

**SECOND AMENDMENT TO LANDFILL GAS LEASE
AND OPERATING AGREEMENT**

This Second Amendment to Landfill Gas Lease and Operating Agreement (the "Second Amendment") is entered into between the County of Santa Barbara (hereafter "COUNTY") and NEO Tajiguas LLC (hereafter "NEOT"), a Delaware limited liability company. This Second Amendment, along with the First Amendment to Landfill Gas Lease and Operating Agreement dated August 18, 2009, modifies and is incorporated into the contract between the COUNTY and NEOT for the development and operation of the landfill gas collection system and utilization of the landfill gas for the sale to Southern California Edison, dated March 10, 1998, and recorded as Document No. 98-017423 in the Santa Barbara County Registry of Deeds (collectively referred to hereafter as the "Agreement").

NOW THEREFORE, COUNTY and NEOT agree to amend the Agreement as follows:

1. **Add a second paragraph to Subsection B of Section 12.** The following paragraph is added to subsection B of Section 12:

Commencing on March 17, 2020, the parties hereby agree that any dispute between the parties related to disposal of Condensate and/or leachate is resolved by NEOT continuing to dispose of quantities of Condensate and leachate up to fifty thousand (50,000) gallons per month, at NEOT's sole cost and expense. The cost and expense of disposal quantities of Condensate and leachate in excess of fifty thousand (50,000) gallons per month will be the responsibility of COUNTY. NEOT will provide disposal manifests and receipts for quantities disposed of in excess of 50,000 gallons per month to the COUNTY and NEOT may deduct any such costs from rent payments owed to the COUNTY.

2. **Subsection D is added to Section 25.** Subsection D to Section 25 is added as follows:

COUNTY or NEOT may terminate this Agreement for convenience and without cause or for reasons other than those enumerated in this Section 25, subsections (A) through (C) upon at least thirty (30) days' written notice (provided that any such notice shall not be given prior to June 26, 2020) by executing and delivering to the other party a Notice of Termination of Landfill Gas Lease and Operating Agreement in the form attached hereto as Exhibit A to this Second Amendment (the "Notice"). Any such termination under this subsection (D) shall not be effective before July 30, 2020 (such date being the "Termination Date"), unless the parties mutually agree in a writing executed by both COUNTY and NEOT to an alternative termination date.

If the COUNTY terminates this Agreement pursuant to this subsection (D), the COUNTY shall pay NEOT the sum of One Million Eighty Hundred Fifty Thousand (\$1,850,000.00) Dollars pursuant to the requirements of Section 27 A of this Agreement and in consideration of the termination of this Agreement. The County shall make this payment by wire transfer within ten (10) days after the removal of personal property from the Facility under Section 27.

3. **Revision to Section 27.** Section 27 is amended and replaced in its entirety with the following:
 - A. On the expiration of this Agreement, or its sooner termination, NEOT shall quietly and peaceably surrender possession of the premises to COUNTY, and shall cause a good and sufficient quitclaim deed to be placed on record in Santa Barbara County, California, the county in which the Landfill is located. Following any termination of the Agreement, NEOT shall leave in place all of the Collection System, the Flare Facility, any equipment installed by NEOT in the Condensate System, any pipeline and the pad, fixtures and improvements for the Facility. Any equipment left at the Landfill after NEOT surrenders possession of the premises shall become the sole and exclusive property of COUNTY.
 - B. Notwithstanding any provision of this Agreement, including, but not limited to this Section 27, on or after the expiration of the term, NEOT shall have no obligation to demolish, remove, restore, maintain or otherwise perform any work to make functional or compliant any portion of facilities installed by NEOT or the Sublessee, including, but not limited to, all or any portion of the Systems. On the expiration of this Agreement, or its sooner termination, however, NEOT shall demonstrate that the Collection System and the Flare Facility are in compliance with existing permits.
 - C. Notwithstanding Section 27 A of this Agreement, NEOT or the Sublessee shall remove personal property from the Facility, including, but not limited to, the engine and generator set used in the Facility to generate electricity within one hundred twenty (120) days of the Termination Date of this Agreement. Thereafter, the COUNTY will be responsible for decommissioning and removing any remaining personal property from that portion of the Facility that houses the electric power generation equipment, and for the decommissioning of the Flare Facility.
4. **Notices to NEOT.** COUNTY and NEOT hereby agree that a) the addresses set forth on Exhibit A attached to this Second Amendment shall be the addresses to which notice must be sent pursuant to Section 46 of this Agreement, and b) that the requirement of such Section 46 to designate a different address only by notice given in conformity with such Section 46 is waived as to such notice addresses and deemed satisfied.
5. **NEOT Authority.** NEOT warrants and represents that its signatory to this Second Amendment has the power and authority to enter into this Second Amendment in the name, title and capacity herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary by any Lender or law in order to enter into this Agreement have been fully complied with.
6. **Cooperation.** The COUNTY and NEOT agree to cooperate fully and to execute and approve any and all further documents and to take all additional actions as may be necessary to effectuate the purposes of this Second Amendment including, but not limited to NEOT executing a quitclaim deed and/or termination of the Lease and

