

Res 299  
 Significant

## Dane County Contract Cover Sheet

<b>Dept./Division</b>	Department of Waste & Renewables
<b>Vendor Name</b>	Sandhill Advanced Biofuels LLC
<b>Vendor MUNIS #</b>	29887
<b>Brief Contract Title/Description</b>	RNG Access Agreement for off-load into Dane County injection point.
<b>Contract Term</b>	10 year term from Date of First Delivery
<b>Total Contract Amount</b>	\$ Revenue-See Contract, Section 12 titled "CONSIDERATION", pages 6-8

<b>Contract #</b> <small>Admin will assign</small>	13814
<b>Addendum</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Type of Contract</b>	
<input type="checkbox"/>	Dane County Contract
<input type="checkbox"/>	Grant
<input type="checkbox"/>	County Lessee
<input type="checkbox"/>	County Lessor
<input type="checkbox"/>	Intergovernmental
<input type="checkbox"/>	Purchase of Property
<input type="checkbox"/>	Property Sale
<input checked="" type="checkbox"/>	Other

<b>Purchasing Authority</b>	<input type="checkbox"/> \$10,000 or under – Best Judgment (1 quote required)	
	<input type="checkbox"/> Between \$10,000 – \$36,000 (\$0 – \$25,000 Public Works) (3 quotes required)	
	<input type="checkbox"/> Over \$36,000 (\$25,000 Public Works) (Formal RFB/RFP required)	RFB/RFP #
	<input type="checkbox"/> Bid Waiver – \$36,000 or under (\$25,000 or under Public Works)	
	<input type="checkbox"/> Bid Waiver – Over \$36,000 (N/A to Public Works)	
	<input checked="" type="checkbox"/> N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other	

MUNIS Req.	Org Code	Obj Code	Amount	\$	
Req #	N/A	Org Code	Obj Code	Amount	\$
Year		Org Code	Obj Code	Amount	\$


<b>Resolution</b>	<b>A resolution is required if the contract exceeds \$100,000 (\$40,000 Public Works). A copy of the Resolution must be attached to the contract cover sheet.</b>		
	<input type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works) – a resolution is not required.		
	<input type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.		Res #
	<input checked="" type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.		Year
			299
			2019

Contract Review/Approvals				
Initials	Dept.	Date In	Date Out	Comments
MG	Received by DOA	10/8/19		
OK	Controller		10/10/19	
CC	Purchasing	10/10/2019	10/10/2019	
	Corporation Counsel	10/10/19	10/10/19	
	Risk Management	10/10/19	10/16/19	
	County Executive			

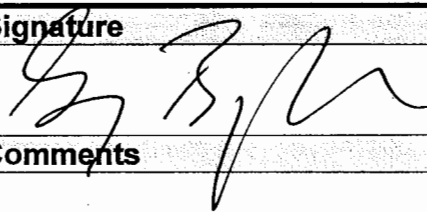
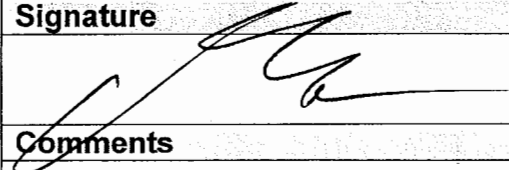
Dane County Dept. Contact Info		Vendor Contact Info	
<b>Name</b>	John Welch	<b>Name</b>	Philip Gaucher
<b>Phone #</b>	608-516-4154	<b>Phone #</b>	
<b>Email</b>	welch@countyofdane.com	<b>Email</b>	pgaucher@sandhillbiofuels.com
<b>Address</b>	1919 Alliant Energy Center Way, Madison WI 53713	<b>Address</b>	750 Lexington Ave., 24 <sup>th</sup> floor New York NY 10022

<b>Certification:</b> The attached contract is a:	
<input type="checkbox"/>	Dane County Contract <u>without</u> any modifications.
<input type="checkbox"/>	Dane County Contract <u>with</u> modifications. <b>The modifications have been reviewed by:</b>
<input checked="" type="checkbox"/>	Non-standard contract.

### Contract Cover Sheet Signature

Department Approval of Contract		
<b>Dept. Head / Authorized Designee</b>	<b>Signature</b>	<b>Date</b>
		
	<b>Printed Name</b>	
	John Welch, Director of Waste & Renewables	
		10/2/19

### Contracts Exceeding \$100,000 Major Contracts Review – DCO Sect. 25.11(3)

<b>Director of Administration</b>	<b>Signature</b>	<b>Date</b>
		
	<b>Comments</b>	
		10/24/19
<b>Corporation Counsel</b>	<b>Signature</b>	<b>Date</b>
		
	<b>Comments</b>	
		10/10/19

1  
2  
3 **2019 RES-299**

4 **AUTHORIZING RENEWABLE NATURAL GAS (RNG) ACCESS AGREEMENT TO**  
5 **SANDHILL ADVANCED BIOFUELS LLC**

6 The Department of Waste & Renewables have worked with Sandhill Advanced Biofuels LLC  
7 with street address of 750 Lexington Ave., 24<sup>th</sup> Floor, New York, NY 10022 who has requested  
8 authorization from Dane County Waste & Renewables to access Dane County's interconnection  
9 facility to offload its RNG for injection into ANR Pipeline Company (Line 1-363).

10  
11 Sandhill Advanced Biofuels LLC shall be required to pay Dane County as outlined in RNG  
12 Access Agreement, Section 12, titled "Consideration". Contract term will be 10-years from the  
13 date of First Delivery.

14  
15 **NOW, THEREFORE, BE IT RESOLVED** that the Dane County Executive and Dane County  
16 Clerk are authorized to execute, on behalf of Dane County, a RNG Access Agreement with  
17 Sandhill Advanced BioFuels LLC.

