

LEASE

THIS AGREEMENT made as of this 15<sup>th</sup> day of November, 2006

B E T W E E N:

**CITY OF OTTAWA ,**

hereinafter referred to as the “**Lessor**”

- AND -

**POWERTRAIL INC.,**

hereinafter referred to as the “**Lessee**”

WHEREAS the Lessor is the owner of lands legally described in Schedule "A" hereto, having a total area of approximately 205 hectares, located in Ottawa, Ontario, on which is located a landfill operation (the “Landfill”);

AND WHEREAS the Lessor and Energy Ottawa Inc. (“EOI”) entered into a landfill gas agreement dated September 15, 2004 (such landfill gas agreement, as it may be amended, extended, assigned, or restated by the parties thereto being hereinafter referred to as the “Landfill Gas Agreement”), a copy of which is attached as Schedule “C” to this Lease with respect to the collection, capturing and recovery of landfill gas, consisting primarily of methane and carbon dioxide (the “Landfill Gas”) from the Landfill;

AND WHEREAS EOI assigned its interest in the Landfill Gas Agreement to the Lessee with the consent of the Lessor;

AND WHEREAS the Lessor agreed to lease a portion of the Landfill to the Lessee upon the terms and conditions as hereinafter contained for the purposes of constructing, operating and maintaining a facility (the “Facility”) for the generation of electricity utilizing the Landfill Gas; AND WHEREAS the Lessee will be installing, operating, and maintaining equipment located within the Lease Lands and in areas of the Landfill outside of the Leased Lands;

NOW THEREFORE THIS LEASE WITNESSETH, that in consideration of the mutual covenants and agreements herein contained the parties hereto agree as follows:

1. The Lessor hereby leases to the Lessee that portion of the Landfill comprising, notwithstanding article 2.2(a) of the Landfill Gas Agreement, approximately 2000 square meters in area, the general location of which is shown on Schedule “B.1”, and as specifically shown as hatched areas on Schedule “B.2” hereto and described as the ‘Landfill Gas Utilization Facility’ (the ‘Leased

Lands”), to have and to hold the Leased Lands for the Term and in accordance with the covenants and conditions set out herein and in the Landfill Gas Agreement. The Lessee shall use the Leased Lands for the purposes of constructing, operating and maintaining the Facility on the Leased Lands in accordance with the Landfill Gas Agreement and pursuant to the terms hereof. The Lessee will maintain ownership of the following equipment:

- (a) all equipment located within the Leased Lands, and
  - (b) the gas dryer skid, the two blowers and the office trailer located beyond the Leased Lands and more particularly set out in Schedule B.2,
- (collectively, the "Lessee's Equipment") and the Lessor will maintain ownership of all other equipment located beyond the Leased Lands. Notwithstanding Section 25 hereof and any provision of the Landfill Gas Agreement to the contrary, the Lessee's ownership of the Lessee's Equipment will survive the termination of this Lease and the Landfill Gas Agreement and the Lessee will be entitled to remove such equipment from the Landfill within a period of six (6) months following the termination of the Lease, subject to the Lessee maintaining insurance in accordance with article 9 of the Landfill Gas Agreement until all such equipment is removed. The Lessor hereby grants to the Lessee, during the Term of this Lease, rights-of-way over the Landfill (i) to Trail Road for the purposes of access and egress by the Lessee to and from the Leased Lands and (ii) to the power grid for the purposes of transmitting electricity from the Leased Lands to the power grid, in each case as more particularly set out in Schedule B.1. Subject to section 5.5 of the Landfill Gas Agreement, the Lessor shall permit the Lessee access to all equipment related to the Facility and located beyond the Leased Lands for the purpose of operating and maintaining the Facility.

2. The Lessor further grants and releases unto the Lessee the exclusive right to collect, capture and recover the Landfill Gas within, upon or under the Landfill during the Term (as hereinafter defined), subject to the terms and conditions hereof, including, without limitation, the payment of all rents and royalties as provided for herein, and subject to the terms and conditions of the Landfill Gas Agreement. It is acknowledged that all right, title and interest in the Landfill Gas shall remain with the Lessor until such time as the Gas is consumed at the Facility, at which time the Lessee shall have all such right, title and interest in the Landfill Gas. The Lessor shall have the right to enter and inspect the Facility in accordance with Section 6.10 of the Landfill Gas Agreement.

