BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Company (FPL) for authority to charge FPL rates to former City of Vero Beach customers and for approval of FPL's accounting treatment for City of Vero Beach transaction.	DOCKET NO. 20170235-EI
In re: Joint petition to terminate territorial agreement, by Florida Power & Light and the City of Vero Beach.	DOCKET NO. 20170236-EU

Submitted for filing: September 24, 2018

_____/

CITY OF VERO BEACH'S NOTICE OF FILING

City of Vero Beach ("COVB") hereby gives notice of filing the Rebuttal Testimony of James R. O'Connor with Exhibits JRO-1 through JRO-5 in support of Florida Power & Light Company's Petition for Authority to Charge FPL Ratesd to Former City of Vero Beach Customers and for Approval of FPL' Accounting Treatment for City of Vero Beach Transaction (Document No. 09427-2017) filed November 3, 2017 and FPL's Joint Petition to Terminate Territorial Agreement (Document No. 09428-2017) filed November 3, 2017.

Respectfully submitted this 24th day of September, 2018.

/s/ James Michael Walls
James Michael Walls
Florida Bar No. 706272
CARLTON FIELDS JORDEN BURT, P.A.
4221 W. Boy Scout Boulevard
Tampa, FL 33607-5780
Telephone: (813) 223-7000
Facsimile: (813) 229-4133
mwalls@carltonfields.com
jcostello@carltonfields.com
Attorneys for City of Vero Beach

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the CITY OF VERO BEACH NOTICE OF SERVICE and responses as identified above have been served by electronic mail on this 24th day of September, 2018 to all counsel of record as listed below.

/s/ James Michael Walls
James Michael Walls

COUNSEL OF RECORD

Charles W. Murphy Suzanne Brownless Senior Attorney, Office of the General Counsel FLORIDA PUBLIC SERVICE COMMISSION 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 cmurphy@PSC.STATE.FL.US SBrownle@PSC>STATE>FL>US CCraig@PSC.STATE.FL.US CBulecza@PSC.STATE.FL.US CMOURING@PSC.STATE.FL.US dasmith@psc.state.fl.us	Ken Hoffman FLORIDA POWER & LIGHT 215 South Monroe Street, Ste. 810 Tallahassee, FL 32301 Ken.hoffman@fpl.com
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light Company (FPL) for authority to charge FPL rates to former City of Vero Beach customers and for approval of FPL's accounting treatment for City of Vero Beach transaction.	DOCKET NO. 20170235-EI
In re: Joint petition to terminate territorial agreement, by Florida Power & Light and the City of Vero Beach.	DOCKET NO. 20170236-EU

Submitted for filing: September 24, 2018

_____/

REBUTTAL TESTIMONY OF JAMES R. O'CONNOR

ON BEHALF OF
CITY OF VERO BEACH

IN RE: PETITION BY FLORIDA POWER & COMPANY (FPL) FOR AUTHORITY TO CHARGE FPL RATES TO FORMER CITY OF VERO BEACH CUSTOMERS AND FOR APPROVAL OF FPL'S ACCOUNTING TREATMENT FOR CITY OF VERO BEACH TRANSACTION.

DOCKET NO. 20170235-EI

IN RE: JOINT PETITION TO TERMINATE TERRITORIAL AGREEMENT, BY FLORIDA POWER & LIGHT AND THE CITY OF VERO BEACH.

DOCKET NO. 20170236-EU

BY CITY OF VERO BEACH

REBUTTAL TESTIMONY OF JAMES R. O'CONNOR

I. INTRODUCTION AND QUALIFICATIONS.

Q. Please state your name and business address.

A. My name is James R. O'Connor. My business address is City Hall, P.O. Box 1389, City of Vero Beach, Florida 32961.

Q. Who do you work for and what is your position?

A. I am employed by the City of Vero Beach ("COVB") as the City Manager. I was appointed the COVB City Manager effective July 25, 2011. The COVB is a municipal government with home rule powers under Florida law.

Q. Have you previously provided testimony in Docket No. 20170235 and Docket No. 20170236-EU?

A. No.

II. PURPOSE AND SUMMARY OF REBUTTAL TESTIMONY.

Q. What is the purpose and summary of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to address the pre-filed direct testimony of some of the witnesses for the Civic Association of Indian River County ("CAIRC"). I am not testifying that their testimony has any bearing on the issues to be decided by the Florida Public Service Commission ("FPSC") in this consolidated proceeding, because the CAIRC witnesses' testimony address primarily local government political matters. However, I am testifying because certain statements made by these witnesses

should be corrected or placed in proper context, should the FPSC have some interest in them in resolving the issues before the FPSC.

To summarize, I explain that (1) the COVB Council, duly elected by and representing the citizens of the COVB, directed the negotiations for the sale of the COVB electric utility with Florida Power & Light Company ("FPL") through outside counsel twice retained by the COVB to independently represent the COVB's interests in such negotiations; (2) the COVB twice submitted resolutions to the COVB citizens with respect to the sale of the COVB electric utility and the citizens of COVB twice voted in favor of those resolutions; (3) the COVB Utilities Commission is an advisory commission to the COVB Council, but its members had the opportunity to review the Asset Purchase and Sale Agreement by and between the COVB and FPL dated October 24, 2017 (the "APA") and meet with outside counsel for the COVB to discuss the terms of the APA prior to the COVB Council vote on the APA; and (4) the regulatory approvals by the FPSC in these proceedings are conditions precedent to the sale of the COVB electric utility to FPL under the APA.

Q. Do you have any exhibits to your testimony?

A. Yes, I am sponsoring the following exhibits to my testimony:

- Exhibit No. ____ (JRO-1), COVB Municipal Code Section 2-102 explaining the role of the COVB Utilities Commission;
- Exhibit No. ____ (JRO-2), a composite exhibit of the COVB "letters of interest" sent by the COVB to a representative of all municipal electric utilities, the largest municipal electric utilities, and all investor owned electric

utilities in Florida inquiring about their interest in purchasing the COVB electric utility;

- Exhibit No. ___ (JRO-3), Resolution No. 2011-33 certifying the results of the Referendum on Lease of City Power Plant Site;
- Exhibit No. ____ (JRO-4), Resolution No. 2013-09 certifying the results of the Referendum on Sale and Disposition of Vero Beach Electric Utility; and
- Exhibit No. ____ (JRO-5), the APA.

All of these exhibits are true and accurate.

III. THE COVB AND ITS NEGOTIATION OF THE APA WITH FPL FOR THE SALE OF THE COVB ELECTRIC UTILITY TO FPL.

Q. Have you read the direct testimony of the CAIRC Witnesses in this proceeding?

A. Yes, I read the testimony of Mr. Herb Whittal, Mr. Jay Kramer, Mr. Thomas P. White, Mr. Jens Tripson, and Mr. Ken Daige.

Q. Do you plan to respond to everything these witnesses say in their testimony?

A. No. Much of their testimony expresses their personal opinions and perceptions of the COVB Council, FPL, and supporters of the sale of the COVB electric utility to FPL both inside and outside the city. They, like anyone else, are entitled to their opinions.