Operating Agreement and/or the Sublease, and providing such other reasonable assistance and documentation requested by Southern California Edison in connection with that certain Renewable Power Purchase and Sales Agreement, dated as of November 15, 2006, as amended ("SCE PPA"). This paragraph shall survive the expiration of this Agreement.

7. **SCE PPA Letter of Credit.** Upon receipt of the Notice pursuant to Section 25(D) of this Agreement, NEOT shall cause such Notice to be timely forwarded to MM Tajiguas Energy LLC ("MM"), who in turn shall promptly provide a copy thereof to Southern California Edison ("SCE") with a copy to the COUNTY. NEOT shall use best efforts to have MM seek confirmation from SCE that it will not reject the return of that certain letter of credit in the amount of One Million Seven Hundred Fifty-Two Thousand Two Hundred Eighty (\$1,752,280) Dollars provided to SCE by MM under the terms of the SCE PPA ("Letter of Credit"). In the event that SCE does not return the Letter of Credit to MM and a dispute arises between NEOT and the COUNTY regarding the return of the Letter of Credit from SCE to MM, the parties agree to try in good faith to resolve the dispute through negotiation. If the parties are unable to resolve the dispute through negotiation within 30 days of notice of such dispute, then either party may elect to submit the dispute to non-binding arbitration in accordance with the Dispute Resolution Procedure set forth in Section 11 C of the Agreement. By agreeing to this paragraph 7, neither party admits any fault or liability as to the Letter of Credit or waives any defenses they may have in any dispute regarding the Letter of Credit. This paragraph shall survive the expiration of this Agreement.

8. **Ratifications.** The terms and provisions set forth in this Second Amendment shall modify and supersede all inconsistent terms and provisions set forth in the Agreement. The terms and provisions of the Agreement, including all defined terms, except as expressly modified and superseded by this Second Amendment, are ratified and confirmed and shall continue in full force and effect, and shall continue to be legal, valid, binding and enforceable obligations of the parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Second Amendment to the Agreement to be effective on the date executed by the last of COUNTY and NEOT.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: 
Deputy Clerk


COUNTY OF SANTA BARBARA:

By: 
Gregg Hart, Chair
Board of Supervisors

Date: 3-17-20


RECOMMENDED FOR APPROVAL:

Public Works

By: 
Scott D. McGolpin
Director of Public Works

NEOT:

NEO Tajiguas LLC

By: 
Authorized Representative

Name: Thomas J. Gesicki
Title: Managing Director


APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: 
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA
Auditor-Controller

By: 
Deputy

APPROVED AS TO FORM:

Ray Aromatorio
Risk Manager

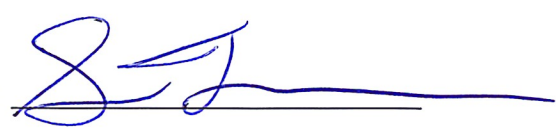
By: 

EXHIBIT A
FORM OF TERMINATION NOTICE

_____ [Date] _____

Via Certified Mail Return Receipt Requested

NEO Tajiguas LLC
c/o Fortistar Methane Group
One North Lexington Avenue, 14th Floor
White Plains, NY 10601

