

CNG INFRASTRUCTURE AGREEMENT

This CNG INFRASTRUCTURE AGREEMENT (this "Agreement") is made as of the ____ of _____ 2015, by and between CITY OF ORLANDO, a municipal corporation organized under the laws of the State of Florida, with offices located at 400 S. Orange Avenue, Orlando, Florida 32802 ("Customer"), and PEOPLES GAS SYSTEM, A DIVISION OF TAMPA ELECTRIC COMPANY, a corporation organized under the laws of the State of Florida, with offices at 702 N. Franklin Street, Tampa, Florida 33602 (the "Company," and with Customer, separately or together, the "Party" or "Parties").

WHEREAS, Customer owns or has the right to occupy the Property, where by way of an easement Company will be erecting the CNG Infrastructure;

WHEREAS, Company is a public utility whose obligation and authority to serve natural gas customers is regulated by the FPSC;

WHEREAS, Company has a Tariff on file with and approved by the FPSC; and,

WHEREAS, Customer wishes to engage Company for purposes distributing to Customer gas for compression and dispensing CNG by Customer into motor vehicle fuel tanks or other transportation containers through the CNG Infrastructure pursuant to the terms hereof and Tariff.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, Customer and Company agree to the terms set forth below.

1. Definitions

(a) Capitalized terms used herein shall have the following definitions:

"Agreement" has the meaning set forth in the preamble.

"CNG" or "compressed natural gas" means Gas pressurized by mechanical equipment and dispensed at high pressure suitable for Gas to be utilized as an energy source for the propulsion of motor vehicles.

"CNG Infrastructure" means all devices, equipment and supporting components owned by the Company and necessary, as determined by the Company in its sole discretion, for the Company to provide CNG Service to the Customer, including, without limitation, dryers, compressors, controls, storage vessels, dispensers, card readers, fuel management systems, metering, piping, with all related facilities and supporting components, as set forth on **Exhibit B**.

"CNG Station" means the location at which the Company will install CNG Infrastructure, including the Property, together with all improvements and appurtenances owned or leased by the Customer, the address, design and nominal capacity of which is described in more detail in **Exhibit A**.

"Commencement Date" has the meaning set forth in **Section 4**.

"Company" has the meaning set forth in the preamble.

"Customer" has the meaning set forth in the preamble.

"Easement Area" has the meaning set forth in **Section 6(b)**.

"FPSC" means the Florida Public Service Commission or any successor entity thereto.

"Force Majeure Events" has the meaning set forth in **Section 15**.

"Governmental Authority" means any government or political subdivision thereof (national, federal, state, departmental, municipal or otherwise), governmental agency, instrumentality, authority, department, inspectorate, commission, ministry, body, public person, court, tribunal, statutory or legal entity or person (whether autonomous or not) that has jurisdiction over or the power to impose the tax, fee or other imposition.

"Grant" has the meaning set forth in **Section 6(b)**.

"Gross Investment" means the aggregate installed cost of the CNG Infrastructure as described in more detail in **Exhibit B**.

"Monthly Facilities Charge" means a monthly fee calculated based on a percentage of the Gross Investment as provided in the Company's tariff and described in **Exhibit B**.

"Laws" means all applicable laws (including those arising under common law) statutes, codes, rules, regulations, reporting or licensing requirements, ordinances and other pronouncements having the effect of the law of the United States or any domestic state, county, city or other political subdivision, including those promulgated, interpreted or enforced by any governmental or quasi-governmental authority.

"Party" or "Parties" has the meaning set forth in the preamble.

"Property" means the real property owned by the Customer where the CNG Station (including the CNG Infrastructure) will be located, as more particularly described on **Exhibit A** attached hereto and made a part hereof.

"Tariff" means the rates, rules and regulations in connection with any and all services offered by the Company, which are now or may hereafter be made effective, issued or promulgated by the Florida Public Service Commission and as may be amended from time to time.

"Term" has the meaning set forth in Section 4.

- (b) Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Tariff.