Q. Why are you filing rebuttal testimony in this proceeding?

A. I am addressing statements made by Msrs. Whittal, Kramer, and White regarding the rights of the COVB electric utility customers within and outside the city limits. I am also addressing statements these witnesses made about the role of the COVB electric

utility customers within the City, the COVB Council, and the COVB Utilities Commission in the negotiations of and ultimate decision to enter into the APA with FPL. I want to correct the impression created by these witnesses that electric utility customers outside the COVB limits have the exact same rights to representation on the COVB Council as electric utility customers inside the city limits. I also want to correct the impression created by these witnesses that the COVB electric customers inside the City did not support the sale of the COVB electric utility to FPL or that the COVB Council and Staff did not independently negotiate for them, misled them, or did not allow them or the COVB Utilities Commission access to information about the APA or to publicly express their opinions on this important issue to the COVB.

I am therefore filing this rebuttal testimony to provide the proper context for the events leading up to the APA between the COVB and FPL, to the extent they are relevant at all to the issues to be decided by the FPSC, because FPSC approval of the petitions in this proceeding is a condition precedent to the sale of the COVB electric utility to FPL and, as a result, critical to the COVB.

Q. Are you providing rebuttal testimony to the direct testimony of Mr. Daige or Mr. Tripson?

A. No. Since Mr. Daige only addresses the CAIRC standing to actually participate in this proceeding, and Mr. Tripson appears to express only his personal opinion regarding the sale, I am not providing any rebuttal testimony to their testimony.

Q. Do electric utility customers located outside the COVB limits have all the same rights as electric utility customers located inside the COVB limits?

A. No. Both Mr. Kramer and Mr. White testify in the exact same words that customers in the County, or customers outside the COVB limits, "are able to participate just like City customers." They both give the same examples of serving on committees, speaking at public hearings, and participating in elections for City Council through lobbying and funding of campaigns. This testimony ignores the fact that only customers inside the COVB limits can vote for the COVB Council. It also ignores the fact that City Council members must live in the COVB limits and, therefore, they represent only residents of the City. These differences may not be important to Mr. Kramer and Mr. White, but I know from my position as City Manager in dealing with COVB electric utility customers outside the City and their representatives with the Indian River County Board of Commissioners and the Town of Indian Rivers Shores Council that these are important differences to many if not all the COVB electric customers outside the City.

Q. What about the COVB Utilities Commission, does that Commission include COVB electric customers outside the COVB limits and therefore provide those customers equal participation rights as Mr. Kramer and Mr. White suggest?

A. The COVB Utilities Commission does include members who are COVB citizens and members who are citizens of the County and the Town of Indian Rivers Shores. However, the COVB Utilities Commission is by the COVB municipal code an advisory commission to the COVB Council. Its members can advise the COVB

Council regarding matters related to the COVB electric utility, including electric rates and fees, but they cannot vote on such matters and they cannot vote to set or change those rates and fees for electric service. Only members of the COVB Council can vote on utility matters, including rates and fees to charge all electric utility customers for their service. The members of the COVB Council are not elected by COVB electric customers outside the City and they cannot and do not live outside the City and therefore they serve only COVB citizens. A copy of COVB Code, Section 2-102, Advisory Commissions, which sets out the purpose of the COVB Utilities Commission is attached to my rebuttal testimony as Exhibit ___ (JRO-1).

Q. Mr. Kramer also testifies that the COVB Council only sent a "letter of interest" to a "few" utility companies, not an official Request for Proposal, when asked if the COVB Council advertised to "all possible buyers." Do you agree that the COVB did not solicit interest from all possible buyers when contemplating selling the COVB electric utility?

A. No. I have reviewed the "letters of interest" that Mr. Kramer refers to in his testimony and what Mr. Kramer fails to mention is that these "letters of interest" were sent to the Florida Municipal Power Agency ("FMPA"), the Orlando Utilities Commission ("OUC"), Jacksonville Electric Authority ("JEA"), Gulf Power Company, Tampa Electric Company ("TECO"), Progress Energy Florida, Inc. (now Duke Energy Florida, Inc.), and FPL. That is, the COVB contacted the largest municipal electric utilities and the power agency for Florida municipal electric utilities, and every investor owned electric utility in the State of Florida, regarding their interest in

purchasing the COVB electric utility. Mr. Kramer also fails to mention that the COVB "letters of interest" was predicated on the purchasing utility providing COVB electric customers the lowest electric utility rates in the State at the time of the purchase. Only FPL showed any real interest in responding to the COVB's "letter of interest." Copies of the "letters of interest" are attached as Composite Exhibit ___ (JRO-2) to my rebuttal testimony.

Q. Mr. Kramer criticizes the COVB referenda regarding the sale of the COVB electric utility. Do you agree with his criticisms?

A. No. Mr. Kramer testifies that the COVB citizens who twice voted for resolutions with respect to the sale of the COVB electric utility were uninformed or misled because, in his opinion, the ballot questions were not "proper," contained terms with "no real meaning," or, apparently, should have contained all the terms of the APA, all required regulatory approvals, and all "future impacts." Mr. Kramer bases his testimony solely on his personal opinion without any support whatsoever beyond hearsay statements made to him by unidentified, claimed "legal experts" he allegedly consulted at some unidentified point in time.

Q. Were the referenda regarding the sale of the COVB electric utility reviewed by legal counsel prior to them being placed on the ballot?

A. Yes. Mr. Kramer fails to mention that both COVB resolutions were reviewed by the COVB City Attorney prior to being placed on the ballot and determined to meet all legal requirements. No one challenged the legality of either referendum before or after

the referendum was submitted to COVB voters. Mr. Kramer nowhere in his testimony claims that occurred. Indeed, despite his stated belief that both the first and the second referendum were improper and misleading, and that he was told so by unidentified "legal experts," Mr. Kramer does not testify that he or these "legal experts" took any action to challenge the legality or propriety of either the first or second referendum.

Q. Can the referenda regarding the sale of the COVB electric utility include all potential terms of the sale, all potential regulatory approvals, and all potential impacts from the sale as Mr. Kramer seems to suggest?

A. No, of course not. The referenda cannot possibly include all such terms, approvals, or impacts or they would be hundreds of pages long. The referenda were used to determine whether the COVB citizens favored pursuing general aspects related to the sale of the COVB electric utility, that is, the lease of the COVB power plant site and the sale to FPL on general terms that had been discussed and debated at numerous COVB Council and other public meetings. The exact terms of the lease and the sale were left to the COVB Council with the assistance of the COVB City Attorney, City Manager, COVB Staff, and outside counsel, as is the case for most if not all other matters affecting COVB citizens that come before the COVB Council. That is what the members of the COVB Council are elected by the citizens to do every day, rely on the COVB Attorney, City Manager, COVB Staff and retained consultants to make decisions for the benefit of COVB citizens. The referenda regarding the sale of the COVB electric utility were discussed and voted on by the COVB Council and, as I

have explained, reviewed and approved by the COVB City Attorney before they were placed on the ballot.

Q. Does Mr. Kramer attach the referenda or explain how the COVB citizens voted on these referenda in his testimony?

A. No, he does not, even though they are public records and available to the public upon request. I have attached as Exhibit ___ (JRO-3) to my rebuttal testimony Resolution No. 2011-33 certifying the results of the Referendum on Lease of City Power Plant Site. I have also attached as Exhibit No. ____ (JRO-4) to my rebuttal testimony, Resolution No. 2013-09 certifying the results of the Referendum on Sale and Disposition of Vero Beach Electric Utility. Approximately 66 percent of the COVB citizens who voted did so in favor of the Referendum on Lease of City Power Plant Site. Approximately 64 percent of the COVB citizens who voted did so in favor of the Referendum on Sale and Disposition of Vero Beach Electric Utility.

