

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: August 18, 2015                                       Consent       Regular  
    Ordinance       Public Hearing

Department:

Submitted By: Department of Airports

Submitted For: Department of Airports  
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I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to receive and file: Access Agreement with Environmental Consulting & Technology, Inc. (ECT) authorizing Enterprise to enter upon and evaluate the condition of the property at 2401 Turnage Boulevard at the Palm Beach International Airport (PBIA), commencing May 14, 2015 and expiring April 30, 2017, at no cost to ECT.

**Summary:** Delegation of authority for execution of the standard access agreement was approved by the Board in R-2006-2716. In September, 2014, a fuel spill occurred on the Avis Rent A Car site at 2500 Turnage Boulevard, adjacent to 2401 Turnage Boulevard. ECT is a consultant to Avis and will install a monitoring well at 2401 Turnage Boulevard to determine the need for cleanup or other remediation efforts on the property. All cleanup efforts will be completed by Avis at no cost to the County. The property at 2401 Turnage Boulevard is currently under a short-term lease to Enterprise Leasing Company of Florida, LLC (Enterprise) and Enterprise has no objection to the Access Agreement. Countywide (AH)

**Background and Justification:** N/A

**Attachments:** Access Agreement

=====  
*JB*  
**Recommended By:** *Don Kelly*                                      6/23/15  
   Department Director                                      Date

**Approved By:** *pat* *DAW*                                      7/16/15  
   County Administrator                                      Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	* _____	_____	_____	_____	_____
<b>No. ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes \_\_\_\_\_ No \_\_\_\_\_  
 Budget Account No: Fund \_\_\_\_\_ Department \_\_\_\_\_ Unit \_\_\_\_\_ RSource \_\_\_\_\_  
 Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

\* There is no fiscal impact associated with this agreement.

**C. Departmental Fiscal Review:**         C. M. Simon        

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

        Shelby Brown          
 5/10 SC 7/11/15 OFMB 8/7/15  
 7/13

        Dr. J. Jacobson         7/15/15  
 Contract Dev. and Control  
 7-14 B. Wheeler

**B. Legal Sufficiency:**

        Anne Delaney         7/16/15  
 Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**ACCESS AGREEMENT**

**THIS ACCESS AGREEMENT** ("Agreement") is made and entered into as of MAY 14, 2015, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida ("County"), and Environmental Consulting & Technology, Inc., having its office and principal place of business at 3701 NW 98<sup>th</sup> Street, Gainesville, Florida, 32606 ("Licensee").

**WITNESSETH:**

**WHEREAS**, Licensee is an agent and contractor for Avis Rent A Car System, LLC ("Avis"); and

**WHEREAS**, Avis operates a facility at 2500 Turnage Blvd., under that certain Lease Agreement with County (R-90-1160-D, as amended) (the "Avis Facility"); and

**WHEREAS**, on or about September 9, 2014, a fuel spill occurred on the Avis Facility, and Licensee, on behalf of Avis, desires to conduct investigations on County's property adjacent to the Avis Facility (the "Premises", as defined below) for the purpose of determining the extent and scope of the fuel spill and any associated remediation or monitoring efforts.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants herein contained, and other valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. Term. The term of this Agreement shall commence on the Effective Date, and expire on April 30, 2017, unless terminated earlier in accordance with the provisions of this Agreement (the "Term").

2. Right of Entry. During the Term, Licensee and its duly authorized agents and employees shall have the right to enter upon that portion of the property located at: "Lease Parcel N-10", currently leased to Enterprise Leasing Company, LLC ("Enterprise"), with the physical address being 2401 Turnage Boulevard, West Palm Beach, , Florida 33406, more particularly identified in Exhibit "A" attached hereto and made a part hereof (the "Premises") for sole the purposes of surveying, soundings, drillings, appraisals, environmental assessments and examinations in order to evaluate the condition of the Premises, and, if approved by County, to install one or more monitoring wells (the "Inspections"). All Inspections shall be performed by people or entities properly licensed in the respective areas or matters tested. Licensee shall perform or cause the Inspections to be performed in the least intrusive manner possible at its sole cost and expense and in a manner which minimizes the impact upon County's and Enterprise's use of the Premises. Licensee shall be solely responsible for, and shall, at its sole cost and expense, promptly repair any damage resulting from Licensee's exercise of the rights granted hereby, and restore any improvements or landscaping now existing or constructed within the Premises to the condition it was in prior to such damage, using materials of like kind and quality. Licensee shall deliver to County complete copies of all reports or similar items evidencing the results of the Inspections. Licensee acknowledges and agrees that the rights granted by this Agreement are and shall be strictly limited to the right to perform the Inspections, and that Licensee may not utilize the Premises for any other purpose whatsoever. Licensee shall promptly cause any lien imposed against the Premises as a result of Licensee's exercise of the

rights granted hereby to be discharged or transferred to bond. Licensee's obligations under this paragraph shall survive the termination or expiration of this Agreement until satisfied.

