the Fuel Cell Project and/or any other fuel cell power generating facility, including fuel cells, foundations and/or supports, wiring and connections, power inverters, and communication, service, metering and other equipment;
 - (iii) access roads (temporary and/or permanent) for each Generating Facility;
 - (iv) utility interconnections, including equipment and appurtenances as may be necessary or convenient for access to and interconnection with communication, water, sewer, electric and other utility services;
 - (v) equipment, foundations, anchors, braces, ducts, fences, gates, and other structures related to each Generating Facility;
 - (vi) lines, wires, filament, cables, including fiber optic and communication cables, other conductors, antennas, and other structures, fixtures and appurtenances useful for the conducting and the transmission and distribution of electric current, energy, intelligence, wireless signals, light and communications of any character; and
 - (vii) monuments and signs to locate and/or otherwise identify the Premises;

provided that Tenant shall not exercise any of such rights in the area below the twelve (12) inches of topsoil layer that covers the Landfill unless authorized by either (1) Permit, or (2) the prior written consent of Landlord which shall not be unreasonably withheld, conditioned or delayed.

(b) utilize and improve all existing and future access, drainage, storm water, sewer and related rights held by Landlord for the Premises, all access, drainage, storm water, sewer and related facilities and improvements currently and hereinafter located in, on, over and/or under the Premises, all of which Tenant may elect to utilize as Tenant deems necessary or appropriate for the exercise of Tenant's rights and benefits hereunder; and

(c) store construction and maintenance materials, staging, and other materials, equipment and supplies on the Premises (other than the Shared Area), as deemed necessary by Tenant in connection with the Generating Facilities; use the Premises for temporary parking and other reasonable and necessary uses in connection with the development, erection, installation, construction, reconstruction, repair, maintenance, replacement, relocation, inspection, expansion, repowering, upgrading, operation and removal of any Generating Facility.

3. Shadow Restriction. Tenant shall have a right of way for access to direct sunlight in that airspace above the Landfill necessary to prevent any building, structure, landscaping, vegetation, or object of any type, from shading or otherwise blocking, obstructing, or interfering with the passage of direct sunlight to the Solar Project, or any portion thereof, located on the Premises between the hours of 9 a.m. and 4 p.m. Eastern Daylight-Saving Time or between the hours of 10 a.m. and 5 p.m. Eastern Standard Time ("*Shadow Restriction*"). In addition, Landlord hereby grants a Shadow Restriction to Tenant in connection with any existing and after acquired property of Landlord adjacent to, abutting, or within one hundred (100) feet of the Solar Area. The Shadow Restriction imposes the following restrictions on future use and enjoyment of the Land, the Premises and other land owned by Landlord that abuts or is within one hundred (100) feet of the Solar Area to prevent the impairment, obstruction or passage of sunlight through the Shadow Restriction:

(a) No vegetation, structure or other objects will be allowed to encroach into or onto the area affected by the Shadow Restriction.

(b) No building, structure, vegetation, activity, or land use of Landlord *except* utility lines, antennas, wires, and poles shall cast a shadow on the Solar Project or any portion thereof during daylight hours.

The Shadow Restriction shall continue until this Lease is terminated in accordance with the provisions of this Lease.

4. Additional Rights Associated with Tenant's Generating Facilities. Tenant shall have the right to (a) generate, distribute and transmit electricity, energy, intelligence, light, wireless signals and/or communications of any character and to provide the service or services relating to said right(s) by means of the Generating Facilities; and (b) engage any other activity related to a Generating Facility authorized by applicable Law (including Permits).

5. Vegetation Management and Other Rights. Tenant shall have (a) the right, but not the obligation, to perform trimming, cutting, clearing and removing, by mechanical means or otherwise, grasses, plants, shrubs, trees or limbs and branches thereof, underbrush and other growth any parts of the Premises or any abutting land owned by Landlord; (b) the right to control

the growth of such grasses, plants, shrubs, trees, limbs, branches, underbrush and other growth by the use of chemicals or otherwise; *provided* that such use of chemicals on the Landfill other than those allowed by any Permit shall require the prior written consent of Landlord which shall not be unreasonably withheld, conditioned or delayed; (c) the right to dispose of all wood cut; and (d) the right to remove any structures within or projecting into the Premises.

6. Grading, Excavating, Filling, Improving and Removal of Debris. Tenant shall have the right to grade, excavate, fill, remove debris from and otherwise improve the (a) Premises, and (b) portions of the Land which Tenant determines are necessary or appropriate to allow Tenant to enjoy this Lease rights granted to Tenant hereunder, including the right of Tenant to (i) install, operate, maintain, repair, replace and expand storm water drainage improvements and utilities which Tenant deems necessary or appropriate; and (ii) increase the grade of the Fuel Cell/Service Area above floodplain elevation requirements of the Federal Emergency Management Agency or any successor agency thereto.

