

## BOARD RECORDS

## ITEMS BEING HELD IN LOCK-UP

6/12/2017

BCC MEETING DATE		ITEM NO.	DESCRIPTION OF ITEM	DATE RELEASED AND AUTHORITY
1	1/28/2014	20	Consideration of Proposal for Settlement in the Case of Shannon Baker, as Personal Representative of the Estate of Andrew James Cavanaugh, Deceased, v. Board of County Commissioners, Pinellas County, Florida, State of Florida ,Board of County Commissioners, Pinellas County, Florida, State of Florida, Department of Transportation, and Depositors Insurance Company Circuit Civil Case Number 10-16223-CI-15	JAP - cannot be released (duplicate of line #8)
2	12/2/2014	15	Recommendation to Reject Settlement in the Case of GCS Energy Recovery of Pinellas, Inc. v. Pinellas County Circuit Civil Case Nos. 2014-005220-CI-13 and 14-006566-CI-11	DSC/JAM - can be released (duplicate of line #13)
3	9/10/2015	31	Recommendation to Reject a Proposal for Settlement in the Case of The Richman Group of Florida, Inc. v. Pinellas County Circuit Civil Case No. 14-005608-CI-15.	NSM - cannot be released
4	1/12/2016	25	Proposal of Settlement served by the Plaintiff's counsel in the Case of Shannon Baker, as Personal Representative of the Estate of Andrew James Cavanaugh, Deceased, v. Board of County Commissioners, Pinellas County, Florida, State of Florida ,Board of County Commissioners, Pinellas County, Florida, State of Florida, Department of Transportation, and Depositors Insurance Company Circuit Civil Case Number 10-16223-CI-15	JAP - cannot be released
5	4/11/2017	21	Proposed settlement in the case of Brighthouse Networks, LLC v. Pinellas County, et al. -Circuit Civil Case No. 10-005384-CI-07.	JAP - can be released (duplicate of line #8)
6	4/25/2017	34	Proposed settlement in the Case of GCS Energy Recovery of Pinellas, Inc., a Delaware Corporation v. Pinellas County, a Plitical Subdivision of the State of Florida - Circuit Civil Case Nos. 2014-005220-CI-13	DSC/JAM - can be released (duplicate of line #9)
7	4/25/2017	35	Proposed settlement in the case of Charles Allen v. Pinellas County; Worker' Compendation, Office of the Judges of Compensation Claims Case Number 16--21126SLR	KLV - cannot be released
8	6/6/2016	20	Proposed settlement in the case of Joseph Kranz and Kathryn Kranz v. Pinellas County - Circuit Civil Case No. 16-004021-CI-19 -inverse condemnation matter.	JAP - cannot be released
9	6/6/2016	21	Proposed settlement in the case of John Reyner and Monika Reyner v. Pinellas County - Circuit Court Case No. 14-001865-CI-19 - litigation in the stormwater pond known as Lake Sylvia.	NSM - cannot be released

## Loy, Norman

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**From:** Estrada, Sue M  
**Sent:** Monday, July 03, 2017 10:18 AM  
**To:** Loy, Norman  
**Subject:** Lock-up Items  
**Attachments:** 103228.xls

Attached as requested is an update to the most recent list of items currently being held in Board Records lock-up.

~ Sue

**Susan M. Estrada**, Assistant to  
James L. Bennett, County Attorney and  
Jewel White, Chief Assistant County Attorney  
Pinellas County Attorney's Office  
315 Court Street, 6th Floor  
Clearwater, FL 33756  
Phone: (727) 464-3354  
Fax: (727) 464-4147  
[sestrada@pinellascounty.org](mailto:sestrada@pinellascounty.org)

*All government correspondence is subject to the public records law.*

**From:** Loy, Norman  
**Sent:** Monday, June 12, 2017 8:12 AM  
**To:** Estrada, Sue M <[sestrada@co.pinellas.fl.us](mailto:sestrada@co.pinellas.fl.us)>  
**Subject:** ITEMS BEING HELD IN LOCK-UP.xls

Hi Sue:

Please see the attached list of items being held in lockup and let me know if any of the items are available for release.