**RNG ACCESS AGREEMENT**

THIS RNG ACCESS AGREEMENT (“Agreement”) dated August \_\_, 2019, (“Effective Date”) is between the County of Dane (“County”) a quasi-municipal corporation in the State of Wisconsin, and Sandhill Advanced Biofuels LLC (“Supplier”), a Delaware limited liability company. County and Supplier are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.”

**WITNESSETH:**

WHEREAS, County and Supplier separately own and operate renewable natural gas (“RNG”) production, processing and collection facilities located within the State of Wisconsin; and

WHEREAS, County is party to a Facilities Agreement with ANR Pipeline Company (“ANR”) that allows County to inject RNG produced by its facilities and third party facilities (such as RNG facilities owned by Supplier) into ANR’s existing Federal Energy Regulatory Commission (“FERC”) regulated interstate natural gas pipeline system; and

WHEREAS, County has thereby established an interconnection station between its RNG facilities and a pipeline known as ANR Line No. 1-363 (“Line 1-363”) which includes capabilities for the County to accept RNG transported by truck from third party RNG facilities; and

WHEREAS, Supplier desires to access County’s interconnection station to offload its RNG for injection into Line 1-363; and

WHEREAS, County desires to grant such access; and

WHEREAS, County and Supplier also desire to set forth in this Agreement their respective rights and responsibilities with respect to Supplier’s access to County’s interconnection station;

NOW, THEREFORE, in consideration of the promises and mutual covenants and conditions contained herein, the Parties agree as follows:

1. **Date of First Delivery.** Supplier shall provide written notice to County of Supplier’s best estimate of the date upon which the Date of First Delivery will occur; such written notice shall be delivered to County at least thirty-days prior to such estimated date. If any changes occur to such estimated Date of First Delivery, Supplier shall provide written notice to County as soon as possible after Supplier knows of such changes. Once the Parties agree on the Date of First Delivery, they shall document such agreement in a signed writing, referencing this Agreement, so that each Party may retain such agreement of the Date of First Delivery in their files, substantially in the form of Attachment D.
2. **Term.** Unless terminated earlier in accordance with this Agreement, the term shall

commence upon execution of this Agreement and will end on the ten (10)-year anniversary of the Date of First Delivery (the "Term"), provided the Term shall automatically renew for successive one-year periods on the anniversary of the Date of First Delivery unless or until either Party delivers a written notice of termination to the other Party. Any such termination notice must be delivered no later than sixty-days prior to the end of the Term, and shall be effective as of the end of the Term.

3. **Delivery of RNG.** Supplier shall be solely responsible for delivering gas to the Interconnection Facility (as defined below). County shall be solely responsible for providing equipment capable of offloading the gas from the delivery trucks and injecting it into the ANR pipeline. Supplier shall be solely responsible for all charges, fees, or other expenses related to gas and environmental attribute transactions, gas transmission, gas storage, registration and auditing required for environmental attribute programs, and all other work necessary for Supplier to fulfill Supplier's responsibilities under this agreement.
4. **Early Termination.** Either Party, in its sole discretion, shall have the right to terminate this Agreement in its entirety if the Date of First Delivery occurs more than eighteen (18) months after the execution of this Agreement, provided however, in Supplier's discretion, such termination date shall be extended on a day-for-day basis for each day of delay to the Date of First Delivery due to acts or omissions of County or third parties, including delay in receipt of Shared Interconnect Approval. Either Party may terminate this Agreement in the event of a default or breach a material provision of this Agreement by the other Party, by first sending a written letter alleging the default or breach with specificity, the date(s) of such occurrence(s) and providing a reasonable opportunity to cure, which cure period shall not be less than thirty (30) days from the receipt of such letter by the defaulting Party, provided however, if a cure is not possible within such thirty (30) day period and only for so long as the defaulting Party is diligently working towards a cure, the defaulting Party shall get an additional sixty (60) days to cure, for a total of ninety (90) days. In the event the defaulting Party does not cure the default or breach within the cure periods specified in the preceding sentence, the non-defaulting Party may serve a second notice and therein declare an immediate termination.
- 5.
6. **Interconnection Facility.** Subject to the terms and conditions of this Agreement, County shall grant access to Supplier for delivery of RNG by Truck in quantities up to Supplier's Maximum Volume (as defined below) to the Dane County / ANR Pipeline Interconnection Facility located at the Northwest Quarter of Section 25, Township 7 North, Range 10 East, Dane County, Wisconsin ("Interconnection Facility"). The Interconnection Facility will contain no less than three meters, including a Coriolis meter that will measure Supplier's RNG ("Supplier Meter"), a Coriolis meter that will measure RNG coming from County's RNG Plant ("County Meter") and a Coriolis meter that will measure the aggregate of all RNG entering ANR's pipeline ("ANR Meter").
7. **Access Point.** Upon satisfying the Preconditions to Offload in Section 11, Supplier may connect its Truck to the receiving pipe at the Interconnection Facility

(“Access Point”) and thereby deliver RNG to the Custody Transfer Point.

**7.1 Hours of Operation.**

Supplier and/or their trucking subcontractors may deliver loads of biogas to the Interconnection Facility between the hours of 7am-5pm each day. These hours may be changed in writing by the Director of the Department of Waste & Renewables, provided however, Supplier shall at all times have reasonable access to the Interconnection Facility during typical business hours.

**7.2 Scheduling Deliveries.**

Supplier shall utilize commercially reasonable efforts to schedule deliveries at least 24 hours in advance. This will help prevent trucks from multiple sites waiting to unload.

**6.3 Late Delivery.**

If a truck is more than 15 minutes late for a scheduled delivery, and that delay will cause another truck to wait more than 5 minutes beyond its scheduled start time for unloading, the late truck must stop unloading at the time the second truck is scheduled to start unloading. The late truck can finish unloading its trailer after the second truck and all subsequent trucks arriving on time have finished unloading their trailers.