2. Services Provided by Company and Obligations of the Customer

- (a) Company shall provide and maintain on the Property the CNG Infrastructure pursuant to the terms and conditions of this Agreement and Tariff. In connection with the installation of the CNG Infrastructure, Company assumes no risks associated with underground or other unforeseen conditions or interferences. Any additional costs incurred by Company due to such unforeseen conditions or interferences shall be the responsibility of, and will be charged by Company to, Customer.
- (b) The Customer, itself or through an approved subcontractor acting on behalf of the Customer, shall:
1. meet all licensing and other requirements to operate the CNG station, including all necessary operating permits and the payment of any related fees;
 2. perform all functions necessary to operate CNG Station during the Term not expressly designated herein as the Company's responsibility, including but not limited to obtaining electric power to the Property, which shall be provided by the applicable electric utility provider, and other reasonable security measures as determined by the Customer in its reasonable discretion;

3. provide a safe working environment for the Company's employees and others while on the Property and use its best efforts to protect the CNG Infrastructure from damage or injury; and
 4. comply with all applicable Laws.
- (c) The Customer shall own the Property and shall make any site improvements to the Property which may be reasonably necessary, as determined by the mutual decision of the Company and Customer, to install and maintain the CNG Infrastructure and to operate the CNG Station.
- (d) The Customer shall grant to or procure for the Company all easements and rights-of-way, including but not limited to, the right of unrestricted and free access, ingress and egress over, upon the Property and all other rights, privileges, and easements that the Company and Customer deem reasonably appropriate, necessary or convenient for the full enjoyment and use of the CNG Station. All such easements and rights-of-way shall provide for the Company's right to remove any and all of the Company's property, including but not limited to CNG Infrastructure, upon termination of this Agreement. The Customer shall be solely responsible for any and all costs associated with the procurement of all such easements and rights-of-way. Such easements and rights-of-way shall provide, at a minimum, appropriate and timely access to the Property to permit the Company's employees and other authorized persons to:
1. construct and install the CNG Infrastructure;
 2. maintain the CNG Infrastructure; and
 3. remove any and all of the Company's property, including but not limited to CNG Infrastructure, upon termination of this Agreement.
- (e) The Customer shall give immediate notice to the Company when any leakage of Gas is discovered or suspected and the Customer shall take all precautions that are reasonable under the circumstances and is appropriate for the Customer's operations. The Customer shall not use any flame or light of any character, electrical switches or other equipment that might produce a spark, or other igniting medium, in the proximity of escaping gas or do or allow to be done any act which would ignite such Gas, and shall call 9-1-1 immediately.

3. Representations and Warranties

3.1 Representations and Warranties of the Company and the Customer. Each Party represents and warrants to the other Party as follows:

- (a) It is a corporation, limited liability company or other entity, duly organized, validly existing and in good standing under the laws of the state of its organization and is duly qualified to do business under the laws of each jurisdiction where, because of the nature of its activities or its ownership, such qualification is required, and has the requisite power and authority to enter into this Agreement and the transactions contemplated hereby and to perform its obligations hereunder.
- (b) It has duly authorized the execution, delivery and performance of this Agreement and has taken all action necessary or appropriate to ensure that this Agreement, when executed and delivered by such Party and when duly executed and delivered by the other Party, will constitute its valid and legally binding obligation, enforceable in accordance with its terms, except to the extent that its enforceability may be limited by bankruptcy, insolvency and other applicable laws affecting creditors' rights, and by equitable principles related to enforceability (whether in equity or at law).
- (c) The execution and delivery of this Agreement, such Party's performance of its obligations hereunder and the consummation of the transactions contemplated herein are within the requisite powers of such Party and will not (i) conflict with or constitute a breach of such Party's organizational documents or (ii) conflict with, constitute a default or result in the termination of, or accelerate or permit the acceleration of any performance under any indenture, mortgage, deed of trust, or other material lien, lease, contract, note, order, judgment, decree or other material agreement, instrument or restriction of any kind to which such Party is a party or by which it or any of its properties are or may be bound or affected.
- (d) This Agreement is the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except to the extent that its enforceability may be limited by bankruptcy, insolvency and other applicable laws affecting creditors' rights, and by equitable principles related to enforceability.