Q. Mr. Kramer and Mr. Whittal also seem to testify that FPL controls the COVB Council and that FPL, not the COVB Council, "negotiated" the sale of the COVB electric utility to FPL with no real input from the COVB citizens, the COVB Council, or the COVB Utilities Commission. Do you agree?

A. That is what they seem to say, but this is the factually baseless opinions of citizens who are unhappy with the majority vote of the COVB citizens in two referenda, and the majority vote of COVB Council members duly elected by those same COVB citizens, with respect to the sale of the COVB electric utility to FPL. The testimony

that there "has never been any actual negotiations between FPL and" the COVB and that the COVB Utilities Commission "were instructed not to discuss the sale of Vero Electric to FPL" at the "last meeting" of the COVB Utilities Commission in August 2017 are misleading or simply not true. The COVB Council twice entered into negotiations with FPL regarding the sale of the COVB electric utility to FPL by retaining independent outside counsel compensated by the COVB to negotiate on the COVB's behalf. Both outside counsel firms met with the COVB City Attorney, City Manager, COVB Staff, and the COVB Council during the course of those negotiations and received direction on behalf of the COVB. Both times the negotiations resulted in sales transaction agreements and exhibits that were presented to and reviewed by the COVB City Attorney, City Manager, COVB Staff, the COVB Utilities Commission, and the COVB Council.

There were actual negotiations, I know, because I participated in some of them, and at all times during these negotiations the COVB was represented by independent outside counsel representing the COVB's interests. The APA was presented to the COVB Council, and the COVB Utilities Commission members and the COVB Finance Commission members. Members of these Commissions and the COVB Council were provided the opportunity to review the APA's terms and to meet with COVB's outside counsel to ask questions about and discuss the negotiations and terms of the APA prior to the COVB Council vote on the APA in October 2017. Outside counsel was present for questions at the COVB Council meeting where the APA was discussed and debated by the COVB Council. This was a duly noticed public meeting where the public was provided the opportunity to comment on the sale before the

COVB Council voted. The COVB Council then voted to approve the APA and the sale of the COVB electric utility to FPL. The APA was executed that same day and is attached as Exhibit ____ (JRO-5) to my rebuttal testimony.

Q. Do you have any closing remarks you would like to make about the allegations in Witness Kramer's testimony?

A. Yes. I sincerely hope that Mr. Kramer's misstatement of the facts do not distract the Commission from the obvious benefits of this carefully balanced deal. There is no doubt the thousands of residents who receive more costly service from the COVB will benefit greatly from the transaction. But this carefully balanced deal also will bring tangible benefits to the COVB as well. Proceeds from the sale will allow the COVB to pay off debt, meet pensions liabilities, and provide approximately $30 million in unrestricted funding to meet the COVB's needs. Transactions like this one -- that benefit all and resolve complex and long-standing disputes -- are rare. It would be tragic if the Commission were to allow this extraordinary deal to die for lack of regulatory approval.

Q. Is approval of the FPL petitions in these dockets a condition precedent to the sale of the COVB electric utility to FPL?

A. Yes. Termination of the territorial agreement between the COVB electric utility and FPL, FPSC approval to charge COVB electric customers FPL's existing retail electric rates, and FPSC approval of regulatory accounting matters including treatment of any acquisition adjustment arising from FPL's purchase of the COVB assets as a

regulatory asset are conditions precedent to consummation of the sale of the COVB electric utility to FPL.

IV. CONCLUSION.

Q. Has the COVB determined that the sale of the COVB electric utility to FPL is in the best interest of the citizens of the COVB and its electric utility customers?

A. Yes. The COVB citizens have twice voted for referenda supporting the principle of selling the COVB electric utility to FPL, the COVB Council has held numerous public meetings to allow its citizens and members of the public to discuss and debate this issue, and the duly elected COVB Council has voted in favor of the sale of the COVB electric utility to FPL under the terms of the APA.

Q. Does this conclude your direct testimony?

A. Yes it does.

Sec. 102.2 - Advisory Commissions.

(7) *Utilities commission.* The utilities commission shall provide recommendations and advice to the city council on all matters related to the administration and operation of the city's utilities, including finances and accounting; efficient and economic operations; maintenance; expansion and contraction of service areas; rates and fees, including taxes; improvements; and other matters specifically relating to the electric, water and sewer, and solid waste enterprise funds. The commission may seek counsel with the city manager and the other charter officers from time to time, as well as city department heads and employees as the commission finds necessary. In performing its mission, the commission shall initiate and provide its own proposals, recommendations, and alternatives to the city council. In addition, the commission shall also review and constructively critique all proposals from city staff, consultants, and the public and make its own independent recommendations on such proposals in order to provide the best and most complete information possible to the city council. Any commission member may request the city clerk to coordinate with the commission chairman to place items on the commission agenda and/or request a commission meeting. Meetings may also be called by the city council to review issues prior to city council deliberations. The utilities commission shall meet at least once every quarter. The commission is expressly charged with representing and considering all utility customers of the city in its activities, including city resident and non-resident customers alike. As long as the Town of Indian River Shores receives utility services from the City of Vero Beach under a franchise, at least one regular voting member of the utilities commission shall be a resident of the Town of Indian River Shores. All regular voting and alternate members shall reside within the city utilities service area.

City of Vero Beach
1053 20th Place - P.O. Box 1389
Vero Beach, FL 32961-1389

OFFICE OF THE
CITY MANAGER

December 18, 2009

Florida Municipal Power Agency
Nicholas P. Guarriello, General Manager
8553 Commodity Circle
Orlando, FL 32819

Dear Mr. Guarriello:

The purpose of this letter is to explore whether, under the proper terms and conditions, your utility would be interested in purchasing all or part of our electric system.

Effective January 1, 2010, the City's electric utility will switch from being a member of the All Requirements Project of the Florida Municipal Power Agency to being a contract customer of the Orlando Utilities Commission ("OUC"). The term of the new power arrangement is twenty years, with a possible reopener at the ten-year mark. The City is pleased with its contract and with OUC. However, as part of the public input involved in the decision to change power partners, some discussion occurred about the possibility or desirability of selling part or all of the electric utility system to another utility operation, such as yours. As a result of that public interest, the City Council passed a motion to direct that the City investigate such a sale.

Any purchase would be subject, of course, to the rights and obligations of the City and OUC in the existing contract. Concerning that contract, the City has every intention of honoring its contract commitments and believes that the contract is in the public interest of our citizens and rate payers. Accordingly, our willingness to engage in discussions regarding the potential sale of our system should not be interpreted in any way as showing dissatisfaction with OUC or the terms of the contract.

If you might be interested, we invite you to attend the City's Utility Advisory Commission meeting in March of next year. For dates and times, and for further information, please contact John T. Lee, Acting Electric Director, at (772) 978-5127 or JLee@covb.org.