3. Condition of Premises. Licensee acknowledges and agrees that County and Enterprise shall have no liability whatsoever relating to the condition of the Premises and Licensee hereby knowingly enters the Premises in its "As Is" condition. Licensee shall indemnify, defend and save harmless County and Enterprise from and against any and all claims, suits, actions, damages, and/or causes of action arising as a result of Licensee, its agents, employees, licensees and invitees' entry onto the Premises for any personal injury, loss of life and/or damage to property sustained by reason of or as a result of the use, occupancy and testing by Licensee, its agents, employees, licensees, invitees, and from and against any orders, judgments, and/or decrees which may be entered thereon, and from and against all costs, attorney's fees, expenses and liabilities incurred in and about the defense of any such claim. In the event that County or Enterprise shall be made a party to any litigation commenced against Licensee or by Licensee against any third party, then Licensee shall protect and hold County and Enterprise harmless and pay all costs and attorney's fees incurred by County in connection with such litigation, and any appeals thereof. Licensee's obligations under this paragraph shall survive the termination or expiration of this Agreement.

4. Insurance. During the Term, Licensee shall maintain, and shall require its contractors and subcontractors to maintain, and keep in full force and effect General Liability Insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) general aggregate, bodily injury and property damage liability coverage; Business Automobile Liability at a limit of liability not less than One Million Dollars (\$1,000,000) each occurrence for all owned, non-owned and hired automobiles; and Workers Compensation covering all employees in accordance with Chapter 440 Florida Statutes. The General Liability policy shall include coverage for Premises/Operations, Contractual Liability, Independent Contractors Contractual Liability, and Broad Form Property Damage Liability coverages. Coverage shall be provided on a primary basis. The General Liability policy and Business Automobile Liability policy shall name both County and Enterprise as an Additional Insured. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, and Enterprise Leasing Company of Florida, LLC, c/o Department of Airports, Access Agreement". Such insurance shall be issued by an insurance company licensed to do business in the State of Florida and approved by County. A Certificate of Insurance evidencing such insurance coverage shall be provided to County prior to entry upon the Premises by Licensee and/or Licensee's contractors and subcontractors pursuant to this Agreement. Such Certificate shall require at least thirty (30) days prior notice of cancellation or non-renewal. In no event shall the limits of said insurance policies be considered as limiting the liability of Licensee and/or its contractors and subcontractors under this Agreement.

5. Notices. All notices required to be given under this Agreement shall be deemed sufficient to each party when delivered by United States Mail, a nationally-recognized overnight mail delivery service or personal delivery to the following:

If to County:

Palm Beach County Department of Airports  
ATTN: Director  
846, Palm Beach International Airport  
West Palm Beach, Florida 33406-1491

With a copy to:

Palm Beach County Attorney's Office  
ATTN: Airport Attorney  
301 North Olive Ave., Suite 601  
West Palm Beach, FL 33401

If to Licensee:

Environmental Consulting & Technology, Inc.  
ATTN: Probas Adak  
550 West Cypress Road, Suite 170  
Fort Lauderdale, Florida, 33309

Either party may from time to time change the address or addresses to which notices under this Agreement shall be given to such party upon three (3) days prior written notice. The effective date of any notice shall be: (i) the date of delivery if such notice is delivered by personal delivery; (ii) three (3) business days after the date deposited in the United States mail if such notice is delivered by mail; or (iii) the next business day after the date deposited in overnight mail if such notice is delivered by a nationally-recognized overnight mail delivery service.

6. No Recording. This Agreement shall not be recorded in the Public Records of Palm Beach County. In the event Licensee records this Agreement, this Agreement shall automatically terminate and become null and void upon the date of recordation.