MUFG Union Bank, N.A., as Collateral Agent
551 Madison Ave., 11th Floor
New York, NY 10022
Attn: Amedeo Morreale
Vice President

MUFG Union Bank, N.A., as Administrative
Agent
445 South Figueroa St., 15th Floor
Los Angeles, CA 90071
Attn: Louise Leef
Power & Utilities

**Re: Notice of Termination of Landfill Gas Lease and Operating Agreement by
and between NEO Tajiguas LLC and the County of Santa Barbara dated March 10, 1998,
as amended**

Dear Sir/Madam:

Consistent with Section 25 of the Landfill Gas Lease and Operating Agreement by and between NEO Tajiguas LLC and the County of Santa Barbara dated March 10, 1998, as amended, the County of Santa Barbara hereby elects to terminate the Landfill Gas Lease and Operating Agreement, as amended, effective _____ ("Termination Date"). The Landfill Gas Lease and Operating Agreement will remain in full force and effect until the Termination Date.

The Parties' obligations up until the Termination Effective Date and upon termination will continue to be governed by the Landfill Gas Lease and Operating Agreement, unless modified by any subsequent agreement(s) between the Parties.

Very truly yours,

County of Santa Barbara

Memo



To: Auditor-Controller Reviewer
From: Jeanette Gonzales-Knight, PE
cc:
Date: February 20, 2020
Re: Board Letter Review for the Second Amendment to Landfill Gas Lease and Operating Agreement with NEO Tajiguas, LLC for the Tajiguas Landfill

Dear Reviewer,

The Department of Public Works, Resource Recovery and Waste Management Division (RRWMD) has prepared the Board Letter and Second Amendment to Landfill Gas Lease and Operating Agreement (Agreement) with NEO Tajiguas, LLC at the Tajiguas Landfill for your review and concurrence. The Amendment to the Agreement incorporates changes to the disposal of landfill gas (LFG) well-derived liquids in excess of 50,000 gallons, the termination provisions, and the ownership of certain equipment upon termination of the Agreement.

The Agreement is also being amended in order to allow RRWMD the ability to time the termination of the Agreement with the startup of the new ReSource Center at the Tajiguas Landfill, formerly referred to as the Tajiguas Resource Recovery Project (TRRP). The existing Tajiguas Landfill Energy Project engine and flare, operated by NEOT, will be decommissioned in place and the new ReSource Center engines and flare will be connected to the existing LFG collection system, as studied in the Environmental Impact Report and Addendum for the TRRP. Energy generated from the LFG will be used to operate the ReSource Center at a cost significantly less than buying the energy off of the grid resulting in long-term savings to the facility. This savings, the liquid disposal issue, and the contract buyout were contemplated in the Feasibility Study and Official Statement for the TRRP construction financing. The Feasibility Study accounted for a one-time buyout cost of \$2.5 million relating to LFG operations, whereas the buyout negotiated with NEOT is \$1.85 million.

I hope this background knowledge will assist your review; please feel free to reach me with any questions.

Thank you,

A handwritten signature in black ink that reads "Jeanette Gonzales-Knight". The signature is written in a cursive, flowing style.

Jeanette Gonzales-Knight



EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

DATE (MM/DD/YYYY)
02/19/2020

THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

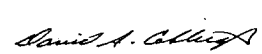
PRODUCER NAME, CONTACT PERSON AND ADDRESS Marsh USA, Inc. 1166 Avenue of the Americas New York, NY 10036 CN101642634-FORTI-PROPE-19-		PHONE (A/C, No, Ext):	COMPANY NAME AND ADDRESS SEE ATTACHED*	NAIC NO:
FAX (A/C, No):		E-MAIL ADDRESS:	IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH	
CODE:	SUB CODE:	POLICY TYPE		
AGENCY CUSTOMER ID #:		LOAN NUMBER	POLICY NUMBER See Attached	
NAMED INSURED AND ADDRESS Fortistar Methane Group NEO Tajiguas LLC One North Lexington Avenue White Plains, NY 10601		EFFECTIVE DATE 10/15/2019	EXPIRATION DATE 10/15/2020	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
ADDITIONAL NAMED INSURED(S)		THIS REPLACES PRIOR EVIDENCE DATED:		