Sincerely,

James M. Gabbard
City Manager

City of Vero Beach
1053 20th Place - P.O. Box 1389
Vero Beach, FL 32961-1389

OFFICE OF THE
CITY MANAGER

December 22, 2009

Orlando Utilities Commission
Jan C. Aspuru
Vice President of Power Resources
P.O. Box 3193
Orlando, FL 32802

Dear Mr. Aspuru:

I am enclosing a copy of a letter sent by the City of Vero Beach on Monday, December 21, 2009, to six utility companies throughout Florida, i.e. Florida Power and Light (FPL), Progress Energy Florida, Jacksonville Electric Authority (JEA), Florida Municipal Power Agency (FMPA), Tampa Electric, and Gulf Power. The purpose of that letter is to explore whether, under the proper terms and conditions, their utilities would be interested in purchasing all or part of our electric system. We would like to extend the same invitation to Orlando Utilities Commission (OUC).

If you might be interested, we invite you to attend the City's Utility Advisory Commission meeting in March of next year. For dates and time, and for further information, please contact John Lee, Acting Electric Utilities Director, at (772) 978-5127 / Jlee@covb.org or Danielle Kulp, Electric Utilities Coordinator at (772) 978-4718 / Dkulp@covb.org.

In any event, we look forward to our new relationship beginning January 1, 2010 when OUC becomes our prime power provider.

Sincerely,

James M. Gabbard
City Manager

Enc. FPL Letter

City of Vero Beach
1053 20th Place - P.O. Box 1389
Vero Beach, FL 32961-1389

OFFICE OF THE
CITY MANAGER

December 18, 2009

Jacksonville Electric Authority
James A. Dickenson, Managing Director/CEO
21 W. Church Street
Jacksonville, FL 32202

Dear Mr. Dickenson:

The purpose of this letter is to explore whether, under the proper terms and conditions, your utility would be interested in purchasing all or part of our electric system.

Effective January 1, 2010, the City's electric utility will switch from being a member of the All Requirements Project of the Florida Municipal Power Agency to being a contract customer of the Orlando Utilities Commission ("OUC"). The term of the new power arrangement is twenty years, with a possible reopener at the ten-year mark. The City is pleased with its contract and with OUC. However, as part of the public input involved in the decision to change power partners, some discussion occurred about the possibility or desirability of selling part or all of the electric utility system to another utility operation, such as yours. As a result of that public interest, the City Council passed a motion to direct that the City investigate such a sale.

Any purchase would be subject, of course, to the rights and obligations of the City and OUC in the existing contract. Concerning that contract, the City has every intention of honoring its contract commitments and believes that the contract is in the public interest of our citizens and rate payers. Accordingly, our willingness to engage in discussions regarding the potential sale of our system should not be interpreted in any way as showing dissatisfaction with OUC or the terms of the contract.

If you might be interested, we invite you to attend the City's Utility Advisory Commission meeting in March of next year. For dates and times, and for further information, please contact John T. Lee, Acting Electric Director, at (772) 978-5127 or JLee@covb.org.

Sincerely,

James M. Gabbard
City Manager

City of Vero Beach
1053 20th Place - P.O. Box 1389
Vero Beach, FL 32961-1389

OFFICE OF THE
CITY MANAGER

December 18, 2009

Gulf Power
Susan Story, President and CEO
1 Energy Place
Pensacola, FL 32520

Dear Ms. Story:

The purpose of this letter is to explore whether, under the proper terms and conditions, your utility would be interested in purchasing all or part of our electric system.

Effective January 1, 2010, the City's electric utility will switch from being a member of the All Requirements Project of the Florida Municipal Power Agency to being a contract customer of the Orlando Utilities Commission ("OUC"). The term of the new power arrangement is twenty years, with a possible reopener at the ten-year mark. The City is pleased with its contract and with OUC. However, as part of the public input involved in the decision to change power partners, some discussion occurred about the possibility or desirability of selling part or all of the electric utility system to another utility operation, such as yours. As a result of that public interest, the City Council passed a motion to direct that the City investigate such a sale.

Any purchase would be subject, of course, to the rights and obligations of the City and OUC in the existing contract. Concerning that contract, the City has every intention of honoring its contract commitments and believes that the contract is in the public interest of our citizens and rate payers. Accordingly, our willingness to engage in discussions regarding the potential sale of our system should not be interpreted in any way as showing dissatisfaction with OUC or the terms of the contract.

If you might be interested, we invite you to attend the City's Utility Advisory Commission meeting in March of next year. For dates and times, and for further information, please contact John T. Lee, Acting Electric Director, at (772) 978-5127 or JLee@covb.org.

Sincerely,

James M. Gabbard
City Manager

City of Vero Beach
1053 20th Place - P.O. Box 1389
Vero Beach, FL 32961-1389

OFFICE OF THE
CITY MANAGER

December 18, 2009

Tampa Electric
Gordon L. Gillette, President
P.O. Box 11
Tampa, FL 33601-0111

Dear Mr. Gillette:

The purpose of this letter is to explore whether, under the proper terms and conditions, your utility would be interested in purchasing all or part of our electric system.

Effective January 1, 2010, the City's electric utility will switch from being a member of the All Requirements Project of the Florida Municipal Power Agency to being a contract customer of the Orlando Utilities Commission ("OUC"). The term of the new power arrangement is twenty years, with a possible reopener at the ten-year mark. The City is pleased with its contract and with OUC. However, as part of the public input involved in the decision to change power partners, some discussion occurred about the possibility or desirability of selling part or all of the electric utility system to another utility operation, such as yours. As a result of that public interest, the City Council passed a motion to direct that the City investigate such a sale.

Any purchase would be subject, of course, to the rights and obligations of the City and OUC in the existing contract. Concerning that contract, the City has every intention of honoring its contract commitments and believes that the contract is in the public interest of our citizens and rate payers. Accordingly, our willingness to engage in discussions regarding the potential sale of our system should not be interpreted in any way as showing dissatisfaction with OUC or the terms of the contract.

If you might be interested, we invite you to attend the City's Utility Advisory Commission meeting in March of next year. For dates and times, and for further information, please contact John T. Lee, Acting Electric Director, at (772) 978-5127 or JLee@covb.org.

Sincerely,

James M. Gabbard
City Manager

City of Vero Beach
1053 20th Place - P.O. Box 1389
Vero Beach, FL 32961-1389

OFFICE OF THE
CITY MANAGER

December 18, 2009

Progress Energy
Vincent Dolan, President and CEO
P.O. Box 3239
Tampa, FL 33601-3239

Dear Mr. Dolan:

The purpose of this letter is to explore whether, under the proper terms and conditions, your utility would be interested in purchasing all or part of our electric system.

Effective January 1, 2010, the City's electric utility will switch from being a member of the All Requirements Project of the Florida Municipal Power Agency to being a contract customer of the Orlando Utilities Commission ("OUC"). The term of the new power arrangement is twenty years, with a possible reopener at the ten-year mark. The City is pleased with its contract and with OUC. However, as part of the public input involved in the decision to change power partners, some discussion occurred about the possibility or desirability of selling part or all of the electric utility system to another utility operation, such as yours. As a result of that public interest, the City Council passed a motion to direct that the City investigate such a sale.

Any purchase would be subject, of course, to the rights and obligations of the City and OUC in the existing contract. Concerning that contract, the City has every intention of honoring its contract commitments and believes that the contract is in the public interest of our citizens and rate payers. Accordingly, our willingness to engage in discussions regarding the potential sale of our system should not be interpreted in any way as showing dissatisfaction with OUC or the terms of the contract.