- (e) There is no litigation or other dispute resolution or governmental proceeding pending or, to the knowledge of such Party, threatened against or affecting such Party (or any of its directors, officers or employees) that would adversely affect its ability to perform its obligations herein.

3.2 Disclaimer of Warranties. OTHER THAN AS SPECIFICALLY SET FORTH HEREIN, NEITHER PARTY MAKES ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, DIRECTLY OR INDIRECTLY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, WITH RESPECT TO, ARISING OUT OF OR IN CONNECTION WITH THE SERVICES TO BE PERFORMED HEREUNDER BY SUCH PARTY OR THE RESULTS OBTAINED THEREBY.

4. Agreement Term

The term of this Agreement shall commence on the date on which Company has completed the installation of the CNG Infrastructure and the same are operational for the purposes expressed in this Agreement (the "**Commencement Date**"). Such Commencement Date shall be memorialized in a letter from Company to Customer no later than ten (10) days after such date. The initial term of this Agreement shall be as set forth on **Exhibit C** commencing on the Commencement Date (the "**Term**"), unless and until sooner terminated as provided hereunder or in Tariff. This Agreement shall automatically renew for successive 12-month periods at the end of the Term or any renewal period, unless either Party provides the other Party with at least sixty (60) days' prior written notice of its intent to not renew. If any such notice is given, this Agreement shall terminate at the end of the then-current term. Notwithstanding the foregoing, this Agreement will be in full force and effect upon the execution and delivery of it by the Parties.

5. Termination

5.1 This Agreement may be terminated prior to the expiration of the Term on written notice by the Company (i) if Customer fails to pay any undisputed amount when due hereunder and such failure continues for thirty (30) days after the Customer's receipt of written notice of non-payment (with the understanding that such non-payment shall constitute a material breach of this Agreement), (ii) other material breaches of this Agreement by Customer which remain uncured thirty (30) days after Customer's receipt of written notice of breach, or (iii) if the easement or other right to occupy the Property granted to Company in connection with the

CNG Infrastructure is extinguished for any reason whatsoever. For the avoidance of doubt, the Company shall be entitled to damages for any termination pursuant to the foregoing breaches by Customer described in items (i), (ii) and (iii), but in item (iii) Company shall only be entitled to such damages if the easement or other right to occupy the Property is extinguished through no fault of Company. In all cases such damages shall be limited as set forth in Section 10.3 of this Agreement.

5.2 This Agreement may be terminated prior to the expiration of the Term on written notice by the Customer if Company materially breaches this Agreement, which material breach remains uncured sixty (60) days after Company's receipt of written notice of breach thereof. In all cases such damages shall be limited as set forth in Section 10.3 of this Agreement.

5.3 Should the Customer (i) make a general assignment for the benefit of creditors; (ii) institute liquidation proceedings or proceedings to be adjudicated as voluntarily bankrupt; (iii) consent to the filing of a petition of bankruptcy against it; (iv) be adjudicated by a court of competent jurisdiction as being bankrupt or insolvent; (v) seek reorganization under any bankruptcy act; (vi) consent to the filing of a petition seeking such reorganization; or (vii) have a decree entered against it by a court of competent jurisdiction appointing a receiver, liquidator, trustee, or assignee in bankruptcy or in an insolvency covering all or substantially all of the Customer's property or providing for the liquidation or dissolution of the Customer's property or business affairs; then, in any such event, the Company, at its option and without prior notice, may terminate this Agreement effective immediately.

5.4 Effect of Termination

(a) Upon any default under this Agreement by the Customer, the Customer shall promptly pay to the Company the aggregate amount of all remaining annual NGVS-2 Monthly Facilities Charges as specified in the then-approved NGVS-2 Rate for the unexpired then-current Term. The Company may, at its sole discretion, elect to reduce this payment by the market value of the CNG Infrastructure which can be removed from the CNG Station minus any cost of removal and delivery.

(b) No termination of this Agreement shall relieve either Customer of its liability for the payment or performance of any obligation accrued prior to the termination.

- (c) Upon termination of this Agreement for any reason, the Company may, with advance written notice, remove CNG Infrastructure located at the CNG Station.