8. **Custody Transfer Point.** Supplier shall retain custody of its RNG until such time as the RNG passes through the downstream-side of the 600# above-ground isolation flanged connection located at the outlet flange of the ANR Meter skid at the Interconnection Facility (“Custody Transfer Point”).
9. **Custody Transfer.** Custody of Supplier’s RNG shall transfer from Supplier to ANR at the Custody Transport Point for transportation consistent with Supplier’s contracted transportation agreement(s). County shall at no time take custody of Supplier’s RNG. Supplier is solely responsible for all transport and storage arrangements, fees and costs with ANR and any other applicable pipeline company.
10. **Gas Metering and Quality.** Supplier’s RNG shall meet the applicable specifications and other requirements set forth in the ANR Tariff, including the Gas Quality Specifications in *Attachment A* attached hereto. Supplier agrees that, in the event Supplier’s RNG is not in compliance with the Tariff, County may decline to receive such volumes.

**10.1 Meter Preference – Quality.** The ANR Meter shall provide the ultimate determination of quality of all gas delivered. Supplier Meter shall be used for informational purposes only. Any discrepancy between the Supplier Meter and ANR Meter will be resolved in favor of the ANR Meter.

**10.2 Meter Preference – Quantity.** In the event of a discrepancy as to volume the lower reading of the Supplier Meter or the ANR Meter will be adopted.

**10.3 Meter Testing.** County will inspect, maintain and test the County Meter and Supplier Meter. ANR will inspect, maintain and test the ANR Meter. Supplier shall have the right to be present for all scheduled inspections and testing involving the

meters and associated instrumentation. County will accommodate Supplier's request to be present for such activities at the next such occurrence following Supplier's request for access. All tests of the ANR Meter will be made at ANR's expense. All tests of the County and Supplier Meters will be made at County's expense. However, if (i) Supplier requests that any of the Meters be tested and (2) the results of such testing show that inaccuracy is found not to exceed two (2%), at a reading corresponding to the average hourly rate of flow, the Supplier will bear the expense of such test.

**10.4 Supplier Facilities.** Supplier shall have a gas meter at Supplier's RNG facilities where RNG is loaded onto Supplier's trucks. Supplier must have a load tracking and record keeping system that can be used in conjunction with County's record keeping and reporting system to ensure verification of gas quantities for RINs generation and tracking purposes. Supplier agrees to grant County, subject to 24-hour advance notice to Supplier, physical access to Supplier's RNG facility for inspection of its meter during normal business hours and to timely provide County with meter data upon County's request.

**10.5 RNG Quality.** ANR requires all gas to meet ANR Tariff gas quality limits (see Attachment A). To ensure this is accomplished, the County shall set the limits on the Supplier Meter and the County Meter at levels lower than the ANR Tariff limits (Supplier Meter Limits). Supplier shall supply gas that meets the Supplier Meter Limits listed in Attachment B.

**10.6 Off-Spec. Gas.**

10.6.1 County reserves the right to deny Supplier access to Access Point in the event Supplier's RNG does not meet the gas quality specification of the Supplier Meter Limits. County may continue to deny Supplier access following a test of off-spec gas until County is satisfied that Supplier has resolved the issue(s) that caused the gas to not meet the Supplier Meter Limit. In the event Supplier delivers off-spec gas three (3) times in separate occurrences during any calendar year, County may declare Supplier to be in default of this Agreement.

10.6.2 In the event H<sub>2</sub>S, Total Sulfur, H<sub>2</sub>O, O<sub>2</sub>, and/or CO<sub>2</sub> are detected in the gas volumes being delivered to Interconnection Facility that are in excess of that allowed per the Supplier Meter Limits or the BTU content of the gas volumes being delivered to County facility are below the minimum BTU threshold in the Supplier Meter Limits, there shall be an immediate automatic shut-in of the delivery of such gas to ANR. Any suspension, partial suspension or automatic shut-in shall be known as a Shut-in Event. After a Shut-in Event, ANR and/or County personnel will use reasonably commercial efforts to respond to the Meter Station during normal business hours within one (1) business day of the Shut-in Event to manually intervene to allow gas delivery to resume or to send gas to the flare. Furthermore, County has the right to keep the point shut-in until Supplier makes the necessary provisions to rectify the situation. If automatic shut-ins occur more than two (2) times per calendar year due to Supplier's gas, County has

the right to deny Supplier access to the Interconnection Facility indefinitely and terminate agreement in this agreement consistent with Section 4.

10.6.3 County shall off-load and flare off-spec gas delivered to the Interconnection Facility. This shall be subject to fees, per section 11.3 of this Agreement. If other trucks arrive to deliver gas while a load of off-spec gas is being off-loaded and flared, off-loading of the off-spec gas shall cease until all trucks carrying gas meeting the quality specifications have finished off-loading. If the County requires use of the flare for destruction of County gases, off-loading of the Supplier's off-spec gas shall cease until County no longer requires the use of the flare.

**10.7 Meter Discrepancy.** Supplier and County acknowledge that the three meters at the site may not always measure the exact same values, due to meter calibration. In the event of a meter discrepancy, RINS shall be calculated and generated based on the RIN Generation Protocol, in Attachment C.

11. **Preconditions to Offload.** To ensure the integrity of the Interconnection Facility, ANR's Pipeline and County's contractual obligations for pipeline injection of RNG, Supplier agrees meet to the following preconditions to offload its RNG at the Access Point:

**11.1 Site Inspection.** Subject to 24-hour advance notice to Supplier and during normal business hours, Supplier will grant access to County and/or its designee to Supplier's RNG facilities for a physical inspection for purposes of assuring the County that the feedstock and means of conditioning biogas to RNG employed by Supplier are capable of consistently producing RNG that meets the ANR pipeline quality requirements.