If you might be interested, we invite you to attend the City's Utility Advisory Commission meeting in March of next year. For dates and times, and for further information, please contact John T. Lee, Acting Electric Director, at (772) 978-5127 or JLee@covb.org.

Sincerely,

James M. Gabbard
City Manager

City of Vero Beach
1053 20th Place - P.O. Box 1389
Vero Beach, FL 32961-1389

OFFICE OF THE
CITY MANAGER

December 18, 2009

Florida Power and Light
Armando Olivera
P.O. Box 025576
Miami, Florida 33102

Dear Mr. Olivera:

The purpose of this letter is to explore whether, under the proper terms and conditions, your utility would be interested in purchasing all or part of our electric system.

Effective January 1, 2010, the City's electric utility will switch from being a member of the All Requirements Project of the Florida Municipal Power Agency to being a contract customer of the Orlando Utilities Commission ("OUC"). The term of the new power arrangement is twenty years, with a possible reopener at the ten-year mark. The City is pleased with its contract and with OUC. However, as part of the public input involved in the decision to change power partners, some discussion occurred about the possibility or desirability of selling part or all of the electric utility system to another utility operation, such as yours. As a result of that public interest, the City Council passed a motion to direct that the City investigate such a sale.

Any purchase would be subject, of course, to the rights and obligations of the City and OUC in the existing contract. Concerning that contract, the City has every intention of honoring its contract commitments and believes that the contract is in the public interest of our citizens and rate payers. Accordingly, our willingness to engage in discussions regarding the potential sale of our system should not be interpreted in any way as showing dissatisfaction with OUC or the terms of the contract.

If you might be interested, we invite you to attend the City's Utility Advisory Commission meeting in March of next year. For dates and times, and for further information, please contact John T. Lee, Acting Electric Director, at (772) 978-5127 or JLee@covb.org.

Sincerely,

James M. Gabbard
City Manager

RESOLUTION NO. 2011- 33

A RESOLUTION OF THE CANVASSING BOARD OF THE CITY OF VERO BEACH, FLORIDA CERTIFYING THE RESULTS OF THE NOVEMBER 8, 2011 MUNICIPAL GENERAL ELECTION IN THE CITY OF VERO BEACH, FLORIDA.

WHEREAS, the returns for the Municipal General Election held in the City of Vero Beach, Florida, on November 8, 2011 have been tabulated and certified by the Indian River County Supervisor of Elections and said certified election returns have been received by the Canvassing Board of the City of Vero Beach; and

WHEREAS, the election returns show that the results of the Municipal General Election are as follows:

CITY COUNCIL – TWO YEAR TERM
(TWO ELECTED)

TRACY M. CARROLL	(Total Votes)	1,783
DICK WINGER	(Total Votes)	1,613
BRIAN HEADY	(Total Votes)	1,493
KEN DAIGE	(Total Votes)	1,141

REFERENDUM ON LEASE OF CITY POWER PLANT SITE

Do you approve of the lease of the City of Vero Beach power plant site north of the 17th Street Bridge, west of the Indian River, and east of Indian River Boulevard, with the City retaining ownership of the land, for the purpose of selling the City electric utility if the City Council finds that such sale is beneficial to the citizens of Vero Beach?

YES, for approval	(Total Votes)	2,074
NO, for rejection	(Total Votes)	1,075

NOW, THEREFORE, BE IT RESOLVED BY THE CANVASSING BOARD of the City of Vero Beach, Florida that the results of the Municipal General Election held in the City of Vero Beach, Florida on November 8, 2011 are certified to be as shown above in this Resolution, with the result that Tracy M. Carroll and Dick Winger are hereby declared to be duly-elected members of the City Council of the City of Vero Beach, Florida for the ensuing two-year term and the Referendum on Lease of City Power Plant Site was approved, all as duly certified by the Indian River County Supervisor of Elections.

DONE AND ENTERED this 14th day of November, 2011 by the

CANVASSING BOARD OF THE CITY OF VERO BEACH, FLORIDA

James R. O'Connor City Manager	Wayne R. Coment Acting City Attorney	Tammy K. Vock City Clerk

CERTIFICATE OF CANVASSING BOARD OFFICIAL RETURNS

CITY OF VERO BEACH
INDIAN RIVER COUNTY, FLORIDA

We, the undersigned, members of the duly constituted Board of Canvassers for the City of Vero Beach, Indian River County, Florida, do hereby certify that we met in the office of the Supervisor of Elections on the 8th Day of November, A.D. 2011 and proceeded to publicly canvass the votes given for the offices herein specified at the Municipal General Election on the 8th Day of November, A.D. 2011, as shown by the returns on file in the office of the Supervisor of Elections. We hereby certify from said returns as follows:

For Two Year **City Council Member Term,** the whole number of votes cast was 6,030, of which number

(VOTE FOR NO MORE THAN TWO)

TRACY M. CARROLL	RECEIVED	1,783	VOTES
DICK WINGER	RECEIVED	1,613	VOTES
BRIAN HEADY	RECEIVED	1,493	VOTES
KEN DAIGE	RECEIVED	1,141	VOTES

REFERENDUM

REFERENDUM ON LEASE OF CITY POWER PLANT SITE

Do you approve of the lease of the City of Vero Beach power plant site north of the 17th Street Bridge, west of the Indian River, and east of Indian River Boulevard, with the City retaining ownership of the land, for the purpose of selling the City electric utility if the City Council finds that such sale is beneficial to the citizens of Vero Beach?

Yes for Approval	RECEIVED	2,074	VOTES
No for Rejection	RECEIVED	1,075	VOTES

The Canvassing Board certifies that the board has reconciled the number of persons who voted with the number of ballots counted and that the certification includes all valid votes cast in the election.

Tammy Vock, Vero Beach City Clerk
Canvassing Board Chairman

Wayne Coment, Vero Beach City Attorney
Canvassing Board Member

James O'Connor, Vero Beach City Manager
Canvassing Board Member

November 8, 2011

RESOLUTION NO. 2013- 09

A RESOLUTION OF THE CANVASSING BOARD OF THE CITY OF VERO BEACH, FLORIDA, CERTIFYING THE RESULTS OF THE MARCH 12, 2013 MUNICIPAL SPECIAL ELECTION IN THE CITY OF VERO BEACH, FLORIDA.

WHEREAS, the returns for the Municipal Special Election held in the City of Vero Beach, Florida, on March 12, 2013 have been tabulated by the Indian River County Supervisor of Elections and canvassed and certified by the Canvassing Board of the City of Vero Beach as evidenced by the Certificate of the Canvassing Board attached hereto as Exhibit "A" and incorporated herein; and

WHEREAS, the certified official election returns show that the results of the Municipal Special Election are as follows:

Referendum on Sale and Disposition of Vero Beach Electric Utility

Do you approve of the sale and disposition of the City of Vero Beach electric utility and substantially all of its assets for the purpose of exiting the electric utility business under terms substantially similar to the asset purchase and sale agreement between the City and Florida Power & Light Company?