7. License. The parties acknowledge and agree that nothing in this Agreement shall be construed as granting Licensee any title, interest or estate in the Premises. Notwithstanding any provision of this Agreement to the contrary, the rights granted to Licensee hereunder amount only to a license to enter the Premises for the purposes set forth herein, which is expressly revocable by County for any reason whatsoever upon written notice to Licensee.

8. Termination. Either party may terminate this Agreement upon written notice to the other party, whereupon the parties shall be relieved of all further obligations hereunder with the exception of those obligations that expressly survive the termination or expiration of this Agreement.

9. Venue. This Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of Florida. Venue in any action, suit or proceeding in connection with this Agreement shall be in a state court of competent jurisdiction in Palm Beach County, Florida.

10. Captions. The captions and section designations set forth herein are for convenience only and shall have no substantive meaning.

11. Construction/Severability. No party shall be considered the author of this Agreement since the parties have participated in extensive negotiations and drafting and redrafting of this document so as to arrive at a final Agreement. Thus, the terms of this Agreement shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

12. Inspector General. Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of Licensee, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

13. No Third Party Beneficiaries. No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of County and/or Licensee.

14. Non-Discrimination.

A. Non-Discrimination in County Contracts. Licensee warrants and represents to County that all of its employees are treated equally during employment without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information. Licensee has submitted to County a copy of its non-discrimination policy, which is consistent with the above, as contained in Resolution R-2014-1421, as may be amended, or in the alternative, if Licensee does not have a written non-discrimination policy, it has acknowledged through a signed statement provided to County affirming their non-discrimination policy conforms to R-2014-1421, as may be amended.

B. Federal Non-Discrimination Covenants.

1. Licensee, for its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

a. In the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a Federal Aviation Administration activity, facility, or

program is extended or for another purpose involving the provision of similar services or benefits, Licensee will maintain and operate such facilities and services in compliance with all requirements imposed by the nondiscrimination acts and regulations listed in the Nondiscrimination Authorities (as hereinafter defined), as may be amended, such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

- b. No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of County property, including, but not limited to, the Premises.
  - c. In the construction of any improvements on, over, or under the Premises and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
  - d. Licensee will use the Premises in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Authorities.
- C. In the event of breach of any of the above nondiscrimination covenants, County shall have the right to terminate this License and to enter, re-enter, and repossess the Premises, and hold the same as if this License had never been made or issued.
- D. For purposes of this Article, the term "Non-Discrimination Authorities" includes, but is not limited to, the non-discrimination statutes, regulations and authorities listed in Appendix "E" of Appendix "4" of FAA Order 1400.11, Non-discrimination in Federally-Assisted Programs at the Federal Aviation Administration, as may be amended.

15. Entire Agreement. This Agreement contains the entire understanding and agreement of the parties with respect to the subject matter hereof. No amendment shall be effective unless the same is in writing and signed by all parties.

16. Effective Date. This Agreement shall become effective upon execution by the parties hereto.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties have executed this Agreement on the date as of the first above written.

**WITNESSES:**

By: Ray Walter  
Signature

RAY WALTER  
Print Name

By: Debra Reese  
Signature

Debra Reese  
Print Name

**PALM BEACH COUNTY:**

By: Don Pelly  
Director of Airports

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

By: Anne Helgand  
County Attorney

**WITNESSES:**

Signed in the presence of:

Probas Adak  
(Signature of Witness)

PROBAS ADAR  
(Print Name of Witness)

[Signature]  
(Signature of Witness)

SATYEN THAKAR  
(Print Name of Witness)

**LICENSEE: ENVIRONMENTAL  
CONSULTING & TECHNOLOGY, INC.**

By: Marc A. Lefebvre  
(Signature)

Marc A. Lefebvre  
(Print Signatory's Name)

Its: Vice President



**EXHIBIT "A"  
THE "PROPERTY"**

**A portion of PBI Lease Parcel "N-10" located at 2401 Turnage Blvd.  
Access shall be limited to the southwesterly portion of the property, adjacent to the Avis  
fuel tank locations, to install a new shallow well as depicted below.**

**Access shall be coordinated thru the Department of Airports, and shall be subject to  
approval by the tenant, Enterprise Leasing Company of Florida, LLC.**