PROPERTY INFORMATION (ACORD 101 may be attached if more space is required) BUILDING OR BUSINESS PERSONAL PROPERTY

LOCATION / DESCRIPTION Re: Tajiguas Facility Located at 14470 Calle Real, Gaviota, CA 93117
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION		PERILS INSURED	<input checked="" type="checkbox"/> BASIC	<input type="checkbox"/> BROAD	<input type="checkbox"/> SPECIAL		
COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: \$ 300,000,000						DED: 250,000	
		YES	NO	N/A			
<input checked="" type="checkbox"/> BUSINESS INCOME	<input type="checkbox"/> RENTAL VALUE	X			If YES, LIMIT:	<input checked="" type="checkbox"/> Actual Loss Sustained; # of months:	18
BLANKET COVERAGE		X			If YES, indicate value(s) reported on property identified above: \$		
TERRORISM COVERAGE			X		Attach Disclosure Notice / DEC		
IS THERE A TERRORISM-SPECIFIC EXCLUSION?		X					
IS DOMESTIC TERRORISM EXCLUDED?		X					
LIMITED FUNGUS COVERAGE			X		If YES, LIMIT:	DED:	
FUNGUS EXCLUSION (If "YES", specify organization's form used)		X					
REPLACEMENT COST		X					
AGREED VALUE		X					
COINSURANCE			X		If YES, %		
EQUIPMENT BREAKDOWN (if Applicable)		X			If YES, LIMIT:	DED:	
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg		X			If YES, LIMIT:	DED:	
- Demolition Costs		X			If YES, LIMIT: 25,000,000	DED:	
- Incr. Cost of Construction		X			If YES, LIMIT: 25,000,000	DED:	
EARTH MOVEMENT (if Applicable)		X			If YES, LIMIT: 35,000,000	DED:	
FLOOD (if Applicable)		X			If YES, LIMIT: 35,000,000	DED:	
WIND / HAIL INCL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Subject to Different Provisions:			X		If YES, LIMIT:	DED:	
NAMED STORM INCL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Subject to Different Provisions:			X		If YES, LIMIT: 300,000,000	DED:	
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS		X					

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST NYC-010831071-02					
<input type="checkbox"/> CONTRACT OF SALE	<input type="checkbox"/> LENDER'S LOSS PAYABLE	<input checked="" type="checkbox"/> LOSS PAYEE	LENDER SERVICING AGENT NAME AND ADDRESS		
<input type="checkbox"/> MORTGAGEE					
NAME AND ADDRESS Santa Barbara County Public Works Resource Recovery and Waste Management Division 130 East Victoria Street, Suite 100 Santa Barbara, CA 93101			AUTHORIZED REPRESENTATIVE of Marsh USA Inc. David A. Cobleigh		
					

© 2003-2016 ACORD CORPORATION. All rights reserved.



ADDITIONAL REMARKS SCHEDULE

AGENCY Marsh USA, Inc.		NAMED INSURED Fortistar Methane Group NEO Tajiguas LLC One North Lexington Avenue White Plains, NY 10601	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 28 FORM TITLE: Evidence of Commercial Property Insurance

County of Barbara, Public Works Department 130 East Victoria Street Suite 100, Santa Barbara, CA is included as loss payee where required by written contract.

Other deductibles may apply as per policy terms and conditions.

Schedule of Underwriters:

Carrier: Aegis (65.5%)
 Policy Number: PO5689804P

Carrier: Munich Re (10%)
 Policy Number: 58-A3-PP-0000092-09

Carrier: Navigators (5.5%)
 Policy Number: NY19OPE0BOI9001

Carrier: Swiss Re (7.5%)
 Policy Number: UTP-200229-01

Carrier: Travelers (London Syndicate) (3%)
 Policy Number: B0509ENGBA1900254

Carrier: KLN (London Syndicate) (3.5%)
 Primary: \$50,000,000
 Policy Number: B0509ENGBA1900255

Carrier: MS Amlin (London Syndicate) (3.5%)
 Excess: \$250,000,000
 Policy Number: B0509ENGBA1900264

Carrier: SCOR (5%)
 Policy Number: FA0065653-2019-1

Sublimits of liability as shown via applicable carrier policy.