YES, for approval	RECEIVED 2339	VOTES
NO, for rejection	RECEIVED 1330	VOTES

NOW, THEREFORE, BE IT RESOLVED BY THE CANVASSING BOARD of the City of Vero Beach, Florida, that the results of the Municipal Special Election held in the City of Vero Beach, Florida on March 12, 2013 have been certified to be as shown above in this Resolution, with the result that the Referendum on Sale and Disposition of Vero Beach Electric Utility was approved, all as duly certified by the Indian River County Supervisor of Elections and canvassed and certified by the Canvassing Board of the City of Vero Beach.

DONE AND ENTERED this 15th day of March 2013.

CANVASSING BOARD OF THE
CITY OF VERO BEACH, FLORIDA

Wayne R. Coment, City Attorney
Canvassing Board Chairman

James R. O'Connor, City Manager
Canvassing Board Member

Tammy K. Vock, City Clerk
Canvassing Board Member

CERTIFICATE OF CANVASSING BOARD OFFICIAL RETURNS

CITY OF VERO BEACH INDIAN RIVER COUNTY, FLORIDA

We, the undersigned, members of the duly constituted Board of Canvassers for the City of Vero Beach, Indian River County, Florida, do hereby certify that we met in the office of the Supervisor of Elections on the 12th Day of March, A.D. 2013 and proceeded to publicly canvass the votes given for the referendum herein specified at the Municipal Special Election on the 12th Day of March, A.D. 2013, as shown by the returns on file in the office of the Supervisor of Elections. We hereby certify from said returns as follows:

REFERENDUM ON SALE AND DISPOSITION OF VERO BEACH ELECTRIC UTILITY

Do you approve of the sale and disposition of the City of Vero Beach electric utility and substantially all of its assets for the purpose of exiting the electric utility business under terms substantially similar to the asset purchase and sale agreement between the City and Florida Power & Light Company?

Yes for Approval	RECEIVED	2339	VOTES
No for Rejection	RECEIVED	1330	VOTES

The Canvassing Board certifies that the board has reconciled the number of persons who voted with the number of ballots counted and that the certification includes all valid votes cast in the election.

Wayne Coment, Vero Beach City Attorney
Canvassing Board Chairman

James O'Connor, Vero Beach City Manager
Canvassing Board Member

Tammy Vock, Vero Beach City Clerk
Canvassing Board Member

March 12, 2013

THE CITY OF VERO BEACH ELECTRIC UTILITY

ASSET PURCHASE AND SALE AGREEMENT

BY AND BETWEEN

CITY OF VERO BEACH, FLORIDA, AS SELLER

AND

FLORIDA POWER & LIGHT COMPANY, AS BUYER

Dated as of October 24, 2017

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LIST OF EXHIBITS AND SCHEDULES

EXHIBITS

SCHEDULES

ASSET PURCHASE AND SALE AGREEMENT

This ASSET PURCHASE AND SALE AGREEMENT (the "***Agreement***"), dated as of October 24, 2017 (the "***Date of this Agreement***"), is made and entered into by and between the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida ("***Seller***"), and FLORIDA POWER & LIGHT COMPANY, a corporation organized under the laws of the State of Florida ("***Buyer***"). Seller and Buyer are referred to individually as a "***Party***," and together as the "***Parties***."

W I T N E S S E T H:

WHEREAS, Seller owns and operates an electric utility in the City of Vero Beach, Florida and other portions of Indian River County, Florida, including Indian River Shores, and Seller wishes to exit the electric utility business;

WHEREAS, Buyer desires to purchase and assume, and Seller desires to sell and assign, certain electric utility assets and certain associated liabilities, upon the terms and conditions hereinafter set forth in this Agreement (the "***Transaction***") as part of Seller's exit strategy from the electric utility business;

WHEREAS, Buyer and Seller desire for Buyer to provide retail electric service to Seller's electric utility customers, commencing on the Closing Date, as defined below, upon the terms and conditions hereinafter set forth in this Agreement;

WHEREAS, Buyer and Seller desire for the rates for retail electric service to be provided to Seller's electric utility customers to be the same as the rates for retail electric service charged by Buyer to its other retail electric service customers;

WHEREAS, Buyer and Seller intend that in the event that the sale under this Agreement does not occur, under the conditions set forth in Article 10, Seller will sell to Buyer, and Buyer will purchase from Seller, the assets of Seller's electric utility system located in Indian River Shores, Florida, under the terms of the Partial Sale Agreement, as defined below.

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 Definitions.

As used in this Agreement, the following terms have the meanings specified in this Section 1.1.

(1) ***"Acquired Assets"*** has the meaning set forth in Section 2.1.

(2) ***"Acquired Land In Fee"*** means (a) the Real Property owned by Seller and occupied by substations 3, 7, 8, 9, 10, 11, and 20 described in Exhibit U, and (b) any other Real Property owned by Seller and occupied by any of the FPUA Joint Facilities (other than substation 20) that is described in Exhibit U.

(3) ***"Action"*** means any suit, claim, proceeding, litigation, arbitration, audit or investigation by or before any Governmental Authority.

(4) ***"Affiliate"*** means, with respect to any Person, (i) each Person that directly or indirectly, controls or is controlled by or is under common control with such designated Person; (ii) any Person that beneficially owns or holds fifty percent (50%) or more of any class of voting securities of such designated Person or fifty percent (50%) or more of the equity interests in such designated Person; or (iii) any Person of which such designated Person beneficially owns or holds fifty percent (50%) or more of the equity interests. For the purposes of this definition, ***"control"*** (including, with correlative meanings, the terms "***controlled by***" and ***"under common control with"***), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

(5) "***Aggregate Environmental Cap***" has the meaning set forth in Section 6.22.

(6) ***"Agreement"*** means this Asset Purchase and Sale Agreement together with the Schedules hereto, as the same may be amended from time to time in accordance herewith.

(7) ***"Airport"*** means the City of Vero Beach RegionalAirport.

(8) ***"Airport Property Lease Agreements"*** means the Airport Substation Lease Agreements and the Airport Warehouse Lease Agreement.

(9) ***"Airport Substation Lease Agreements"*** means the Airport Substation 5 Lease Agreement and the Airport Substation 6 Lease Agreement.

(10) ***"Airport Substation 5 Lease Agreement"*** means a lease agreement and memorandum of lease substantially in the form of Exhibit I-1A attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(e) and approved by the FAA or FDOT if required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT.

(11) ***"Airport Substation 6 Lease Agreement"*** means a lease agreement and memorandum of lease substantially in the form of Exhibit I-1B attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(e) and approved by the FAA or FDOT if required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT.

(12) "***Airport Warehouse Property***" means the warehouse and service center facilities (land and building) located within the Airport used in the Business of the Vero Beach Electric Utility as a service center.

(13) ***"Airport Warehouse Lease Agreement"*** means a lease agreement substantially in the form of Exhibit I-2 attached hereto relating to the Airport Warehouse Property or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(f) and approved by the FAA or FDOT if required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT, including rent as set forth in Section 2.5.

(14) "***Allocation***" has the meaning set forth in Section 3.5(b).

(15) ***"Ancillary Agreements"*** means the Airport Property Lease Agreements, the District Sublicenses, the Fiber License Agreement, the Substation Easement Agreement, the Substation Equipment Operating and Dismantling Agreement, the Substation License and Access Agreement, the Streetlight Agreement, the Franchise Ordinance, and the Grounding License Agreement.