Thanks,

Norm

**Norman D. Loy, C.P.M., B.A.M.**  
Manager, Board Records Department  
Office of Ken Burke, Clerk of the Circuit Court and Comptroller  
Pinellas County, Florida  
315 Court St., 5th Floor, Clearwater, FL 33756  
(727) 464-3463 | Fax (727) 464-4716  
[nloy@mypinellasclerk.org](mailto:nloy@mypinellasclerk.org) | [www.mypinellasclerk.org](http://www.mypinellasclerk.org)

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## CONTINGENT SETTLEMENT AGREEMENT AND RELEASE

***THIS SETTLEMENT AGREEMENT AND RELEASE*** is entered into this 23rd day of March, 2017 (the “Effective Date”), between GCS Energy Recovery of Pinellas, Inc. (formerly known as Veolia ES Pinellas, Inc.; “GCS”) and Pinellas County (the “County”). Each of the parties are individually referred to herein as a “Party,” and are all collectively referred to herein as the “Parties.”

**WHEREAS**, the County and Veolia ES Pinellas, Inc. entered into that certain Service Agreement, dated January 23, 2007, which agreement was subsequently amended by Amendment Nos. 1, 2, 3, 4, 5, and 6 (as amended, modified, supplemented, or otherwise modified prior to the date hereof, the “Service Agreement”);

**WHEREAS**, on or about December 12, 2012, the parent company of Veolia ES Pinellas, Inc. transferred all of the stock of Veolia ES Pinellas, Inc. to Green Conversion Systems LLC, a Delaware limited liability company and the parent company of GCS, and thereafter GCS changed the name of Veolia ES Pinellas, Inc. to GCS Energy Recovery of Pinellas, Inc.;

**WHEREAS**, on or about December 10, 2013, GCS and the County executed Amendment No. 6 to the Service Agreement (“Amendment No. 6”), which voluntary amendment allowed the County to conduct a procurement for a new agreement for long-term operation of the Pinellas County Waste-to-Energy Facility (the “Facility”);

**WHEREAS**, pursuant to Amendment No. 6, the County conducted a two-phase procurement for long-term operation of the Facility, denominated RFP NO. 134-0171-P(LN) (the “Procurement”);

**WHEREAS**, pursuant to Amendment No. 6, the County terminated the Service Agreement effective December 7, 2014;

**WHEREAS**, GCS alleges that the County failed to reimburse GCS for certain expenditures by GCS as required pursuant to Amendment No. 6 (the “Residual Payments”);

**WHEREAS**, GCS commenced litigation against the County on July 10, 2014, in the lawsuit denominated GCS Energy Recovery of Pinellas, Inc. v. Pinellas County, Case No. 14-005220-CI, in the Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida (the “Litigation”). GCS alleged, *inter alia*, that the County improperly excluded GCS from the Procurement and that the County breached its obligations under Amendment No. 6;

**WHEREAS**, the County filed a counterclaim in the Litigation alleging, *inter alia*, that GCS breached the Service Agreement;

**WHEREAS**, GCS and the County each deny the allegations of the other in the Litigation; and

**WHEREAS**, in order to avoid the expense, uncertainty, and inconvenience of litigation, the Parties desire to finally resolve all the claims that were brought or could have been brought in the Litigation, as well as all claims relating to the Residual Payments.

**NOW, THEREFORE**, in consideration of the foregoing, and the mutual promises, undertakings, and agreements set forth herein, and for other good and valuable consideration, the Parties hereto agree as follows:

**SECTION 1. Contingent Settlement.** Upon approval of this Settlement Agreement and Release by the Pinellas County Board of County Commissioners (“BCC”), the Parties agree and acknowledge that, by virtue of their execution of this Settlement Agreement and Release, they have finally settled all claims arising out of or relating to the Litigation and the Residual Payments. With the exception of the payment of the Residual Payments specified in Section 3(i) below, in the event that the BCC fails to approve this Settlement Agreement and Release by May 15, 2017, none of the rights or obligations reflected herein shall have any force or effect thereafter. Notwithstanding the preceding sentence, the Parties may extend the time for approval by the BCC by mutual written consent.

Within five (5) business days after payment by the County to GCS of the Settlement Amount specified in Section 3 below, the Parties shall file a joint stipulation of dismissal of all claims in the Litigation. The Circuit Court of the Sixth Judicial Circuit in and for Pinellas County, Florida shall retain jurisdiction over the Litigation solely for purposes of hearing any disputes that may arise from this Settlement Agreement and Release.