3. It is acknowledged that the term of this Lease shall be for a period commencing as of

the date hereof and terminating on the twentieth (20th) anniversary of the Date of Commissioning, as such term is defined in the Landfill Gas Agreement, (the "Term"), provided, however, the Term shall be extended for the period of any extension of the term of the Landfill Gas Agreement, provided that in no event shall the initial term be 21 years or longer. Such extension shall be on the same terms and conditions as contained herein, save and except the rent which, notwithstanding Articles 2.2 and 3.2 of the Landfill Gas Agreement, may be re-negotiated at the time of such extension. If the Lessee remains in possession of all or any part of the Leased Lands after the expiry of the Term or any extension of the Term with the consent of the Lessor but without any further written agreement, the Lessee shall be deemed to be occupying the Leased Lands as a monthly tenant on the same terms as set forth in this Lease and the lease may be terminated by the Lessor upon thirty (30) days prior written notice to the Lessee.

4. As consideration for the lease of the Leased Lands, the Lessee agrees to pay to the Lessor rent in the sum of one dollar (\$1.00) per year commencing as of the first day of the Term and continuing annually thereafter throughout the Term.

5. The Lessee shall pay all property taxes assessed against the Leased Lands including any and all taxes, rates and assessments that may be assessed or levied against the Lessee in respect of the operations of the Facility.

6. The Lessee shall conduct all operations on the Leased Lands in a diligent, careful and workmanlike manner and in compliance with the provisions of any statutes, regulations, orders or directives of any government or governmental agency applicable to such operations, and where such provisions conflict with the terms of this Lease, such provisions shall prevail.

7. With respect to issues of maintenance, repair, damage and indemnification etc., the parties shall refer to the provisions set forth in the Landfill Gas Agreement.

8. (a) In addition to any default described in the Landfill Gas Agreement, each of the following constitutes default ("Default") under this Lease:

- (i) the Lessee is in breach of any representation, warranty, term, condition or covenant contained in this Lease;
- (ii) any bankruptcy, reorganization, compromise, arrangement, insolvency or liquidation proceedings, or other proceedings which are instituted by or against the Lessee, and which if instituted or allowed against or consented to

by the Lessee are not dismissed or stayed within sixty (60) days after institution; or

(iii) a receiver is appointed over all the property of the Lessee or any judgment or order or any process of any court becomes enforceable against the Lessee or all of the property of the Lessee or any creditor takes possession of all the property of the Lessee.

(b) In the event of a Default by the Lessee, and such Default is not remedied within the cure period described in Section 13.1 of the Landfill Gas Agreement, then the Lessor, subject to the provisions below, may, in its sole and absolute discretion, exercise any or all the following remedies:

(i) terminate this Lease in whole or in part, without obligation or loss of remedy;

(ii) pursue any other remedy that is available to it at law or in equity, including the collection of any and all expenses and lawyers' fees, on a solicitor-and-own-client basis.

(c) The Lessee acknowledges and agrees that any breach by it of any of the provisions hereunder may result in damages that could not be compensated for by monetary award. Accordingly, in the event of such breach, and in addition to all other remedies available to the Lessor in accordance with this Lease and at law or in equity, the Lessor shall be entitled as a matter of right to apply to a court of competent jurisdiction for such relief by way of restraining order, injunction, specific performance, or other decree as may be appropriate to ensure compliance with the provisions of this Lease.

(d) A default under the Landfill Gas Agreement shall be deemed to be a default under this Lease.

9. The Lessor covenants and warrants that the Lessor has not disposed of the Lessor's interest in all or any part of the Landfill and the Landfill Gas, and has the right and full power to enter into this Lease and to grant and demise the Leased Lands to the Lessee and that the Lessee, upon observing and performing the covenants and conditions on the Lessee's part to be observed or performed, shall and may peaceably possess and enjoy the same during the Term of this Lease and any extensions thereof without any interruption or disturbance from or by the Lessor or any person

claiming under or through the Lessor.