6. CNG Infrastructure

- (a) Customer shall comply with all applicable federal, state and local laws, regulations and ordinances (collectively, "Applicable Law") (including, without limitation, the National Fire Protection Association's "NFPA 52: Vehicular Gaseous Fuel Systems Code") in the construction of any buildings or structures of any kind in close proximity with the CNG Infrastructure. Customer's use of the CNG Infrastructure shall comply with Applicable Law and shall not interfere at any time with Company's access to the CNG Infrastructure; provided that, barring emergency situations, Company's exercise of its right of entry does not unreasonably interfere with the conduct of the Customer's business on the Property.

- (b) Customer represents and warrants to Company that

(check, and initial above, one of the boxes)

☐ Customer

☐ _____ [FULL LEGAL NAME OF OWNER]

is the owner of the Property.

- (c) Company shall commence design of the CNG Infrastructure promptly after the date on which this Agreement has been executed by the Parties.
- (d) Company will keep at its expense and in good condition and repair the CNG Infrastructure (reasonable wear and tear excepted) so that the CNG Infrastructure operate normally (subject to necessary interruptions) for the purposes expressed in this Agreement. Any repairs made necessary by the act or omission of Customer or its agents or employees shall be made by Company but at Customer's expense. Title to the CNG Infrastructure shall at all times remain in the Company.

7. Safety

- 7.1 Customer shall at all times (i) conduct its permitted use with the highest degree of care so as not to disturb or impair the structural integrity of the CNG

Infrastructure; (ii) conduct permitted use so as to maintain legal and safe clearances from the CNG Infrastructure; (iii) ensure that no person come into contact with the CNG Infrastructure who is not necessary for the operation or use of the CNG Infrastructure; (iv) comply with Applicable Law; (v) ensure that the Customer's employees, agents, contractors and customers are adequately trained in the safe use of the CNG Infrastructure; and (vi) report all known or suspected safety issues to the Company immediately upon the discovery thereof.

- 7.2 If the Company in its reasonable discretion determines that the Customer has failed to provide a safe environment as set forth herein, the Company shall have the right to suspend services without liability until such time as the Property is deemed safe by the Company.

8. Distribution Charges; Monthly Facilities Charges; Taxes, Fees and Other Impositions by Governmental Authorities

- (a) Monthly Facilities Charges. Customer shall pay to Company the Monthly Facilities Charge set forth on Exhibit C.
- (b) Billing and Payment. Company shall bill Customer each month for any amounts payable pursuant to this Section 8, and Customer shall pay such bills pursuant to the billing provisions set forth in Tariff.
- (c) Taxes, Fees and Other Impositions by Governmental Authorities. The Company's provision and maintenance of the CNG Infrastructure does not include providing an attendant for the physical fueling of Customer's Vehicles or the provision of electricity required to operate the CNG Infrastructure. The physical dispensing of CNG into Customer's Vehicles, the reporting and payment of any tax, fee or other imposition by any Governmental Authority on CNG dispensed for use as a motor fuel, payment of any tax or fee imposed by Tariff, and the payment for electricity used to operate the CNG Infrastructure, shall be the sole responsibility of Customer.

9. Set-off

Without prejudice to any other right or remedy it may have, Company reserves the right to set off at any time any amount owing to it by Customer against any amount payable by Company to Customer.

10. Indemnification and Limitation of Liability

10.1 To the extent allowed by law and pursuant to Florida Statute §768.28, the Customer shall indemnify, defend and hold harmless the Company, its affiliates, their respective successors and assigns, and their respective officers, directors, employees, consultants, agents and representatives from any liability, damage, diminution in value, loss, cost, claim or expense, including reasonable attorneys' fees and expenses that result from or arise out of: (i) the breach or inaccuracy of any of the Customer's representations or warranties in this Agreement; (ii) the breach of any of the Customer's covenants or agreements in this Agreement; (iii) any violations of Law or governmental rules or regulations by the Customer in performing its obligations in connection with this Agreement; (iv) any and all claims brought by or on the behalf of the Customer, the Customer's subcontractors or other agents; (v) third party claims for physical injury or property damage arising out of the acts or omissions of Customer ; or (vi) the theft of or damage to the CNG Infrastructure not directly caused by the Company's negligence or willful misconduct.