**SECTION 2. Mutual Releases.** Upon payment by the County to GCS of the amounts described in Section 3 below, each Party does hereby REMISE, RELEASE, ACQUIT, SATISFY AND FOREVER DISCHARGE the other (including, in the case of the County, the BCC), as well as all attorneys, officers, directors, managers, members, partners, employees, agents, affiliates, shareholders and assigns thereof, of and from any and all manner of action and actions, cause and causes of action, suits, liens, securities, debts, accounts, contracts, controversies, agreements, promises, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the Party now has or ever had up to the date of this Settlement Agreement and Release arising out of or related in any way to the operation of the Facility, the Litigation, or the Residual Payments. Notwithstanding the foregoing, GCS shall continue to indemnify the County for other third-party claims originating during GCS’ tenure at the Facility (and subject to the indemnity provisions of the Service Agreement), including but not limited to the litigation denominated, Gazica v. Green Conversion Systems, Inc., Case No. 16-7751-CI, currently pending before the Circuit Court of the 6th Judicial Circuit in and for Pinellas County, Florida. Nothing within this Settlement Agreement and Release releases any Party of future claims that arise after the Effective Date, including without limitation on any breach of this Settlement Agreement and Release.

**SECTION 3. Payment.** The County shall pay GCS by wire transfer to an account specified by GCS or check the sums of (i) \$352,993.30 (three hundred fifty-two thousand nine hundred ninety-three dollars and thirty cents) within 30 days of March 23, 2017 (this amount representing payment of the Residual Payments, which are not subject to and shall be paid

regardless of BCC approval); and (ii) \$2,297,006.70 (two million two hundred ninety-seven thousand six dollars and seventy cents) (the "Settlement Amount") within 30 days of approval by the BCC.

**SECTION 4. Non-Disparagement and Reference.** No Party shall make any statement in any press release or industry conference that in any way disparages, denigrates, or negatively affects the public reputation of any other Party after the date of execution of this Settlement Agreement and Release. The County shall provide a neutral reference regarding the performance of GCS with the regard to the Facility in the event of inquiry by any third party.

**SECTION 5. Notices.** All notices, requests, demands and other communications to be provided by any Party under this Settlement Agreement and Release shall be in writing and delivered, at the sending Party's cost and expense, by (i) personal delivery, (ii) certified U.S. mail, with postage prepaid and return receipt requested, (iii) overnight courier service, or (iv) e-mail transmission, with a verification copy sent on the same day by any of the methods set forth in clauses (i), (ii) or (iii), to the recipient Party at the following address or email (or to such updated address or email as may be provided by a Party pursuant to this Section 6):

If to GCS:

Dan Elias  
Elias Group LLP  
411 Theodore Fremd Ave., Suite 102  
Rye, NY 10580  
Email: delias@eliassgroup.com

With a copy to

Patrick J. O'Connor  
Harper Meyer Perez Hagen O'Connor Albert & Dribin LLP  
201 S. Biscayne Blvd., Suite 800  
Miami, FL 33131  
Email: pjoconnor@harpermeyer.com

If to the County:

County Attorney of Pinellas County  
315 Court Street  
Clearwater, FL 33756

With a copy to

Gregory T. Stewart  
Nabors Giblin Nickerson, P.A.  
1500 Mahan Drive, Suite 200  
Tallahassee, FL 32302

Email: [gstewart@ngn-tally.com](mailto:gstewart@ngn-tally.com)

**SECTION 6. Construction/Negotiation.** The Parties state that this Settlement Agreement and Release is the product of negotiation, and that it has been drafted together with and by all of the Parties. Consequently, this Settlement Agreement and Release shall be interpreted without regard to any presumption or rule requiring construction against the Party causing this Settlement Agreement and Release to be drafted. Finally, the Parties represent that they have executed this document freely, voluntarily, and without any coercion or intimidation whatsoever.

**SECTION 7. Amendment.** No amendment, modification, rescission, waiver or release of any provision of this Settlement Agreement and Release shall be effective unless the same shall be in writing and signed by the Parties hereto.

**SECTION 8. Time is of the Essence.** The Parties agree that time is of the essence with regard to this Settlement Agreement and Release; the times and dates specified herein are vital and mandatory.