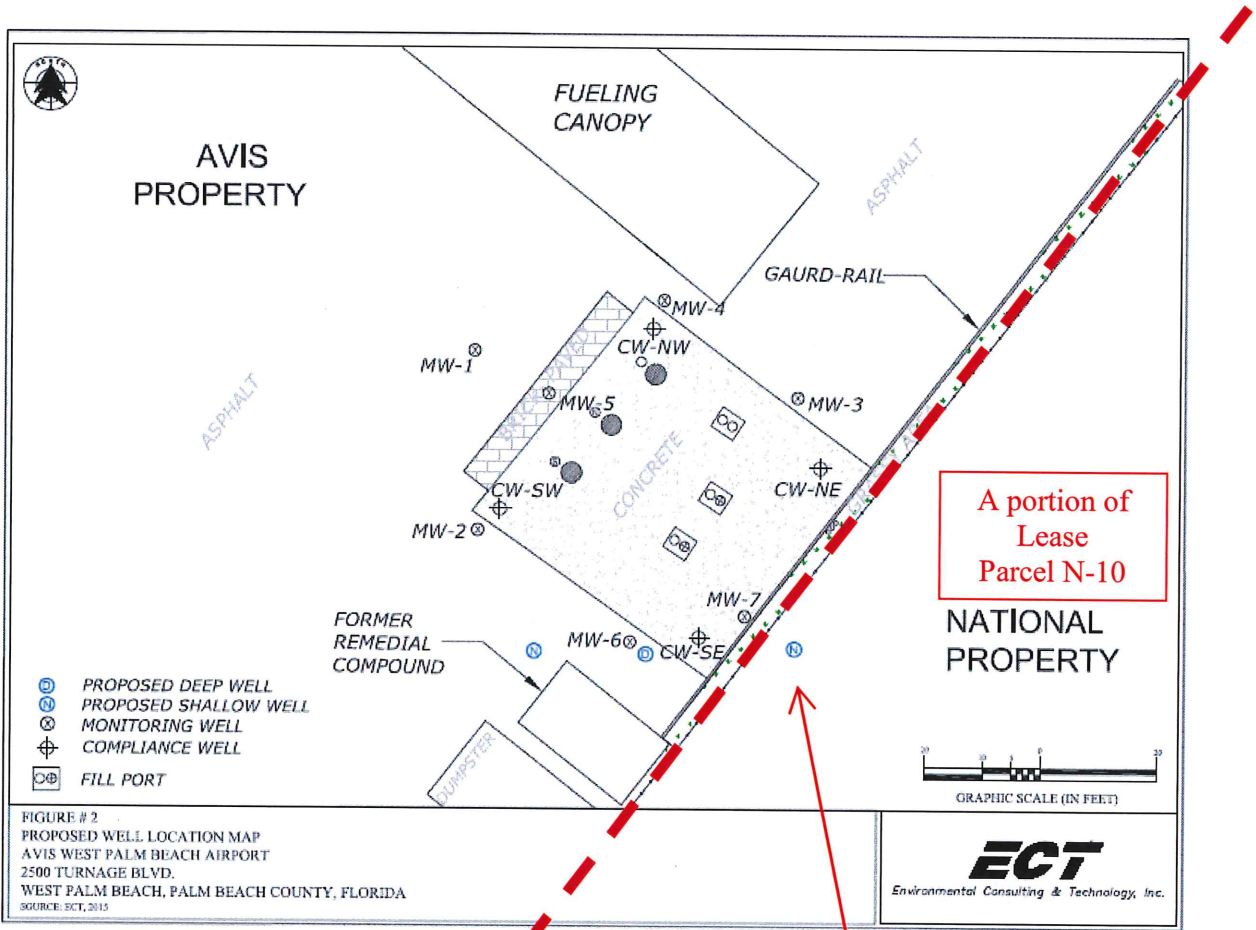



FIGURE # 2  
PROPOSED WELL LOCATION MAP  
AVIS WEST PALM BEACH AIRPORT  
2500 TURNAGE BLVD.  
WEST PALM BEACH, PALM BEACH COUNTY, FLORIDA  
SOURCE: ECT, 2015

**Well location  
at SW region  
of the Property**



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[COVERAGES](#) [SUMMARY PROBLEMS](#) [EXPIRATION](#) [SPECIAL ISSUES](#) [MISSI](#)  
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### Summary of Certificates

This report displays detailed Certificate of Insurance information for a selected Insured. Any items shown in red are deficient.

Thursday, June 18, 2015

[Images](#)

[Contracts](#)

Insured: Environmental Consulting & Technology, Inc.