Named Insured Schedule (Property):

Fortistar Capital, Inc., Fortistar LLC, TruStar Energy, LLC, dba Vocational Energy, PERC Holdings 2, LLC, Greentree Landfill Gas Company, LLC, Imperial Landfill Gas Company, LLC

Deductible Structure (As Follows):

- \$250,000 any one Occurrence for Fortistar Locations, except:
- \$500,000 any one Occurrence for Fortistar Locations (SCOR Only)
- \$250,000 any one Occurrence for all locations (Swiss Re Only)
- \$250,000 any one Occurrence for Sue and Labor
- \$100,000 any one Occurrence as respect to Transit (Travelers, MS Amlin/KLN did not offer)
- \$25,000 any occurrence as respects valuable papers and records, accounts receivable, fine arts and office contents (Swiss Re, MS Amlin/KLN did not offer)
- \$25,000 any one Occurrence as respect TruStar Energy, LLC Compressed Natural Gas (CNG) Filing Stations, except;
- \$50,000 any one Occurrence as respect TruStar Energy, LLC Compressed Natural Gas (CNG) Filing Stations (Swiss Re Only)
- \$500,000 any one Occurrence respect to the Lockport, New York; Castleton, New York; Coke Energy Power Plant; Harbor Coal Plant; Ironside Power Plant; North Lake Power Plant; Portside Power Plant locations (AEGIS, Navigators, Swiss Re, Munich Re Only)
- \$1,000,000 any one Occurrence respect to the Cokenergy Power Plant, Harbor Coal Plant, Ironside Power Plant, North Lake Power Plant, Portside Power Plant locations



ADDITIONAL REMARKS SCHEDULE

AGENCY Marsh USA, Inc.		NAMED INSURED Fortistar Methane Group NEO Tajiguas LLC One North Lexington Avenue White Plains, NY 10601	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 28 FORM TITLE: Evidence of Commercial Property Insurance

Amlin/KLN, SCOR Only)
 \$500,000 any one Occurrence respect to the Lockport, New York, Castleton, New York, Hillman Power Plant and Dapp Power (Travelers, MS Amlin/KLN, SCOR Only)
 \$500,000 any one Occurrence respect the Greentree and Imperial Landfill Gas Company locations (Swiss Re Only)
 \$250,000 any one Occurrence respect to the peril of Flood
 \$250,000 any one Occurrence respect to the peril of Earth Movement
 5% of Property Damage, subject to a minimum of \$250,000 any one Occurrence respect to the peril of California Earth Movement
 5% of Property Damage, subject to a minimum of \$250,000 any one Occurrence respect to the peril of Florida Named Windstorm
 \$1.50/kVA per occurrence subject to a minimum of \$250,000 respect to Transformers

Time Element Deductible Structure (As Follows):
 30 Days any one Occurrence for Time Element coverages except;
 45 Days any one Occurrence for Time Element coverages (SCOR Only)
 48 Hours any one Occurrence for Compressed Natural Gas Filing Stations (CNG), except:
 24 Hours any one Occurrence for Compressed Natural Gas Filing Stations (CNG) (Munich Re Only)
 45 Days any one Occurrence respect the Lockport, NewYork, Coke Energy Power Plant; Harbor Coal Plant, Ironside Power Plant; Portside Power Plant Locations except;
 45 Days any one Occurrence respect to Lockport, New York, Castleton, New York, Hillman Power, Dapp Power, and Fortistar Landfill Locations (Travelers, MS Amlin/KLN Only)
 60 Days any one Occurrence respect to North Lake Power Plant, Cokenergy Power Plant, Harbor Coal Plant, Ironside Power Plant, Portside Power Plant locations (Travelers, MS Amlin/KLN Only)
 60 Days any one Occurrence respect to the North Lake Power Plant
 24 Hours waiting period qualifier and deductibles above apply to Service Interruption concurrently on any one Occurrence