7. Access Rights. Tenant shall have (a) the right to enter upon, travel and transport materials and equipment over and upon the Premises and other adjoining land of Landlord (including other portions of the Land), including through the use of access roads and other improvements on such properties; (b) the right of way to access over and across the Premises and other adjoining land of Landlord (including other portions of the Land) as necessary or convenient to gain access to, and egress from, the Premises; (c) the right to use access roads and other improvements on the Premises and other adjoining land of Landlord (including other portions of the Land) in connection with Tenant's exercise of access and egress rights; and (d) the right (but not the obligation) to construct one or more new improved access roads over and across the Premises and other adjoining land of Landlord (including other portions of the Land) as necessary or convenient to gain access to, and egress from, the Premises; *provided* that Tenant shall not exercise such right to construct new access roads over and across such adjoining land without the prior written consent of Landlord which shall not be unreasonably withheld, conditioned or delayed.

8. Interconnection to Electric System. Tenant shall have the right to erect, install, construct, reconstruct, repair, maintain, replace, upgrade, relocate, inspect, patrol, expand, operate and remove upon, over, under, along and across the Premises and other adjoining land of Landlord (including other portions of the Land) as necessary or convenient (as determined by Tenant) electric and communication poles, wires, cables, facilities, equipment and appurtenances necessary to interconnect each Generating Facility to the electric transmission and/or electric distribution system; *provided* that shall not exercise any of such rights (a) in the area below the twelve (12) inches of topsoil layer that covers the Landfill unless authorized by either (i) Permit, or (ii) the prior written consent of Landlord which shall not be unreasonably withheld, conditioned or delayed; and (b) to construct permanent above-ground improvements on such adjoining land without the prior written consent of Landlord which shall not be unreasonably withheld, conditioned or delayed. Nothing in this **Exhibit D** or otherwise in this Lease shall affect, supplement, alter and/or otherwise modify in any manner whatsoever the respective rights and obligations of each Party with respect to municipal roads and other public rights-of-way, including with respect to the installation of interconnection facilities for each Generating Facility in such locations, it being the intention of the Parties that any portion of the Premises and/or

other adjoining land of Landlord (including other portions of the Land) constituting municipal roads and other public rights-of-way shall not be subject to, and/or affected by, this Lease.

9. Surface, Subsurface and Air Rights. The rights granted under this Lease to use and occupy the Premises in connection with the development, construction, installation, operation, maintenance, repair, renewal, replacement, repowering and upgrading of the Generating Facilities shall include all surface and subsurface rights and air rights over the Premises.

10. Alterations. Without limiting the generality of Tenant's rights hereunder, Tenant also may, at its option, at any time and from time to time, make such alterations, changes, replacements, improvements and additions in and to the Premises, as it may deem desirable, in all cases subject to applicable Law (including the terms and conditions of any applicable Permit).

11. Fundamental Alteration. After the occurrence of final acceptance or its equivalent with respect to the initial installation of a Generating Facility, Tenant shall notify Landlord of any Fundamental Alteration proposed to be implemented by Tenant and allow Landlord not more than thirty (30) days to advise Tenant in writing of any specific concerns of Landlord regarding the material and adverse effect of such Fundamental Alteration on the Land and/or the nearby community. As used in this Section 11, a "*Fundamental Alteration*" shall mean a reconstruction, relocation or expansion of a Generating Facility that:

(a) materially and substantively alters the nature and character of such Generating Facility including an increase in the size or height of such altered Generating Facility, an increase in the ambient heat and/or noise produced by such altered Generating Facility in areas outside of the Premises, or any other modification that adversely changes the appearance and/or other sensory perception of such altered Generating Facility from outside of the Premises by residents living near the Land and/or using public facilities in the nearby park area; and

(b) can be implemented without any Permit (including an amendment, reauthorization, and/or other change to any existing Permit, including the PURA Approval, the DEEP Permit and/or a Siting Council Decision with respect to such Generating Facility) and/or proceeding before a Governmental Authority;

provided that the following shall not constitute a Fundamental Alteration:

- (i) the operation and maintenance of a Generating Facility in the ordinary course of Tenant's business;
- (ii) any work performed by, and/or on behalf of, Tenant based on practices recommended by a manufacturer of equipment and other materials installed in a Generating Facility;
- (iii) any work performed with respect to a Generating Facility in connection with the satisfaction of any warranty and/or other contractual obligation, including the replacement, relocation and/or expansion of any Generating Facility; and

(iv) any repair, reconfiguration, substitution and/or replacement (including the periodic replacement of the stack of the Fuel Cell Project) by Tenant of the component parts of a Generating Facility.