10. The Lessee shall have the right during the Term and any extension of the Term to install, maintain, alter, replace and remove signs at any location or locations on the Leased Lands, and/or at such location or locations on the Landfill as the Lessor may approve in writing (such approval not to be unreasonably withheld or delayed), displaying the Lessee's name and giving notice of the Lessee's activities, provided that all such signs shall comply at all times with applicable governmental laws, bylaws and regulations and shall be installed, maintained, altered, and removed at the sole cost of the Lessee.
11. The Lessee may register notice of this Lease against title to the Landfill, at its sole cost and expense, and subject to the prior written approval of the Lessor as to the form and content of such notice, such approval not to be unreasonably withheld or delayed.
12. The Lease shall terminate upon the termination of the Landfill Gas Agreement for any reason.
13. If the whole or any material portion of the Leased Lands and/or the Landfill is expropriated the Lessee may, by written notice to the Lessor, terminate this Lease, effective on the date the expropriating authority takes possession of the same and the Lessee shall forthwith remove all of its equipment.
14. To the extent that either the Lessor or the Lessee is delayed in the fulfilment of any obligations under this Lease by reason of any strike, lockout, labour dispute, act of God, act of one of the parties which prevents or delays the other party from performing its obligations, inability to obtain labour, materials, permits or approvals, application of laws, regulations or orders of governmental authorities, the occurrence of enemy or hostile action or civil commotion, fire or other casualty, condition or contingency beyond the reasonable control of a party who is, by reason thereof, prevented or delayed or interrupted in the performance of its obligations in circumstances where it is not within the reasonable control of such party to avoid such prevention, delay or interruption (any of the foregoing being hereinafter referred to as an "Unavoidable Delay"), then the party being delayed shall be entitled to extend the time for fulfilment of such obligation by a time equal to the duration of such Unavoidable Delay and the other party shall not be entitled to compensation for any loss or inconvenience occasioned thereby; provided however that the party delayed will use its best efforts to fulfil the obligation in question as soon as is reasonably practicable.

15. If the subdivision control provisions of the *Planning Act* (Ontario) are applicable to this Lease, the Lessor shall be responsible for obtaining any consent to this Lease required thereunder. Until any such required consent is granted, and thereafter if such required consent is refused, then the Term together with any extension thereof shall be conclusively deemed to terminate on the day before the 21<sup>st</sup> anniversary of the first day of the Term.
16. The Lessor and the Lessee shall each do and perform all such further acts and execute and deliver all such deeds, documents or writings and give all such other assurances as may be reasonably required in order to fully perform and carry out the terms of this Lease.
17. Any notice or other writing required or permitted to be given under this Lease or for the purposes hereof to any party shall be sufficiently given if delivered to such party in accordance with the provisions of Section 15.5 of the Landfill Gas Agreement.
18. The Lessee shall not be permitted to assign, sublet, charge or encumber all or any portion of the Leased Lands, without the written consent of the Lessor, which consent shall not be unreasonably or arbitrarily withheld.
19. The terms of this Lease constitute the entire agreement between the parties with respect to the lease of the Leased Lands, save and except for the Landfill Gas Agreement, and no implied covenant or liability of any kind is created or shall arise by reason hereof or anything contained herein. This Lease supersedes and replaces all previous oral or written agreements, memoranda, correspondence or other communications between the parties relating to the lease of the Leased Lands, save and except for the Landfill Gas Agreement. The parties recognize that the terms of this Lease may be modified or affected by statute, regulation, order, or directed by any government or governmental agency.
20. No amendment or variation of the terms of this Lease shall be binding on any party unless it is evidenced in writing and executed by the parties.
21. If any provision of this Lease is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof shall continue in full force and effect.
22. No waiver of any of the terms hereof by either party shall be effective unless in writing, and a waiver shall affect only the matter, and the occurrence of it, specifically identified in

the writing and granting the waiver shall not extend to any other matter or occurrence.


23. This Lease shall be governed by and interpreted in accordance with the laws of the Province of Ontario.

24. This Lease shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

25. In the event of any conflict between the terms of this Lease and the terms of the Landfill Gas Agreement, the terms of the Landfill Gas Agreement shall prevail.