**11.2 Document Inspection.** Supplier will provide County with a copy of all documents prepared for submission to the United States Environmental Protection Agency ("EPA") for Supplier's registration under the Renewable Fuel Standard ("RFS") no less than fourteen (14) business days prior to submitting such documents to EPA. If Supplier elects to submit to EPA's Quality Assurance Program ("QAP"), Supplier will provide County with a copy of all QAP documents, provided however, Supplier may redact any confidential information from such documents in Supplier's discretion.

**11.3 Gas Testing.** Supplier agrees to comply with all gas testing requirements of the ANR Tariff and any testing requirements of U.S. EPA or any other applicable regulatory agency. Supplier agrees to send a copy of all gas test results to County as it receives them, and at least within ten (10) days from the date when Supplier received the test results. If any test does not meet the ANR Tariff Gas Quality Specifications for any one constituent, Supplier agrees to notify County within 24-hours of Supplier's notification.

After the in-service date of Supplier facilities, and upon request from County from time to time, but no more than two (2) times in a calendar year, Supplier shall



provide to County, at no cost to County, gas samples from the Supplier system and copies of existing lab analysis or reports in Supplier's possession concerning Supplier gas samples.

**11.4 Engineering Review and Audit.** Supplier agrees to submit to an audit, physical review, and/or engineering review by County (a) upon 48-hours notice and County's submission of a letter to Supplier stating and specifying cause for concern, and (b) upon 48-hours notice and County's election, without cause, no more than once per year, provided that any such audit, physical review or engineering review at Supplier's facilities shall be conducted during normal business hours and in the presence of a representative of Supplier and in conformance with any safety procedures reasonable required by Supplier and applicable to its RNG facilities. The cost of any such audit or review shall be borne by the County.

**11.5 Truck Requirements.** Supplier agrees that any third party trucking company employed in the transport of Supplier's RNG to the Interconnection Facility are must meet the requirements identified in this Section 11.5 and on Attachment E ("Approved Trucking Company"). All trucks must have a load tracking system compatible with County's reporting system. Supplier agrees that County may physically inspect any truck employed in the transport of Supplier's RNG to the Interconnection Facility prior to its first delivery. Supplier agrees that County may inspect any truck upon its arrival at the Interconnection Facility at County's sole discretion. All truck drivers must receive training from County or County's Interconnect Facility operations contractor prior to using the Interconnect Facility. County may turn away any truck not from an Approved Trucking Company or any truck that refuses a County inspection.

**11.6 Trucked Gas Sampling.** For each truck of RNG, Supplier shall provide a sample by sending a sample of RNG to the Supplier Meter to engage a reading of gas quality ("Trucked Gas Sample"). Supplier agrees that the Trucked Gas Sample will be sent to the flare regardless of gas quality. The Trucked Gas Sample will not be submitted to the Custody Transfer Point and Supplier will not receive any volume reading or remedy for lost gas in the sampling process. Upon demonstration to County's satisfaction that the Trucked Gas Sample meets the ANR pipeline quality requirements ("On-Spec Gas"), Supplier may offload its trucked volume of RNG at the Access Point to the ANR Pipeline. If County is not reasonably satisfied that Supplier's delivery of RNG meets the ANR pipeline quality requirements ("Off-Spec Gas"), County shall notify Supplier of non-compliance and provide County with options, including (a) detaching from the Access Point and leaving the Interconnection Facility, (b) retesting a new Trucked Gas Sample, subject to schedule availability, or (c) offloading the RNG to the flare, subject to schedule availability. For the avoidance of doubt, Supplier has no right to immediate re-test or offload of Off-Spec Gas to the flare.

**12. Consideration.** Supplier agrees to pay County a Setup Fee, an Access Fee, and a Flare Fee as consideration for this Agreement as follows:

**12.1 Setup Fee.** Supplier agrees to pay County a one-time Setup Fee in the amount of sixty thousand dollars (\$60,000) to establish Supplier in County's system and defray costs associated with County's Site and Document Inspection ("Setup Fee"), provided however, such fee shall only be due and payable to County after County has received all required approvals from EPA, the California Air Resources Board ("CARB") and any other federal, state or local governmental authority necessary for Supplier to use the County's RNG interconnection and generate RINs and carbon credits under EPA and CARB programs ("Shared Interconnect Approval").

**12.2 Access Fee.** Supplier agrees to pay County an on-going monthly Access Fee of \$2.50 per Dekatherm delivered through the Access Point to the ANR Pipeline ("Access Fee"). It is understood that Sandhill will be undertaking multiple biogas cleanup projects from different bio-digesters (each, a "Project"). For each Project, the Access Fee will commence accrual upon Supplier's first injection of RNG from that Project at the Access Point, however Supplier may defer its first payment to County until sixty (60) days after Supplier's first sale of EAs from that Project (the "Payment Deferral"). Thereafter, for each Project, County will invoice Supplier monthly for its Access Fee and any Access Fees accrued during the interim period between Supplier's first pipeline injection and Supplier's first Regulatory Credit sale (the "Catch-up Period"). For each Project, Supplier agrees to pay off Access Fees accrued during the Catch-up Period in no later than six (6) months after Supplier's first sale of EAs. County will reduce the Access Fee to \$1.25 per Dekatherm if Supplier captures and removes 80% of net Phosphorous in the Supplier's digester feedstocks from discharged digestate at Supplier's digester facilities located within the Yahara watershed. To obtain the Phosphorous discount, Supplier shall provide County evidence, that such reduction has occurred and is maintained for no less than six (6) consecutive months. To maintain the Phosphorous discount, Supplier must show evidence to County no less than twice (2x) per year that Supplier has maintained a net Phosphorous removal of 80% over a rolling six (6) month period. For purposes of this paragraph, Supplier's evidence shall be sufficient if provided by a reputable testing service and customary methodology reasonable acceptable to both parties.

For purposes of this Agreement, "Dekatherm" or "dekatherm" means a unit of energy used to measure gas that is equivalent to 1,000,000 British thermal units (or 1 MMBtu).