(16) ***"Assignment and Assumption Agreement"*** means the Assignment and Assumption Agreement between Seller and Buyer substantially in the form of Exhibit A-1 attached hereto.

(17) "***Assignment and Assumption of Easements***" means the assignment of Easements and assumption of responsibilities associated therewith, including the Substation 20 Transmission R/W, between Seller and Buyer substantially in the form of Exhibit A-2 attached hereto.

(18) ***"Assumed Contracts"*** mean those Seller Contracts set forth on Schedule 1.1(18) as of the Date of this Agreement, including the Real Property Interest Instruments and Intellectual Property Licenses, and those Seller Contracts primarily relating to the Vero Beach Electric Utility arising in the ordinary course consistent with Seller's Past Practices during the Interim Period to be set forth on amended Schedule 1.1(18).

(19) ***"Assumed Liabilities"*** has the meaning set forth in Section 2.3.

(20) ***"Attachment Agreements"*** means all pole attachment agreements, wireline agreements, streetlight attachment agreements, joint use agreements, CATV (cable) agreements, fiber optic agreements, franchise agreements for the placement of telecommunication facilities, fiber-optic cable or cable facilities on any of the Acquired Assets, agreements for the placement of telecommunication, cable or other ground equipment and monopoles on any of the Acquired Assets, agreements for the attachment of facilities (including by Governmental Authorities) to towers, substations, buildings, transmission or distribution poles or other facilities comprising the Acquired Assets, banner agreements, holiday lights agreements and other similar agreements.

(21) ***"Available Proceeds"*** means the sum of (i) the total aggregate amount of insurance coverage under all of Seller's policies of insurance that are applicable to the Acquired

Assets that were damaged or destroyed by the relevant Casualty during the Interim Period, plus (ii) the amount (or value, if provided in the form of property or repair assistance) of assistance that Seller has been provided (or that has been committed to be provided to Seller) in any form (including cash grant, property or repair assistance) by any Person (including the Federal Emergency Management Agency of the United States or any other Governmental Authority) that may be used by Seller to cure such Casualty, plus (iii) the amounts recovered or recoverable by Seller from Customers for storm restoration in accordance with Seller's Past Practice during similar Casualty events.

(22) ***"Benefit Plans"*** means each employee benefit plan as defined in Section 3(3) of ERISA, each governmental plan as defined in Section 3(32) of ERISA, and each other plan, contract, agreement, arrangement or policy, whether written or oral, qualified or non-qualified, providing for (i) compensation, severance benefits, bonuses, profit-sharing or other forms of incentive compensation; (ii) vacation, holiday, sickness or other time-off; (iii) health, medical, dental, disability, life, accidental death and dismemberment, employee assistance, educational assistance, relocation or fringe benefits or perquisites, including post-employment benefits; and (iv) deferred compensation, defined benefit or defined contribution, retirement or pension benefits.

(23) ***"Bill of Sale"*** means the Bill of Sale, substantially in the form of Exhibit B attached hereto.

(24) "***Bond Release Consideration***" has the meaning set forth in Section 3.4(d).

(25) "***Bond Resolution***" means the City of Vero Beach Master Electric System Revenue Bond Resolution adopted on November 6, 2007, as amended.

(26) ***"Business Books and Records"*** has the meaning set forth in Section 2.1(g).

(27) ***"Business Day"*** means any day other than Saturday, Sunday and any day on which banking institutions in the State of Florida are authorized by law or other governmental action to close.

(28) ***"Business of the Vero Beach Electric Utility"*** means each of the following: (a) the ownership, operation and maintenance of the Vero Beach Electric Utility; (b) the sale and provision of electricity to the Customers; and (c) the ownership, operation and maintenance of the Streetlight Assets.

(29) ***"Buyer"*** has the meaning set forth in the preamble to this Agreement.

(30) ***"Buyer Benefit Plans"*** has the meaning set forth in Section 6.10(c).

(31) "***Buyer Fundamental Representations***" means the representations and warranties made in Sections 5.1, 5.2, 5.3(a)(i) and 5.7.

(32) ***"Buyer Indemnitee"*** has the meaning set forth in Section 8.1(b).

(33) ***"Buyer's Phase II Environmental Testing"*** has the meaning set forth in Section 6.22(b).

(34) ***Buyer's Required Regulatory Approvals"*** has the meaning set forth in Section 5.3(b).

(35) ***"Buyer Union Representative"*** means the representative of the labor union that represents the craft or class of Transferred Employees who will be employed by Buyer in positions that are subject to a collective bargaining agreement with Buyer while employed with Buyer after the Closing Date.

(36) ***"Capital Expenditure and Maintenance Plan"*** means the plan adopted by the Council, which details the maintenance and capital expenditure schedule for the Acquired Assets for the 2017-2018 fiscal year ending September 30, 2018.

(37) "***Casualty***" means an event causing any portion of the Acquired Assets to be damaged or destroyed and requiring in excess of One Million Dollars ($1,000,000) for repair or replacement of such damaged or destroyed Acquired Assets; provided, however, that any intentional demolition or removal of any Acquired Assets in connection with repair or replacement of such Acquired Assets shall not be considered a Casualty.

(38) "***Casualty Notice***" has the meaning set forth in Section 6.11(a).

(39) ***"Closing"*** has the meaning set forth in Section 3.1.

(40) ***"Closing Date"*** has the meaning set forth in Section 3.1.

(41) ***"COBRA"*** means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and the rules and regulations promulgated thereunder and any similar state or local applicable Laws.

(42) ***"Code"*** means the Internal Revenue Code of 1986, as amended.

(43) ***"Commercially Reasonable Efforts"*** means efforts which are designed to enable a Party, directly or indirectly, to expeditiously satisfy a condition to, or otherwise assist in the consummation of, the transactions contemplated by this Agreement and which do not require the performing Party to expend any funds other than immaterial expenditures which are customary and reasonable in nature in the context of the transactions contemplated by this Agreement.

(44) ***"Consumption Period"*** has the meaning set forth in Section 6.21(a).

(45) ***"Contract"*** means any agreement, contract, purchase order, lease, license, right, commitment, evidence of Indebtedness, binding bid or other legally binding arrangement.

(46) ***"Council"*** means the City Council of Seller.

(47) ***"Covered Loss"*** means any Losses for which an Indemnifying Party is required to indemnify an Indemnitee pursuant to Section 8.1(a) or Section 8.1(b), as the case may be.

(48) "***Cure Amount***" means the amount of costs that will be required to be paid in order to cure the damage to or destruction of the Acquired Assets resulting from a Casualty.

(49) ***"Customer"*** means any retail electric service customer of Seller prior to the Closing Date, and, assuming the Closing occurs, of Buyer on or after the Closing Date, within the Service Territory.

(50) ***"Customer Deposits"*** means the electric utility deposits collected by Seller from its Customers or the portion of deposits collected from customers of electric, water and sewer utility services allocable to the electric service provided by Seller.