**IN WITNESS WHEREOF** the parties have executed and delivered this Lease as of the date first written above.

**CITY OF OTTAWA**


Per:   
 Name: ~~Richard Hewitt~~ R. G. HEWITT  
 Office: Deputy City Manager,  
 Public Works and Services


APPROVED FOR EXECUTION

  
 CITY SOLICITOR

Per: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Office: \_\_\_\_\_  
 We have authority to bind the City.

**POWERTRAIL INC.**

Per:   
 Name: J. Marc Seille  
 Office: President

Per:   
 Name: \_\_\_\_\_  
 Office: PINDOOL  
 We have authority to bind the Corporation.

## SCHEDULE "A"

## LEGAL DESCRIPTION OF LANDFILL LANDS

**Nepean Landfill:**

PIN 04592-0005(LT)  
PT LT 9 CON 4 RF AS IN CR526253; EXCEPT PT 1 5R14685 & RD AS WIDENED; SUBJECT TO CR 383044 NEPEAN

**Trail Road Landfill:**

PIN 04592-0002(LT)  
PT LTS 7, 8, 9 & 10 CON 4 RF, PTS 1 TO 10 4R892; PT LTS 9 & 10 CON 4 RF, PTS 1 TO 3 4R1269; EXCEPT PTS 1, 2 & 3 5R13366 & PT LT 9 CON 4 RF, PT 1 5R14685 SUBJECT TO CR383297 NEPEAN

**BUFFER LANDS:**

PIN 04592-0001 (LT)  
PT LT 10 CON 4 RF, PTS 1, 2 & 3 4R758; SUBJECT TO CR382361, NEPEAN

PIN 04595-0037 (LT)  
PT LT 11 CON 4 RF, PTS 1, 2 & 3 N480905 NEPEAN

PIN 04592-0099 (LT)  
PT LT 8 CON 4 RF, PTS 1, 2, 3, 4 ON 4R7975 & PTS 4, 5, 6, 7 ON 4R8323. S/T EASEMENTS IN FAVOUR OF THE HYDRO-ELECTRIC POWER COMMISSION OF ONTARIO AS IN CR382358 AND CR382340; NEPEAN