Any measurements in "gallons" shall be in Ethanol Gallon Equivalents (EGE).

One (1) EGE equals 11.727 Dekatherms.

One (1) EGE also equals one (1) Renewable Identification Number (RIN), and vice versa.

In the event that (i) the RIN premium allocation (as reasonably determined by County) during the Term is less than or equal to \$1.00/MMBtu (8.53 cents per RIN)

for six (6) consecutive calendar months and (ii) County terminates the use of the Interconnection Facility for the injection into Line 1-363 of RNG produced by County's landfill operation and terminates the sale of such RNG to third parties (such pricing and termination events, collectively, an "Economic Event"), then County shall notify Supplier in writing of the occurrence of such Economic Event (an "Economic Event Notice"). Following the delivery of such Economic Event Notice, Supplier shall have the option to either (i) terminate the Agreement or (ii) continue to use the Interconnection Facility to deliver gas into Line 1-363 and pay County pursuant to Section 12.2 Access Fees in each year during the remaining Term of the Agreement following the delivery of the Economic Event Notice that in the aggregate are not less than \$100,000 in such year, or a pro rata amount of \$100,000 if the remaining period at the end of the Term is less than one year and the aggregate Access Fees in that year are less than \$100,000.

**12.3 Flare Fee.** Supplier agrees to pay County \$3.12 per one-thousand standard cubic feet (MSCF) for Off-Spec Gas sent to County's flare. Supplier will also have the option to remove Off-Spec Gas instead of having such Off-Spec Gas sent to the County's flare. Supplier will not pay a Flare Fee for Trucked Gas Samples sent to County's flare.

**12.4 Fee Adjustments.** On the five-year anniversary of the Date of First Delivery, the Access

**12.5 Fee and Flare Fee** may be renegotiated for the remaining five years of the initial term, provided that any such adjustment shall be commercially reasonable and consistent with fees charged for comparable services in the area. The fee negotiations shall be initiated by written notice from either Party to the other Party. Written notice must be given a minimum of sixty days prior to the five-year anniversary of the Date of First Delivery.

**12.6 Late Payments.** Supplier shall pay County the Access Fee due within 30 days after each invoice is received by Supplier. Late payments for any fees may be assessed a 1.5% late fee per month. Failure to make timely fee payments, including late fees, shall constitute an event of default that may trigger an Early Termination consistent with Section 4 if such undisputed payments are more than 45 days late, on at least five occasions.

**13. Supplier's Minimum and Maximum Volume.** County will reserve sufficient throughput capacity to accommodate Supplier's RNG at the Interconnection Station, which shall be no less than 200 dekatherms per month ("Supplier's Minimum Volume") and no more than 2000 dekatherms per day ("Supplier's Maximum Volume") If Supplier has reached Supplier's Maximum Volume on at least two (2) days in any two (2) consecutive months, Supplier will have a right of first refusal on an additional 2000 dekatherms per day. In the event Supplier attempts to deliver more RNG than Supplier's Maximum Volume, County will use reasonable efforts to accommodate, but not guarantee placement of, such volume. In the event Supplier delivers less than Supplier's

Minimum Volume, Supplier shall pay County the Flare Fee for the difference between the volume actually delivered and the Supplier's Minimum Volume.

14. **Regulatory Programs.** Supplier shall be responsible for all registrations and compliance with regulatory programs applicable to Supplier's business, including but not limited to registrations, quality assurance, reports, attestations, and certifications. County will cooperate with Supplier to provide documentation available exclusively to County, to grant access to relevant locations, and to sign attestations specific to County's role in the in fuel pathway.

The parties' obligations under this Agreement are subject to project approval by the U.S. Environmental Protection Agency ("EPA") and any other state or local governmental regulatory approvals or permits. If the EPA or any other state or local governmental authority does not grant approval to Supplier for the use of the County's interconnection for RNG, including Shared Interconnect Approval, this Agreement may be immediately terminated by Supplier and neither Party will have any further liability or obligation to the other.

15. **Regulatory Credits.** Supplier, and not County, owns Supplier's RNG, including any associated environmental attributes or regulatory credits ("EAs"). At no time shall such ownership transfer to County. Supplier is solely responsible for marketing and monetizing its EAs, including but not limited to RINs, LCFS Credits, RECs or Carbon Credits.
16. **Post Injection Services.** Supplier is solely responsible for contracting with ANR and other third parties for transmission, storage, and ultimate sale.
17. **Compliance with Laws.** Supplier and County will maintain compliance at all times with all applicable local, state, and federal laws, rules and regulations.
18. **Force Majeure.** If either Party is rendered by force majeure unable, wholly or in part, to carry out its obligations under this Agreement, except payment of money, and such Party gives the other Party notice and reasonably full particulars of such force majeure in accordance with the Notice provisions of this Agreement within a reasonable time after the occurrence of the cause relied on, such Party shall not be liable for failing to perform such obligations to the extent the force majeure prevents such performance during the continuance of any such inability, but for no longer period; provided, that such Party claiming force majeure uses its commercially reasonable efforts to diligently remedy or overcome the cause of such force majeure with all reasonable dispatch. For the purposes of this agreement, the term "force majeure" shall mean the act or occurrence of any event or circumstance affecting a Party's performance of its obligations under this Agreement that is outside the reasonable control of a Party and that cannot be prevented or eliminated by the exercise of reasonable due diligence by such Party such as a flood, hurricane, tornado, war, riot or embargo.
19. **Liability and Indemnity.**

**19.1 Indemnities.** Subject to any applicable statutory limitations including but not limited to those in Wis. Stat. s. 893.80, each Party (the “Indemnifying Party”) shall indemnify, defend and hold harmless the other Party and its parent, partner, operator, subsidiary and affiliated entities and its and their respective directors, officers, employees and agents (collectively, the “Indemnified Parties”) from and against any and all liabilities, costs (including attorneys’ fees and other costs of defense), fines, penalties, losses, damages, amounts paid in settlement, expenses, claims, actions, hearings, investigations, suits and causes of action of every kind and character, judgments, orders, decrees and rulings to the extent arising out of the following:

**19.1.1** Any breach or non-compliance with any term or provision of this Agreement by the Indemnifying Party;

**19.1.2** The fault, negligence, willful misconduct or other wrongful act or omission of the Indemnifying Party or its agents, employees, or representatives, or its contractors, vendors, or suppliers of any tier that are providing or performing goods or services in connection with the activities contemplated by this Agreement;

**19.1.3** Any taxes, fees or other amounts or obligations imposed on any of the Indemnified Parties by any governmental authority on account of the properties (including rights of way and easements) or facilities of the Indemnifying Party or the activities or obligations of the Indemnifying Party under or contemplated by this Agreement;

**19.1.4** Any liens (statutory or otherwise), claims, charges, security interests, mortgages, assignments or other encumbrances or failures of title or right of use, including any laborers’, suppliers’, mechanics’ or materialmens’ liens (each, a “Lien”), suffered or incurred by the Indemnifying Party or its contractors, vendors, or suppliers of an tier, or by the Indemnifying Party’s agents, against or affecting either Party or its facilities or properties, including rights of way and easements, on account of the activities or obligations of the Indemnifying Party under or contemplated by this Agreement; or

**19.1.5** Any leak, spill, discharge, release or dumping by the Indemnifying Party or its contractors, vendors, or suppliers of any tier, or by the Indemnifying Party’s agents, of any pollutant, contaminant, waste or hazardous material that is identified or regulated under any Applicable Law, rule or regulation.

**19.2 Limitations on Damages.** NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND, WHENEVER ARISING OUT OF THE ACTIONS TAKEN BY OR THE OMISSIONS OF SUCH PARTY UNDER THIS AGREEMENT, AND NO CLAIM FOR ANY SUCH DAMAGES SHALL BE MADE BY EITHER PARTY AGAINST THE OTHER, WHETHER SUCH CLAIM IS BASED OR CLAIMED TO BE BASED ON SOLE, CONCURRENT, ACTIVE

OR PASSIVE, NEGLIGENCE, FAULT, BREACH OF WARRANTY, BREACH OF AGREEMENT, STATUTE, STRICT LIABILITY OR ANY OTHER LEGAL FAULT OR RESPONSIBILITY.

**20. Insurance.**

**20.1 Insurance Types and Levels.** At all times while this Agreement is in effect, Supplier shall obtain and maintain the following insurance:

**20.1.1** Worker's Compensation and Employer's Liability Insurance in accordance with the laws of the state where the work is performed with limits for Employer's Liability of \$1,000,000 per accident or disease, \$1,000,000 policy limit on disease;

**20.1.2** Commercial General Liability Insurance with Products & Completed Operations and Contractual Liability Coverage for claims alleging bodily injury including death, and damage to property of others, including Explosion, Collapse and Underground (XCU) with limits of \$1,000,000 per occurrence;

**20.1.3** Automobile Liability Insurance covering owned, non-owned, rented, and hired vehicles with combined single limits of \$1,000,000 per occurrence;

**20.1.4** Pollution Liability Insurance, sudden and accidental event, for claims alleging bodily injury and property damage, including cleanup costs and defense, with a limit of \$1,000,000 per occurrence; and

**20.1.5** Excess Liability Insurance for claims alleging bodily injury including death and damage to property with a limit of \$5,000,000 per occurrence.

**20.2 Insurance Endorsements.** All insurance coverage must be endorsed with a Waiver of Subrogation Endorsement, effectively waiving a Supplier's right of subrogation with respect to the County. The insurance shall reflect that the County is an additional insured. Upon request the Supplier shall furnish to the County, evidence of insurance coverage, in form satisfactory to the County in its reasonable discretion, as evidence showing that the insurance policies to be carried in accordance with this provision have been obtained.

**21. Notices.** All notices and other communication ("Notices") given or made pursuant to this Agreement will be in writing and sent by facsimile transmission, overnight courier service, personal delivery, mail or electronic mail ("e-mail") to the persons and at the addresses for the Parties noted below, or to such other address(es) or number(s) for a Party as such Party may designate by prior notice given in accordance with this provision to the other Party. Notices will be deemed duly given: (i) when sent by facsimile transmission, provided that the sender has received electronic or voice confirmation of the recipient's receipt of such transmission; (ii) if sent by overnight or international courier service, when receipt by the recipient is confirmed by such service; (iii) if mailed

or delivered by personal delivery, when received by the recipient; or (iv) when sent by e-mail, provided that the sender has received electronic or voice confirmation that the recipient has read such transmission (e.g., a “read receipt” or a reply).

All Notices to be sent to Supplier shall be addressed and delivered to:

Sandhill Advanced Biofuels LLC  
750 Lexington Avenue – 24<sup>th</sup> Floor (PSG Offices)  
New York, NY 10022  
Attention: Philip Gaucher, *President*  
Email: [pgaucher@sandhillbiofuels.com](mailto:pgaucher@sandhillbiofuels.com)

All Notices to be sent to County shall be addressed and delivered to:

County of Dane  
1919 Alliant Energy Center Way  
Madison, WI 53715  
Attention: John Welch  
Email: [welch@countyofdane.com](mailto:welch@countyofdane.com)

22. **Assignment.** Except as hereinafter provided in this Section, neither this Agreement nor any interest herein may be assigned or transferred by either Party in any manner, unless the assigning or transferring Party obtains the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, and any attempted assignment or transfer without such consent need not be recognized or accepted by the other Party. Either Party may, without the need for any consent from the other Party (and without relieving the assigning Party from liability hereunder), assign or transfer its rights and obligations hereunder to any parent, subsidiary or other affiliate of such Party, or any Party purchasing some or all of the assets, or obtaining an ownership interest in, such Party. Either Party may, without the consent of the other Party, grant a lien or security interest in or collaterally assign or pledge its interest in this Agreement as security for such Party’s indebtedness. No assignment or transfer shall be effective as to the other Party unless and until (i) the aforementioned consent is granted (if required), (ii) the assigning Party and the assignee notify the other Party of such assignment and (iii) the assignee acknowledges in writing for the benefit of the other Party that such assignee has assumed the obligations of the assigning Party under this Agreement and is bound by the terms and conditions hereof. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding upon, the Parties and their respective successors and permitted assigns.