10.2 The Company shall indemnify, defend and hold harmless the Customer, its elected officials, members, partners, directors, managers, officers, employees, agents, representatives and affiliated affiliates, from any liability, damage, diminution in value, loss, cost, claim or expense that result from or arise out of: (i) any violations of Law or governmental rules or regulations by the Company in performing its obligations in connection with this Agreement; (ii) any and all claims brought by or on the behalf of the Company, the Company's subcontractors or other agents; (iii) third party claims for physical injury or property damage arising out of the acts or omissions of Company; or (iv) the theft of or damage to the CNG Infrastructure not directly caused by the Customer's negligence or willful misconduct.

10.3 THE AGGREGATE LIABILITY OF THE COMPANY FOR ANY AND ALL LOSSES AND DAMAGES ARISING OUT OF ANY CAUSE WHATSOEVER (WHETHER SUCH CAUSE IS BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE) UNDER THIS

AGREEMENT SHALL IN NO EVENT EXCEED THE AMOUNT OF ONE MILLION DOLLARS (\$1,000,000). EACH PARTY HERETO AGREES THAT EACH OTHER PARTY SHALL NOT BE LIABLE TO SUCH PARTY OR ANYONE ACTING THROUGH SUCH PARTY UNDER ANY LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL THEORY) FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF THE REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE. NOTWITHSTANDING THE PRECEDING, THE FOREGOING LIMITATIONS SHALL NOT APPLY TO TORT CLAIMS INVOLVING PERSONAL INJURY, PROPERTY DAMAGE, OR DEATH CAUSED BY COMPANY'S GROSSLY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT.

11. Insurance

11.1 The Company, at its sole cost and expense, agrees to maintain in effect, at all times during the term of this Agreement, the insurance coverages described below with insurers and under forms of policies reasonably satisfactory to the Customer and with minimum limits not less than those set forth below.

- (a) Workers' Compensation Insurance; Employer's Liability Insurance. Each Party shall maintain, Workers' Compensation Insurance (including coverage for Occupational Disease) in accordance with all applicable laws and regulations for all of its employees. Each Party shall maintain Employer's Liability insurance of not less than \$1,000,000 for each accident.
- (b) General Liability Insurance. General Liability Insurance covering Property Damage, Bodily Injury, and Personal Injury Liability, with a limit of not less than \$5,000,000 per occurrence.
- (c) Automobile Liability Insurance. Automobile Liability insurance including coverage for all owned, hired, leased and non-owned automobiles. The combined single limit for bodily injury and property damage liability shall be not less than \$1,000,000 for any one accident or loss.

To the extent applicable, Company shall cause its insurers to waive all rights of subrogation against the Custpmer in the event of any covered loss under the

policies described above or under any policy maintained by such Party. On or prior to the Commencement Date, and upon reasonable request thereafter, Company will provide to the Customer with a certificate of insurance or other evidence of the required coverage.

11.2 Customer is an authorized self-insurer in the State of Florida and shall provide, via its self insurance program, the required coverage for general liability, automobile liability, and worker's compensation. At a minimum, Customer will provide:

- (a) General Liability insurance consistent with Florida Statutes, Section 768.28.
- (b) Automobile liability insurance shall be provided consistent with Florida Statutes, Section 768.28.
- (c) Collision and comprehensive insurance coverage, or an acceptable program of self-insurance, for the actual cash value of the equipment. Such coverage shall not have a deductible, payable by the Lessee, greater than \$1,000 per occurrence. Company shall be named loss payee on such insurance.