For the avoidance of doubt, Landlord shall not have the right to approve, authorize and/or otherwise consent to any Fundamental Alteration, and Tenant shall have no obligation to notify Landlord of any reconstruction, relocation or expansion of a Generating Facility that requires a Permit or other action by a Governmental Authority.

EXHIBIT E
NOTICE OF GROUND LEASE

This Notice of Ground Lease is entered into by and between CITY OF BRIDGEPORT, CONNECTICUT ("*Landlord*"), having an office at Margaret E. Morton Government Center, 999 Broad Street, Bridgeport, Connecticut 06604 and its successors and assigns, and THE UNITED ILLUMINATING COMPANY ("*Tenant*"), a specially chartered Connecticut corporation, having a usual place of business at 180 Marsh Hill Road, Orange, Connecticut 06477 and its successors and assigns, concerning the Ground Lease Agreement executed [REDACTED], 2014, between Landlord and Tenant.

1. Names and Addresses of the Parties to the Lease.

Landlord: The City of Bridgeport, Connecticut
 Margaret E. Morton Government Center
 999 Broad Street
 Bridgeport, CT 06604

Tenant: The United Illuminating Company
 180 Marsh Hill Road
 Orange, CT 06477

2. The Lease and Date of Execution. Ground Lease Agreement by and between Landlord and Tenant with a date of execution of [REDACTED], 2014 (the "*Ground Lease*")

3. Ground Lease Term. The initial term of the Ground Lease shall commence on [REDACTED], 2014 and run through [REDACTED], 2034.

4. Description of the Property Contained in the Lease. The Landlord has leased to Tenant approximately [REDACTED] acres located at [REDACTED] in Bridgeport, Connecticut, which is more particularly bounded and described in **Exhibit A** hereto (hereinafter referred to as the "*Premises*"), and, pursuant thereto, the Landlord has granted appurtenant rights in the real property bounded and described in **Exhibit B** hereto.

5. Right of Extension or Renewal. Tenant is granted options to extend the term of the Ground Lease for two (2) additional periods of five (5) years each at the expiration of the initial term for the first option period and at the expiration of the first option period for the second option period.

6. Option to Purchase. There is no option to purchase.

7. Places Where Ground Lease Is On File. Duplicate executed copies of the Ground Lease are on file at the office of (a) Landlord through its Department of Public Utilities at Margaret E. Morton Government Center, 999 Broad Street, Bridgeport, Connecticut 06604; and (b) Tenant at 180 Marsh Hill Road, Orange, Connecticut 06477.

IN WITNESS WHEREOF, the said parties have hereto caused this Notice of Ground Lease to be executed this ____ day of _____, 2014.

Name of Witness 1:

**LANDLORD: CITY OF BRIDGEPORT,
CONNECTICUT**

Signature of Witness 1

By: _____

Name of Witness 2:

Name: _____

Signature of Witness 2

Title: _____

ACKNOWLEDGEMENT

STATE OF CONNECTICUT)

ss: Town/City of _____

COUNTY OF _____)

On this ____ day of _____, 2014, before me, the undersigned notary public, personally appeared _____, and acknowledged to me that he/she signed it voluntarily for its stated purpose as the _____ of **CITY OF BRIDGEPORT, CONNECTICUT.**

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public
My Commission Expires:

Name of Witness 1:

**TENANT: THE UNITED ILLUMINATING
COMPANY**

Signature of Witness 1

By: _____

Name of Witness 2:

Name: _____

Signature of Witness 2

Title: _____

ACKNOWLEDGEMENT

STATE OF CONNECTICUT)

ss: Town/City of _____

COUNTY OF _____)

On this ____ day of _____, 2014, before me, the undersigned notary public,
personally appeared _____, proved to me and acknowledged to me that he/she
signed it voluntarily for its stated purpose as the _____ of **THE UNITED
ILLUMINATING COMPANY**.

In Witness Whereof, I hereunto set my hand and official seal.

Notary Public
My Commission Expires:

EXHIBIT A TO NOTICE OF GROUND LEASE
Premises

[use description of Premises in the final Exhibit B to the Ground Lease]

EXHIBIT B TO NOTICE OF GROUND LEASE
Property Subject to Appurtenant Rights

[Use Exhibit A (Land Description) From Lease]