PIN 04592-0009 (LT)  
PT LT 7 & 8 CON 4 RF, PT 1 PLAN N532765 NEPEAN

PIN 04592-0004 (LT)  
PT LT 9 CON 4 RF AS IN N645628 (SECONDLY); EXCEPT AS WIDENED NEPEAN

PIN 04592-0011 (LT)  
E ½ LT 6 CON 4 RF; EXCEPT PT 1 PLAN N568144 SUBJECT TO CR382360 NEPEAN

PIN 04593-0111  
PART OF LOT 10 CONCESSION 5 (RF), PART 1 PLAN 4R7991, FORMERLY NEPEAN, NOW OTTAWA

PIN 04593-0090  
PT LOT 10, CON 5 RF, PT 1 PLAN 4R-8815, PT 3 PLAN 4R-7991 NEPEAN

PIN 04593-0092  
PART OF LOT 9, CONCESSION 5 (R.F.), PART 1 ON PLAN 4R10681, NEPEAN TOGETHER WITH RIGHTS, AS IN LT916939

PIN 04593-0050  
PT LT 10 CON 5 RF AS IN CR571174; EXCEPT RD AS WIDENED NEPEAN

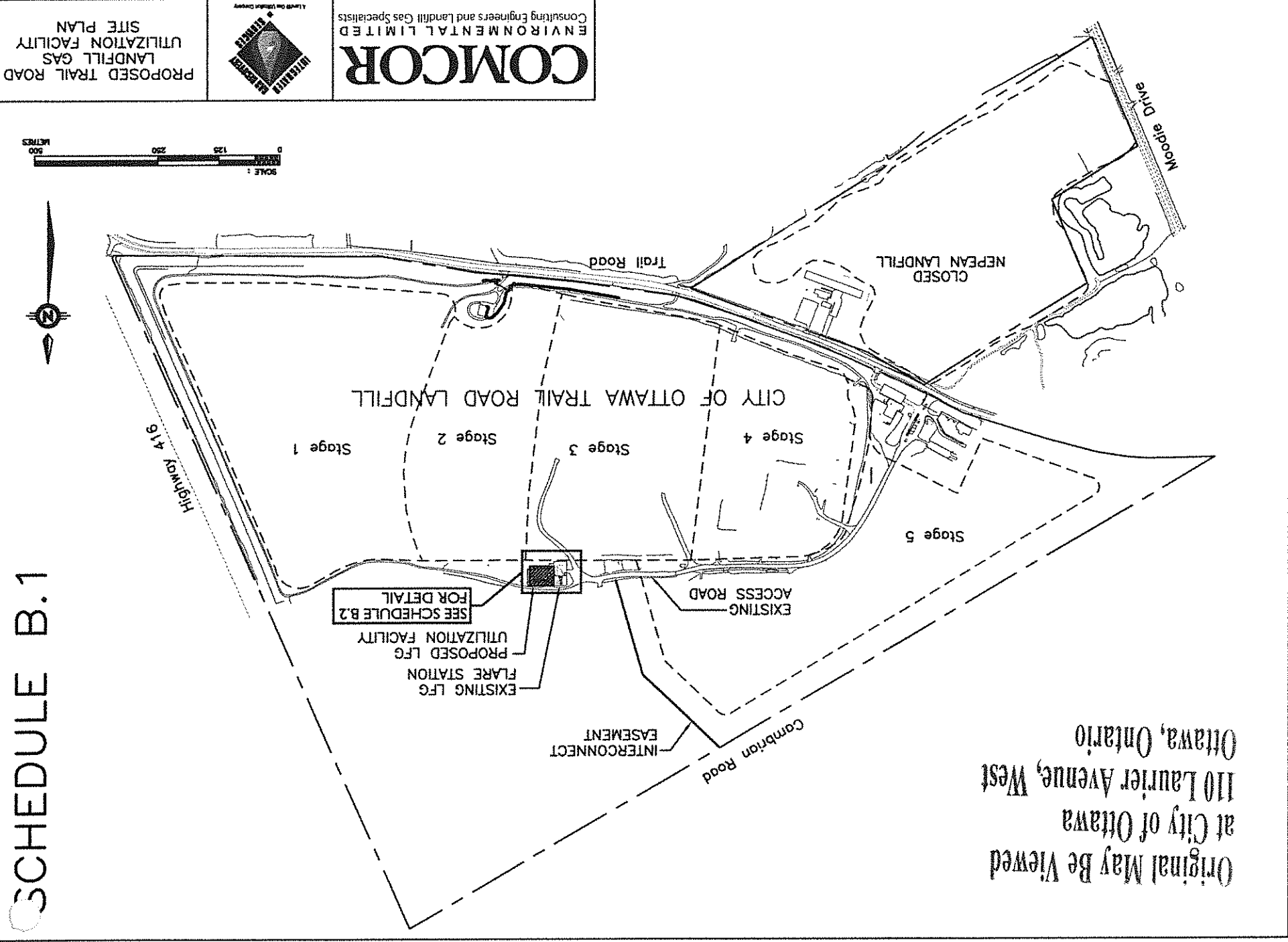
PIN 04593-0054  
PT LT 10 CON 5 RF AS IN N645628; EXCEPT RD AS WIDENED NEPEAN

PIN 04593-0056  
PT LT 9 CON 5 RF, PTS 1 & 2 5R11476; S/T CR410336; EXCEPT RD AS WIDENED NEPEAN



SCHEDULE B.1

Original May Be Viewed  
at City of Ottawa  
110 Laurier Avenue, West  
Ottawa, Ontario