23. **Miscellaneous.**

**23.1 Legal Action.** This Agreement shall be governed by, and construed, interpreted, and enforced in accordance with the laws of the State of Wisconsin, excluding any conflict of laws principles that would require the application of the laws of another jurisdiction. The exclusive venue for any action brought in connection with this

Agreement shall be the Dane County Circuit Court. Either Party may enforce this Agreement by appropriate legal action and the prevailing Party shall recover its reasonable attorneys' fees, court costs, and reasonable expenses in connection therewith from the other Party. The determination of which Party prevails for the purposes of awarding fees, costs, and expenses under this Section shall be made by the judge, arbitrator, or other adjudicator, as applicable.

**23.2 Captions.** The titles and captions to the sections of this Agreement are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

**23.3 Amendments and Waivers.** This Agreement may be modified or amended only by an instrument in writing executed by both Parties. Either Party may, but only by a written instrument, waive compliance by the other Party with any term or provision of this Agreement. The waiver by either Party of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

**23.4 Entire Agreement; Conflicts.** This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the Parties concerning the subject matter of this Agreement and supersedes and replaces all prior oral and written agreements, understandings, covenants, representations or warranties relating to such subject matter. To the extent that there may be any conflicts or inconsistencies between the terms set forth on the exhibits attached hereto and those set forth in the body of this Agreement, those set forth in the body of this Agreement shall control.

**23.5 Counterparts.** This Agreement may be executed in counterparts, without the necessity that both Parties execute the same counterpart, each of which shall be deemed an original but which together will constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages hereto by facsimile or other electronic transmission shall constitute effective execution and delivery of this Agreement and may be used in lieu of the original Agreement for all purposes. Signatures of representatives of the Parties transmitted by facsimile or other electronic transmission shall be deemed to be their original signatures for all purposes.

**23.6 Confidentiality of Terms.** The Parties agree that the terms of this Agreement are proprietary information and regarded as Confidential Information. Supplier shall hold all Confidential Information in strict confidence and shall not disclose it to any third party, directly or indirectly, or acknowledge the existence thereof, without the County's prior written permission. The parties hereto recognize that the Confidential Information constitutes "trade secrets" of the Discloser, entitled to all common law and statutory protections afforded to such trade secrets under applicable law. Supplier acknowledges that County is subject to the Wisconsin Public Records Law. County will not release information claimed by Supplier to be a trade secret as defined by s. 134.901(1)(c) without first notifying Supplier and affording them the opportunity to challenge in Dane County Circuit Court the requester's right to access



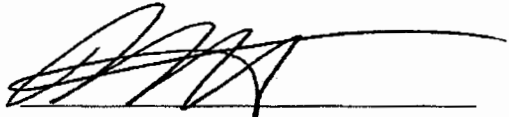
such information. The entire burden of maintaining and defending the trade secret designation shall be on supplier. Supplier acknowledges and agrees that if it shall fail, in a timely manner, to initiate legal action to defend the trade secret designation or be unsuccessful in its defense of that designation, County shall be obligated and will release the information. Supplier shall use the Confidential Information only for the purposes described herein and agrees to use at least the same degree of care as it uses with respect to its own Confidential Information (and in no event less than reasonable care) to protect the confidentiality of such Confidential Information and to prevent its unauthorized use or dissemination. Supplier shall only disclose County's Confidential Information to Supplier's Representatives having a strict reason to know and who have been advised of and accepted the restrictions on its disclosure and use provided herein as if they were parties to this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives effective as of the Agreement Effective Date first above written.

**COUNTY OF DANE**

**SANDHILL ADVANCED BIOFUELS LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By:   
Name: Philip Gaucher  
Title: President

\_\_\_\_\_  
Scott McDonell, Dane County Clerk

**ATTACHMENT A**  
**ANR TARIFF GAS QUALITY LIMITS**

Parameter	ANR Pipeline Specifications
Heating Value (BTU/ft <sup>3</sup> )	967 - 1,200
Hydrogen Sulfide (ppmv) <sup>1</sup>	< 4
Total Sulfur (ppmv) <sup>2</sup>	< 320
Oxygen (% by volume)	< 1
Carbon Dioxide (% by volume)	< 2
Nitrogen (% by volume)	< 3
Water Vapor (lb./1x10 <sup>6</sup> ft <sup>3</sup> )	< 7
Temperature (deg. F)	40 < T < 120
Hydrocarbon Dewpoint (deg. F) <sup>3</sup>	> 15
Pressure (psig) <sup>4</sup>	600 - 975

<sup>1</sup> 16 ppmv ~1 grain/100 ft<sup>3</sup>

<sup>2</sup> Including sulfur in any hydrogen sulfide and mercaptans

<sup>3</sup> Additional language in Federal Energy Regulatory Commission (FERC) Gas Tariff for ANR Pipeline Company (Third Revised Volume No. 1) – Section 6.13

<sup>4</sup> Additional language in FERC Gas Tariff for ANR Pipeline Company (Third Revised Volume No. 1) – Section 6.11

**ATTACHMENT B**  
**SUPPLIER METER LIMITS**

Dane County requires RNG Supplier to operate in a tighter range than ANR Pipeline Specifications Attachment A).