**SECTION 9. Entire Agreement.** This Settlement Agreement and Release constitutes the entire and final agreement between the Parties with respect to the subject matter hereof, and there are no agreements, understandings, warranties or representations among the Parties except as set forth herein. This Settlement Agreement and Release supersedes, in all respects, all other prior agreements, written or oral, between the Parties relating to the subject matter of this Settlement Agreement and Release and there are no agreements, understandings, warranties, or representations between the Parties with respect to the subject matter hereof, except as set forth in this Settlement Agreement and Release.

**SECTION 10. Assignment.** No Party shall be permitted to assign its rights or obligations under this Settlement Agreement and Release without the prior written consent of the other Parties.

**SECTION 11. Severability.** If any clause or provision of this Settlement Agreement and Release is determined to be illegal, invalid, or unenforceable under any present or future law by the final judgment of a court of competent jurisdiction, the remainder of this Settlement Agreement and Release will not be affected thereby. It is the intention of the Parties that if any such provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible and be legal, valid and enforceable.

**SECTION 12. Further Actions.** The Parties shall promptly take such further actions and do such further things as may be necessary or appropriate to implement and carry out the provisions of this Settlement Agreement and Release.

**SECTION 13. Governing Law; Jurisdiction.** This Settlement Agreement and Release will be interpreted and construed in accordance with the laws of the State of Florida, regardless of the domicile of any Party or principles of conflicts of laws, and will be deemed for such purposes to have been made, executed and performed in Pinellas County, Florida.

**SECTION 14. Counterparts.** This Settlement Agreement and Release may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Settlement Agreement and Release. Notwithstanding Section 6 above, delivery of an executed counterpart of a signature page to this Settlement Agreement and Release by facsimile or electronic mail shall be effective as delivery of a manually executed counterpart of this Settlement Agreement and Release.

**SECTION 15. Attorneys' Fees and Costs.** In the event of any litigation resulting from a breach of this Settlement Agreement and Release, the prevailing Party shall be entitled to an award of attorneys' fees and costs in connection therewith.

**SECTION 16. Incorporation of Recitals, Exhibits.** The recitals to this Settlement Agreement and Release and all exhibits referred to in this Settlement Agreement and Release are incorporated herein by such reference and made a part of this Settlement Agreement and Release.

**SECTION 17. Headings.** The section headings contained in this Settlement Agreement and Release are for reference purposes only and shall not affect the meaning or interpretation of this Settlement Agreement and Release.

**SECTION 18. Binding Agreement.** This Settlement Agreement and Release shall be binding upon, and shall inure to the benefit of the Parties, their heirs, successors and assigns.

**EXECUTED** and effective as of the date first above written.

The individuals signing below represent and warrant that they have the authority to recommend the approval of this Settlement Agreement and Release to the BCC.

**GCS ENERGY RECOVERY OF  
PINELLAS, INC.**

By: 

Name: ~~Mark~~ McMenamin  
MARC

Its: President

Date: March 23, 2017

Attorneys:

By: 

Patrick J. O'Connor  
Attorney for GCS

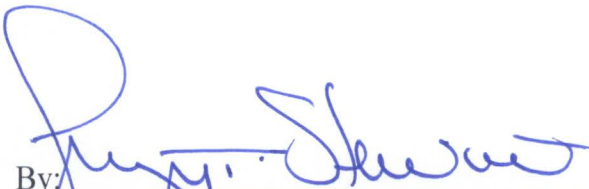
**PINELLAS COUNTY**

By: 

Name: PAUL S. SACCO

Its: ASSISTANT COUNTY ADMINISTRATOR

Date: March 23, 2017

By: 

Gregory T. Stewart  
Attorney for Pinellas County



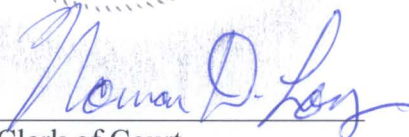
Approved this 4<sup>th</sup> day of April, 2017.

BOARD OF COUNTY COMMISSIONERS  
OF PINELLAS COUNTY, FLORIDA

  
\_\_\_\_\_  
Janet C. Long, Chair



Attest:

  
\_\_\_\_\_  
Norma D. Long  
Clerk of Court

Approved as to form:

  
\_\_\_\_\_  
Jay Hamorine  
County Attorney