12. Force Majeure Events

The Company shall not be liable or responsible to the Customer, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from the following force majeure events ("Force Majeure Events"): (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any Governmental Authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) shortage of adequate power or transportation facilities; and (j) other events beyond the control of the Company. The Company shall give notice within five (5) days of the Force Majeure Event to the Customer, stating the period of time the occurrence is expected to continue. The Company shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Company shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

13. Notices

Any notice to be given under this Agreement shall be in writing. Notice shall be directed to a Party utilizing the contact information set forth below or such other contact information as may be subsequently provided by either Party to the other in writing. Notice shall be deemed to have been sufficiently provided if properly delivered via (i) courier to the physical address and attention of the Party as provided below and as evidenced by courier's written acknowledgment of delivery; (ii) facsimile transmission directed to the attention of and facsimile number for the Party as provided below and as evidenced by sender's facsimile transmission confirmation page; or (iii) certified or registered U.S. mail, return receipt requested, with sufficient prepaid postage and addressed to the Party as provided below and as evidenced by the postmaster's written acknowledgment of delivery:

If to Company: Peoples Gas System
702 North Franklin Street
Tampa, FL 33601-2562
Attention: General Counsel
Telephone: (813) 228-4013
Facsimile: (813) 228-1328

If to Customer: Chief Procurement Officer
City of Orlando
400 S. Orange Avenue
Orlando, Florida 32801
Telephone: (407) 246-2897
Facsimile: (407) 246-2869

With a Copy to: Fleet & Facilities Management Division Manager
City of Orlando
1010 S. Westmoreland Drive
Orlando, Florida 32805
Telephone: (407) 246-3873
Facsimile: (407) 246-3725

Notwithstanding the foregoing, notices with respect to curtailment or restoration of Natural Gas or with respect to Force Majeure Events shall be sufficient if given by the Company in writing or orally in person or by telephone to the person or one of the persons designated from time to time by the Customer as authorized to receive such notices.

14. Exclusive Nature

This Agreement does not change the obligations, restrictions or rights contained in other agreements between the Parties unless expressly indicated herein. No agreements,

representations, memoranda, or other forms of communication, written or oral, exchanged before the execution of this Agreement shall be grounds for a modification or interpretation of this Agreement.

15. Successors and Assigns

This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned or delegated by either Party without the prior written consent of the other Party, except that the Company may delegate any or all of its rights, interests or obligations hereunder to a third party without consent of the Customer.

16. Cooperation

Each Party shall reasonably cooperate with the other Party to permit such Party to perform its duties and obligations under this Agreement in a timely manner.

17. Independent Contractors and Authority of the Parties

17.1. The Parties are independent contractors under this Agreement, which shall not be construed to create any employment relationship, partnership, joint venture, franchisor-franchisee or agency relationship that did not already exist prior to the execution of this Agreement.

17.2. Each Party acknowledges and agrees that it has no authority to act on behalf of the other Party other than as set forth in this Agreement or to enter into any contract or to incur any liability on behalf of the other Party, except with prior written consent of an authorized officer of such Party. Each Party covenants that it shall not at any time represent, either orally or in writing, that it has any right, power or authority with respect to the other Party not expressly granted to the other Party by such Party.

18. Entire Agreement

This Agreement and the documents and schedules referred to herein contain the complete agreement between the Parties and supersede any prior understandings, agreements or representations by or between the Parties, written or oral, which may have related to the subject matter hereof in any way; provided, however, that this provision is not intended to abrogate any other written agreement between the Parties executed with or after this Agreement.

19. Amendment and Waiver

The Parties may not amend or modify this Agreement except as may be agreed upon by a written instrument executed by the Parties. No waiver of any provision hereunder or any breach or default thereof shall extend to or affect in any way any other provision or prior or subsequent breach or default.

20. Third-Party Beneficiaries

The parties to this Agreement do not intend this Agreement to benefit or create any right or cause of action in or on behalf of any person or entity other than the Company and the Customer.

21. Severability

Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

22. No Strict Construction and Headings

The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party. The headings used in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

23. Counterparts and Delivery

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument. The Parties agree that this Agreement may be executed and delivered by facsimile or other electronic transmission.