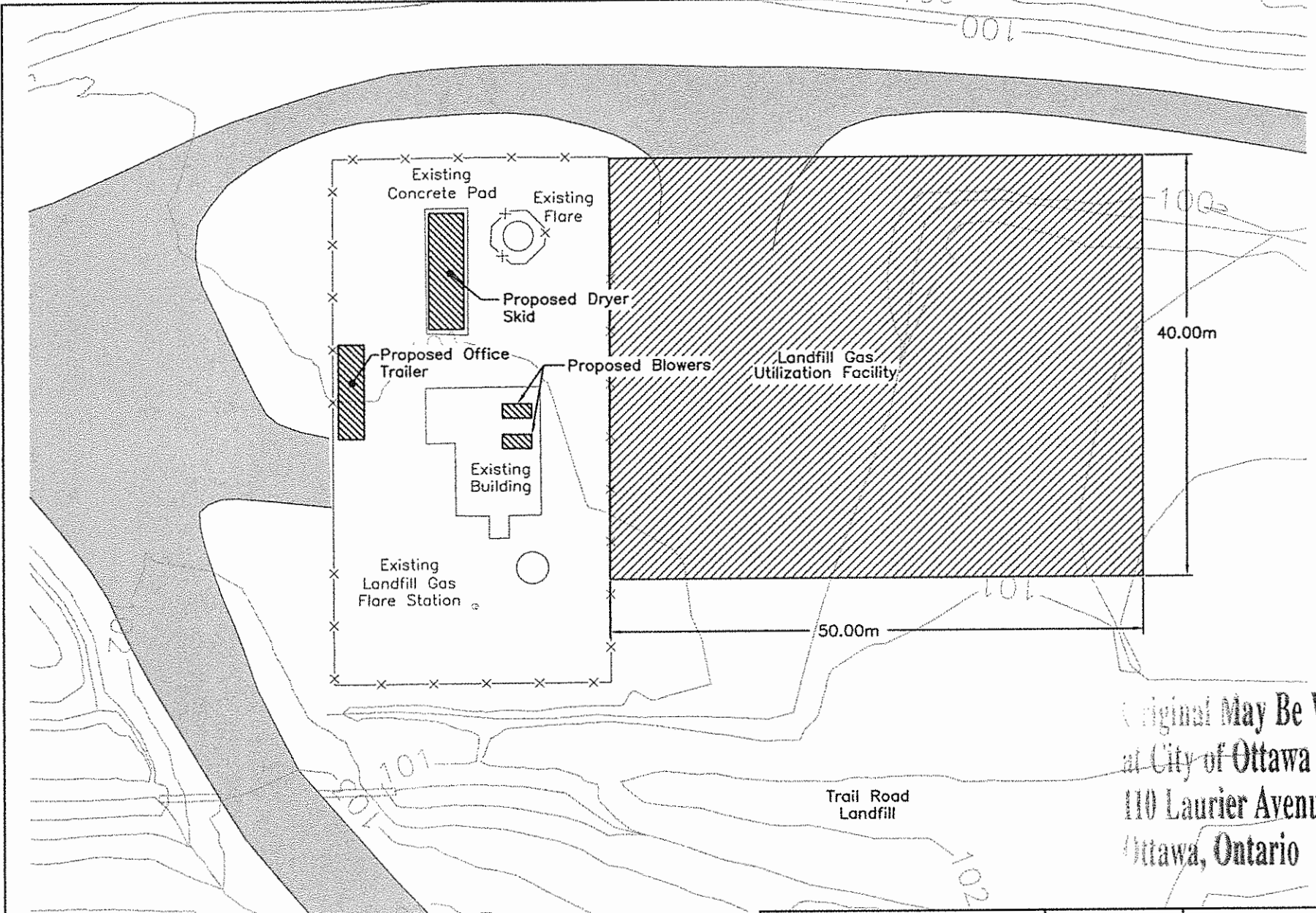


PROPOSED TRAIL ROAD LANDFILL GAS UTILIZATION FACILITY SITE PLAN

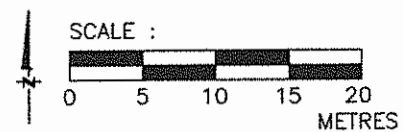
**INTERCONNECTION**  
LIMITED

**COMCOR**  
ENVIRONMENTAL LIMITED  
Consulting Engineers and Landfill Gas Specialists

SCHEDULE B.2



Original May Be Viewed  
at City of Ottawa  
110 Laurier Avenue, West  
Ottawa, Ontario



**COMCOR**  
ENVIRONMENTAL LIMITED  
Consulting Engineers and Landfill Gas Specialists



PROPOSED TRAIL ROAD  
LANDFILL GAS  
UTILIZATION FACILITY  
SITE PLAN DETAIL