Insured ID: PBCENVICON

Status: Compliant

ITS Account Number: PLC1434

Project(s): Palm Beach County - Airport Properties

Insurance Policy	Required	Provided	Override
<u>General Liability</u>			
Expiration: 1/1/2016			
General Aggregate:	\$1,000,000	\$2,000,000	
Products - Completed Operations Aggregate:	\$0	\$0	
Personal And Advertising Injury:	\$0	\$0	
Each Occurrence:	\$1,000,000	\$1,000,000	
Fire Damage:	\$0	\$0	
Medical Expense:	\$0	\$0	
<u>Automobile Liability</u>			
Expiration: 1/1/2016			
Combined Single Limit:	\$1,000,000	\$1,000,000	
<u>Workers Compensation/Employers Liability</u>			
Expiration: 1/1/2016			
	All Owned Autos	Any Auto not provided	X
	Hired Autos	Hired Autos	
	Non-Owned Autos	Non-Owned Autos	
	WC Stat. Limits	WC Stat. Limits	

#### Notifications

There were no deficiency letters issued.

Do you have an updated Certificate? Click the button below to submit a Certificate.

[Certificate Submittal](#)

**CERTIFICATE**  
(Corporation)

The undersigned hereby certifies that the following are true and correct statements:

1. That Katherine H. Pierce is the Secretary of Environmental Consulting & Technology, Inc., a corporation organized and existing in good standing under the laws of the State of Delaware, hereinafter referred to as the "Corporation", and that the following Resolutions are true and correct copies of certain Resolutions adopted by the Board of Directors of the Corporation as of the 7th day of June, 1991, in accordance with the laws of the State of Delaware, the Articles of Incorporation and the By-laws of the Corporation:

RESOLVED, that the Corporation shall enter into that certain License Agreement between Palm Beach County, a political subdivision of the State of Florida and the Corporation (the "Agreement"), a copy of which is attached hereto; and be it

FURTHER RESOLVED, that Marc A. Lefebvre, the Vice President of the Corporation, is hereby authorized and instructed to execute such Agreement and such other instruments as may be necessary and appropriate for the Corporation to fulfill its obligations under the Agreement.

2. That the foregoing resolutions have not been modified, amended, rescinded, revoked or otherwise changed and remain in full force and effect as of the date hereof.

3. That the Corporation is in good standing under the laws of the State of Florida, and has qualified, if legally required, to do business in the State of Florida and has the full power and authority to enter into such Agreement.

**IN WITNESS WHEREOF**, the undersigned has set her hand and affixed the Corporate Seal of the Corporation the 5th day of May, 2015.

  
\_\_\_\_\_  
[Signature]

Corporate Seal

Katherine H. Pierce, Secretary  
Environmental Consulting and Technology, Inc.

RESOLUTION OF CORPORATE AUTHORITY

I, Katherine H. Pierce, Corporate Secretary of Environmental Consulting & Technology, Inc., a Delaware Corporation (the "Corporation"), DO HEREBY CERTIFY that the following is a true and correct excerpt from the minutes of the meeting of the Board of Directors duly called and held on June 7, 1991 and that the same is now in full force and effect:

"RESOLVED, that the Chairman, the President, each Senior Vice President, each Vice President, the Treasurer, and the Secretary and each of them, is hereby authorized to execute and deliver, in the name and on behalf of the Corporation and under its corporate seal or otherwise, any agreement or other instrument or document ("Contract") in connection with any matter or transaction that shall have been duly approved; the execution and delivery of any Contract by any of the aforementioned officers shall be conclusive evidence of such approval."

FURTHER, I CERTIFY that Jack D. Doolittle is Chairman of the Board, Robert J. Kloepfer is President, Katherine H. Pierce is Treasurer, Katherine H. Pierce is Secretary, Jeffrey L. Meling, Katherine H. Pierce, Gary P. Uebelhoer, and Dana L. West. are Senior Vice Presidents and the following are Vice Presidents: L. Erin Browning, Kelly G. George, Marc A. Lefebvre, James W. Ridgway, Philip W. Simpson and Sanjiv K. Sinha.

FURTHER, I CERTIFY that any of the aforementioned officers of the Corporation are authorized to execute and commit the Corporation to the conditions, obligations, stipulations and undertakings contained in any Contract and that all necessary corporate approvals have been obtained in relationship thereto.

IN WITNESS THEREOF, I have set my hand this 5th day of May 2015.

CORPORATE SEAL

  
Katherine H. Pierce, Corporate Secretary