Parameter	Supplier Meter Limits
Heating Value (BTU/ft <sup>3</sup> )	972 < BTU/ft <sup>3</sup> < 1190
Hydrogen Sulfide (ppmv)	< 3.8
Total Sulfur (ppmv)	< 310
Oxygen (% by volume)	< 0.95
Carbon Dioxide (% by volume)	< 1.9
Nitrogen (% by volume)	< 2.9
Water Vapor (lb./1X10 <sup>6</sup> ft <sup>3</sup> )	< 6.65

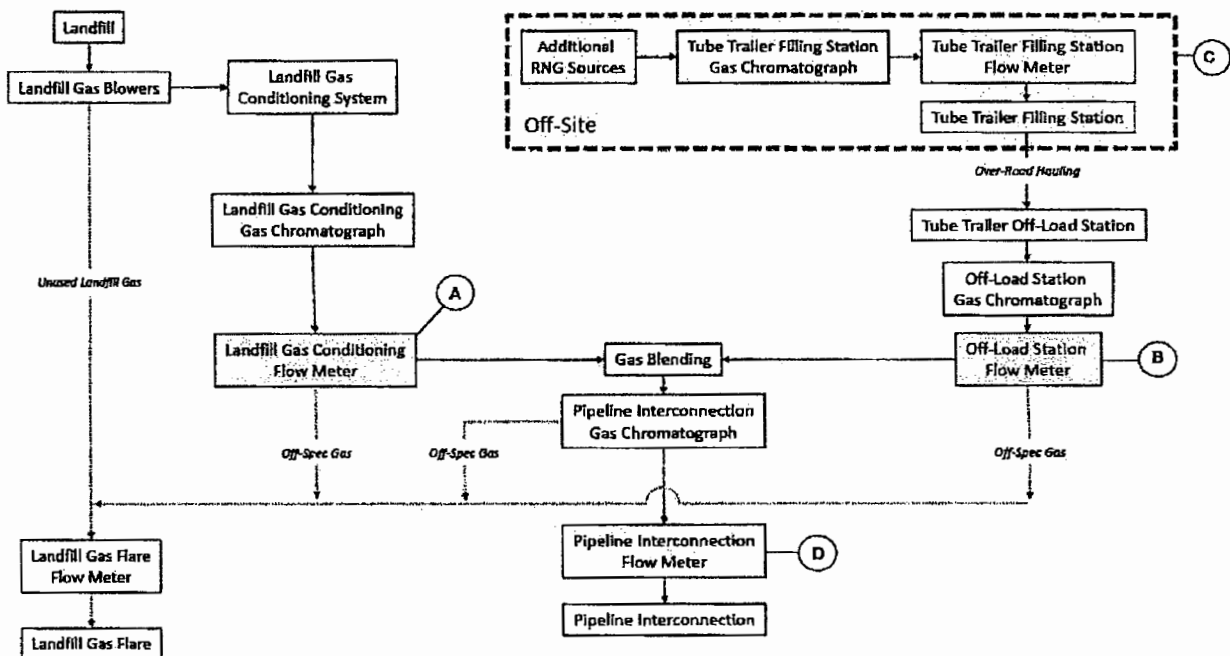
**ATTACHMENT C**  
**RIN GENERATION PROTOCOL**

**Meter A:** Will be a dedicated meter, GC, and analyzers to meter and monitor RNG produced from landfill gas from the Dane County RNG Facility.

**Meter B:** Will be a shared off-load meter, GC, and analyzers for multiple third-party RNG sources. Dane County will establish passwords and/or key cards which outside sources will enter into the offload meter (Meter B) to properly monitor and meter truckloads of RNG into the ANR connection point.

**Meter C:** Will be site specific meters, GCs, and analyzers at each third-party source's point of production prior to the loading of a tube trailer.

**Meter D:** Will be the ANR injection meter, GC, and analyzers.



**Pipeline Intersection Scenario #1:  $D < A + B$**

Under the unique scenario (Scenario #1) that the ANR meter totals less than Meter A and Meter B, Dane County will use its meter (Meter A) and subtract it from the ANR total injection meter (Meter D) to calculate the RNG injected from the outside sources. Dane County will then issue monthly affidavits based on the flow percentages from each outside source. For example:

- o The Dane County meter (Meter A) totals 30,0000 MMBtu for the month
- o The outside source meter (Meter B) totals 30,000 MMBtu for the month
- o The ANR meter (Meter D) totals 59,0000 MMBtu for the month
- o Dane County would generate RINs on 30,000 MMBtu injected into the pipeline

- Dane County would issue affidavits to each outside source dividing the remaining 29,000 MMBtu (not the 30,000 recorded by Meter B) injected by the outside sources proportionally based on the unique key card/password entered by each outside source during the offloading process.
- This allows for a total RIN generation from all sources to be 59,000 MMBtu which matches the monthly total from the ANR injection meter.

**Pipeline Intersection Scenario #2:  $D > A + B$**

If the ANR Meter (Meter D) totals greater than Meter A + Meter B, Dane County will use the lesser RNG flow total to generate RINs (Scenario #2). Dane County would generate RINs on Meter A and issue affidavits to outside sources based on the flow total of Meter B. For example:

- The Dane County meter (Meter A) totals 30,000 MMBtu for the month
- The outside source meter (Meter B) totals 30,000 MMBtu for the month
- The ANR meter (Meter D) totals 61,000 MMBtu for the month
- Dane County would generate RINs on 30,000 MMBtu injected into the pipeline
- Dane County would issue affidavits to each outside source dividing the remaining 30,000 MMBtu injected by the outside sources proportionally based on the unique key card/password entered by each outside source during the offloading process.
- This allows for a total RIN generation from all sources to be 60,000 MMBtu which is less than the 61,000 MMBtu metered by the ANR injection meter.

**Attachment D**

[Form of Notice of First Delivery Date]

**Attachment E**

[Third Party Trucking Party Requirements]