



# Brevard County Board of County Commissioners

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Legislation Text

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**File #:** 5452, **Version:** 1

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### **Subject:**

Approval RE: Request Approval of Brevard Energy LLC Landfill Gas Purchase Contract, Lease Contract, and Lease Resolution.

### **Fiscal Impact:**

Landfill Gas Purchase: \$200,000.00 to \$1,000,000.00 per year in income to Solid Waste (varies depending on landfill gas production).

Gas Collection System Expansion: \$5,000,000.00 of cost sharing over 25 years.

Land Lease: \$59,100.00 per year.

### **Dept/Office:**

Solid Waste Management Department

### **Requested Action:**

It is requested that the Board of County Commissioners approve and authorize the Chair to execute the following:

- Amended and Restated Landfill Gas Purchase Contract;
- Amended and Restated Lease Contract, and;
- Lease Resolution with Brevard Energy LLC.

### **Summary Explanation and Background:**

As is permissible under the current Landfill Gas Purchase Agreement, Brevard Energy LLC intends to expand their landfill gas processing to include construction and operation of a pipeline-quality landfill gas processing facility, conversion of the landfill gas-to-energy facility to a natural gas-to-energy facility, and utilize the generated electricity to power the pipeline-quality landfill gas processing facility. Expansion of the operation includes extending a natural gas pipeline from the processing facility to Adamson Road, where it will then extend across Adamson Road and connect to an existing Florida Gas Transmission pipeline that runs parallel to Interstate 95. Brevard County will not be paying for the construction, operation, or maintenance of the expanded gas processing facility. If for any reason Brevard Energy cannot construct the pipeline gas processing facility, they will continue to utilize landfill gas to generate electric power for supply and sale to the grid. Brevard Energy is requesting the current Gas Purchase Agreement and Lease Agreement be amended and restated, including modifying the contract and lease terms to 25 years from date of signature.

On October 11, 2022, the Board of County Commissioners in regular session directed Solid Waste staff to assemble a Negotiation Committee consisting of John Denninghoff, Assistant County Manager, Thomas Mulligan, Solid Waste Director, and Ron Beladi, Vice President of Neel-Schaffer, to negotiate requested amendments to the current Gas Purchase Agreement and Lease of Land between Brevard County and Brevard Energy LLC. The Negotiation Committee met with Brevard Energy LLC on October 18, 2022, and November 1,

2022 to discuss the Gas Purchase Contract and Lease. The Committee met once again on January 11, 2023 to agree on acceptance of negotiated terms of both contracts. Major modifications to the Landfill Gas Purchase Contract are as follows:

- Contract has a 25-year term from date of execution.
- County Manager can approve a 5-year extension at the end of the term.
- Fixed payment of \$35,000.000 per year for rights to landfill gas.
- Brevard Energy assumes responsibility for operation and maintenance costs of the County's backup Flare Station.
- Upon execution of contract, payment for landfill gas increases from \$0.11 per mmbtu to \$0.25 per mmbtu.
- Upon commercial operation of the pipeline LFG facility, payment for landfill gas increases from \$0.25 per mmbtu to \$0.3919 per mmbtu.
- As of April 1, 2028, payment for landfill gas will be based on a 5% revenue sharing with Brevard Energy.
- Brevard Energy to pay 50% of costs for future expansions of the landfill gas collection system at the Central Disposal Facility, with a 25-year cap of \$5,000,000.00.
- Brevard Energy will, at their own expense, install additional equipment to optimize monitoring and capture of landfill gas.

The Lease Contract and Resolution is for land located inside the Central Disposal Facility property, as depicted in Exhibit A of the Lease Contract. The land is currently leased for one dollar (\$1.00) per year and Brevard Energy LLC assumes all maintenance and environmental responsibility on the land. The Lease contract has been modified as follows:

- The term of the lease matches the term of the Gas Purchase Contract.
- The revised lease area has been reduced to approximately one-half of the area in the original Lease Agreement.
- The lease amount has been increased from \$1.00 per year to \$59,100.00 per year, 50% above Market Value Assessment based on highest and best use of the land (\$34,900.00 as appraised by W.H. Benson & Company, August 2022).
- If Brevard Energy ceases to use the property for its intended purpose, the lease will immediately terminate and possession of the property will immediately revert to the County.

**Attachments:**

- Landfill Gas Contract Amended and Restated
- Lease Contract Amended and Restated
- Resolution for Brevard Energy Lease
- Landfill Property Appraisal Report
- Brevard Energy Memo
- EPP Brevard County RNG Overview

**Clerk to the Board Instructions:**

Please sign and attest three (3) copies of both contracts and the Resolution and return two (2) originals of each to Solid Waste.