24. Governing Law and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction. Any legal action or proceeding with respect to this Agreement shall be brought in the courts of the State of Florida, or in any court of the United States of America for the Middle District of Florida, and, by execution and delivery of this Agreement, the Customer and the Company each hereby accepts for itself and in respect to its property, generally and unconditionally, the jurisdiction of aforesaid courts. The Parties hereby irrevocably waive trial by jury, and the Customer and the Company each hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds on forum non conveniens, which it may now or hereafter have to the bringing of any such action or proceeding in such respective jurisdictions. The Customer and the Company each further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certificated mail, postage prepaid to the address set forth in the notices section of this Agreement and such service will become effective three days after such mailing. Nothing in this Agreement shall affect the right of the Company or the Customer to serve process in any other manner permitted by Law.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the day and year first above written.

CITY OF ORLANDO

PEOPLES GAS SYSTEM, A DIVISION OF
TAMPA ELECTRIC COMPANY

Name:

Title:

Name:

Title:

EXHIBIT A

Legal Description

[Legal Description – To Be Provided]

DRAFT

- 1.1 The CNG Station will be located at City of Orlando's Public Works – Solid Waste Division fleet at 400 S. Orange Ave, Orlando, FL 32805
- 1.2 The "time-fill" station will have the fueling capacity of 604 standard cubic feet per min. (SCFM) or 4.35 DGE per min. (1 DGE = 1.39 cubic feet). This fueling capacity equates to the following fueling windows:
- 36 trucks @ 40 DGE in 5.5 hours (normal operation) or in 11 hours (with one compressor down)
 - 46 trucks @ 40 DGE in 7.0 hours (normal operation) or in 14 hours (with one compressor down)

DRAFT

EXHIBIT B

CNG Infrastructure

- 1.3 The Gross Investment for the development of the CNG Infrastructure is \$1,307,152.46.
- 1.4 Calculated per the Company's Tariff, the Monthly Facilities Charge is 1.6% of the Gross Investment (\$20,914.44).
- 1.5 The CNG Infrastructure includes the following equipment:
- A. Two (2) ANGI 300 JGQ 150 hp - 302 scfm electric-motor driven compressors with all-weather enclosures
 - B. One (1) inlet gas dryer with on-skid manual regeneration
 - C. Eighteen (18) dual hose time fill posts with 25' long hoses
 - D. One (1) 4-bottle time-fill storage assembly, 6,840 scf, with direct-fill post
 - E. One (1) de-fueling post with vent to compressor
 - F. ANGI CP-400 Communication Panel
 - G. Electrical equipment including service entrance main disconnect, motor starter panel and communications panel for remote diagnostics.
 - H. Time-fill control panel
 - I. Emergency shutdown at compressor area and dispenser area
 - J. Backup generator hookup with an 600 Amp / 300 Total hp capacity
 - K. Two (2) flow meters to allow for metering of two zones/sets of time-fill posts
- 1.6 Development of the CNG Infrastructure includes the following:
- L. All labor, supervision, professional services, materials, equipment, tools, consumables, transportation, fuel, temporary work, and any and all other items required to engineer, install, start-up and commission a fully functional CNG fueling station.
 - M. Site work to prepare the area for concrete foundations and underground utilities
 - N. Concrete pads for compressors, storage vessel, priority panel, inlet gas dryer and gas meter assembly
 - O. Asphalt for area inside of compressor compound (around the concrete equipment pads) to match pre-construction surroundings
 - P. Bollards surrounding the compressor compound

- Q. K-Rail Protection (with concrete bollards) for the permanent mounting location of time-fill posts and high-pressure piping and electrical conduit.
 - R. 6-foot chain link fence enclosing the compressor compound
- 1.7 Work not included in scope and to be performed by Customer
- S. Electric service and electric feed to compressor compound – 3 phase 200v-460v
 - T. Communication feeds to existing fuel management system

DRAFT

EXHIBIT C

Key Terms

- 1.8 Term: 10 years
- 1.9 Credit Support: none

DRAFT

EXHIBIT D

Easement

CLERK OF CIRCUIT COURT RETURN TO PREPARER:

Prepared by: Real Estate Department

Peoples Gas System

702 N. Franklin Street

Tampa, FL 33602

Space Reserved for Clerk

GRANT OF EXCLUSIVE UTILITY EASEMENT

KNOW ALL MEN BY THESE PRESENTS that
_____, a _____ limited liability company (the
"**Grantor**") whose address is _____, in
consideration of the sum of ONE DOLLAR (\$1.00) and other valuable consideration, receipt of
which is hereby acknowledged, does hereby grant to **PEOPLES GAS SYSTEM, A DIVISION
OF TAMPA ELECTRIC COMPANY**, a Florida corporation (the "**Grantee**") whose principal
address is P. O. Box 2562, Tampa, Florida 33601, and to its successors and assigns, an exclusive
perpetual easement (the "**Easement**") for the installation, maintenance and repair of natural gas
facilities (the "**Facilities**"), over, under and upon a parcel of land owned by the Grantor and
described on Exhibit "A" attached hereto and by reference made apart hereof.

The location of the Easement (the "**Easement Area**") is defined on the drawing attached
hereto as Exhibit "B".

1. Use: Grantee's use of the Easement shall at all times be in compliance with all
Federal, State and local laws, regulations, ordinances and statutes.

2. Repair by Grantee: Grantee shall promptly repair any damage to the Easement, or
any other property not owned by Grantee, caused by Grantee exercising its rights under this

agreement including without limitation, landscaping, ground cover, planting, roadways, driveways, sidewalks, parking areas and structures. In the event that Grantee, its employees, agents or contractors cause damage to the Easement in the exercise of the privilege granted herein, Grantee agrees to restore the Easement parcel so damaged to its original condition and grade. Notwithstanding the foregoing, Grantor reserves the right to install minor landscaping, irrigation and/or fencing within the utility easement parcel provided that it does or will not directly interfere with the Grantee's Facilities; Grantor further acknowledges that under the "Underground Facility Damage Prevention and Safety Act" (F.S. §556), that Grantor is obligated to notify "Sunshine State One-Call of Florida, Inc." of its intent to engage in excavation or demolition prior to commencing any work and that this notification system shall provide member operations an opportunity to identify and locate if applicable, their underground Facilities prior to said excavation or demolition. In the event Grantor fails to notify as set forth above, Grantor may be held responsible for costs and expenses incurred due to damage of Grantee's Facilities.

3. Relocation: The Grantee agrees upon the request of Grantor to relocate its Facilities, over, under and upon subject parcel at the expense of Grantor with the vacated portion of this easement being released and conveyed back to Grantor and the site of the relocated Facilities being conveyed and included in this easement grant as though it had been included ab initio.

4. Entire Agreement: This Grant of Easement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. This Grant of Easement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought. This Grant of Easement shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the Grantor has executed this Grant of Exclusive Easement
this _____ day of _____, 20____.

Signed, Sealed and Delivered

in the presence of:

GRANTOR:

a _____ limited liability company

WITNESS: _____

By: _____

Print Name: _____

Member

WITNESS: _____

Print or Type Name

Print Name: _____

STATE OF _____

COUNTY OF _____

The forgoing instrument was acknowledged before me this _____ day of
_____ 20____ by _____, a Member
of _____, a limited liability company, on behalf
of said company. He/She personally appeared before me, is personally known to me or has
produced _____ as identification and who did (did not) take an oath.

(SEAL)

Notary Public

Print Name

Commission Expires:

Signed Seal and Delivered

in the presence of:

GRANTEE:

**PEOPLES GAS SYSTEM, A DIVISION
OF TAMPA ELECTRIC COMPANY,**
a Florida corporation

WITNESS: _____

By: _____

Print Name: _____

J.A. Kickliter, Director of Real Estate

WITNESS: _____

Print Name: _____

(CORPORATE SEAL)

STATE OF FLORIDA

COUNTY OF HILSBOROUGH

The forgoing instrument was acknowledged before me this _____ day of _____ 20__ by J.A. Kickliter, Director of Real Estate, on behalf of the corporation. He personally appeared before me, is personally known to me.

(SEAL)

Notary Public

Print Name

Commission Expires:

DRAFT

EXHIBIT "A"

Legal Description:

(Add Legal description for Easement)

DRAFT

EXHIBIT "B"

(Insert map showing location of Easement Area.)

DRAFT

DRAFT