(51) ***"Customer Service Assets"*** means the customer service facilities, equipment and other tangible property and assets used in or for, the Business of the Vero Beach Electric Utility or located on the Real Property, including the facilities, equipment and other tangible property and assets that connect the Distribution Assets to each individual Customer's Delivery Point, Customer/premise/account data, historical consumption information, meters, remote metering equipment, and equipment needed to access the meters (e.g., keys to locked meter rooms, any meter/special/barrel lock/anchor keys), and without limiting the generality of the foregoing, specifically includes the facilities and equipment described in Schedule 1.1(50) but excluding City Hall and related office equipment. For the avoidance of doubt, Customer Service Assets do not include assets used by Seller primarily for its water and sewer utility business, and Seller shall be entitled to keep a copy of any data that is a Customer Service Asset as deemed appropriate by Seller.

(52) "***Date of this Agreement***" has the meaning set forth in the preamble to this Agreement.

(53) ***"Deed***" means a special warranty deed substantially in the form of Exhibit C attached hereto.

(54) ***"Defeasance Obligations***" means (i) direct obligations of the United States of America, (ii) obligations the timely payment of the principal of and interest on which when due are fully and unconditionally guaranteed by the United States of America, or (iii) obligations which are general obligations backed by the full faith and credit of the United States of America.

(55) ***"Delivery Point"*** means the point on the Customer's premises where, (i) if delivery is being made through overhead wires, Seller's wires connect to Customer's wires at the Customer's weatherhead, and (ii) if delivery is being made through underground wires, Seller's wires connect to the Customer's meter can.

(56) "***Direct Claim***" has the meaning set forth in Section 8.2(c).

(57) "***Distribution Assets***" means the electric distribution facilities, equipment and other tangible property and assets used in or for, the Business of the Vero Beach Electric Utility, including the facilities, equipment and other tangible property and assets that connect the Transmission Assets to the Customer Service Assets, distribution substation equipment, feeder circuits and associated hardware (including switches and switch gear, regulators, capacitor banks, reclosers, and protective equipment), primary circuits, transformers, secondaries and services, and associated physical assets (including poles, conductors, cables, insulators, metering, and outdoor lights).

(58) ***"District"*** means the Indian River Farms Water Control District.

(59) ***"District Licenses"*** means one or more agreements between the District and Seller substantially in the form of Exhibit P attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(c) and approved by the District, that relate to all of the Real Property owned by the District on which any of the Acquired Assets are located as of the Closing Date.

(60) ***"District Sublicenses"*** means one or more agreements between Buyer and Seller substantially in the form of Exhibit Q attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(c) and approved by the District, that provide for sublicenses with respect to each of the District Licenses to be entered into on the Closing Date.

(61) ***"Easements"*** means the electrical distribution easements, electrical transmission easements, access easements, aerial easements and other easements owned by Seller and used in (A) the Business of the Vero Beach Electric Utility or (B) the operation or maintenance of the Acquired Assets, including the easements identified in Schedule 1.1(61), other than any easements described in the Franchise Ordinance.

(62) ***"Effective Time"*** has the meaning set forth in Section 3.1.

(63) ***"Electric Utility Accounting Records"*** means all financial statements, accounting books, related records and reports of Seller relating to the Business of the Vero Beach Electric Utility.

(64) ***"Electric Utility Bonds"*** means the Indebtedness created or evidenced by, or arising under, the Bond Resolution, including any principal, interest, fees, penalties and other amounts payable thereunder.

(65) ***"Encumbrances"*** means any liens, charges, pledges, options, mortgages, deeds of trust, security interests, equitable interests, claims, easements, rights-of-way, leases, mineral reservations, covenants, conditional and installment sales contracts, title retention arrangements, adverse claims or restrictions of any kind, including restriction on transfer or use, option, right of first refusal, license or other right of third parties, and other encumbrances affecting title or right to property, whether imposed by applicable Law, agreement, understanding or otherwise and whether or not of record.

(66) ***"Environment"*** means all soil, real property, air, water (including surface waters, streams, ponds, drainage basins and wetlands), groundwater, water body sediments,

drinking water supply, stream sediments or land, including land surface or subsurface strata, including all fish, plant, wildlife, and other biota and any other environmental medium or natural resource.

(67) ***"Environmental Claim"*** means any and all communications, whether written or oral, alleging potential Liability, administrative or judicial actions, suits, orders, liens, notices alleging Liability, notices of violation, investigations which have been disclosed to Seller, complaints, requests for information relating to the Release or threatened Release into the Environment of Hazardous Substances, proceedings, or other communication, whether criminal or civil, pursuant to or relating to any applicable Environmental Law, by any Person (including any Governmental Authority) based upon, alleging, asserting, or claiming any actual or potential (i) violation of, or Liability under any Environmental Law, (ii) violation of any Environmental Permit, or (iii) Liability for investigatory costs, cleanup costs, removal costs, remedial costs, response costs, monitoring costs, natural resource damages, property damage, personal injury, fines, or penalties arising out of, based on, resulting from, or related to the presence, Release, or threatened Release into the Environment of any Hazardous Substances at any Real Property, the Substation Easement Real Property, or any off-Site location to which Hazardous Substances, or materials containing Hazardous Substances, were sent.

(68) ***"Environmental Clean-up Site"*** means any location which is listed or formally proposed for listing on the National Priorities List, the Comprehensive Environmental Response, Compensation and Liability Information System, or on any similar state list of sites requiring investigation or cleanup, or which is the subject of any action, suit, proceeding or investigation which has been disclosed to Seller for any alleged violation of any Environmental Law, or at which there has been a Release, or a threatened or suspected Release, of a Hazardous Substance.

(69) ***"Environmental Laws"*** means all Laws regarding pollution or protection of the Environment, the conservation and management of land, natural resources and wildlife or human health and safety or the Occupational Safety and Health Act (only as it relates to Hazardous Substances), including Laws regarding Releases or threatened Releases of Hazardous Substances (including Releases to ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport, disposal or handling of Hazardous Substances, including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Oil Pollution Act (33 U.S.C. §§ 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §§ 11001 et seq.), and all other Laws analogous to any of the above.

(70) "***Environmental Liabilities***" has the meaning set forth in Section 6.22(a).

(71) "***Environmental Notice***" has the meaning set forth in Section 6.22(a).

(72) ***"Environmental Permit"*** means any Permit under or in connection with any Environmental Law, including any and all orders, consent orders or binding agreements issued or entered into by a Governmental Authority under any applicable Environmental Law, that is necessary for (i) the Business of the Vero Beach Electric Utility, or (ii) the ownership, use or operation of the Acquired Assets, in each case under clause (i) or (ii), as conducted prior to the Date of this Agreement and as conducted prior to the Closing Date.

(73) ***"ERISA"*** means the Employee Retirement Income Security Act of 1974, as amended, and the applicable rules and regulations promulgated thereunder.

(74) ***"ERISA Affiliate"*** means any trade or business under Section 414(b), (c), (m) or (o) of the Code.

(75) ***"Estimated Allocation"*** has the meaning set forth in Section 3.5(a).

(76) "***Estimated Closing Adjustments***" has the meaning set forth in Section 3.3(b).

(77) ***"Estimated Closing Statement"*** has the meaning set forth in Section 3.3(b).

(78) ***"Estoppel Certificate"*** means a written statement from a Person who is a party other than Seller to an Assumed Contract or Real Property Interest Instrument, as the case may be, which written statement explicitly provides that (i) to the knowledge of the individual providing such statement, Seller is not in default nor does it owe any amounts due (or otherwise specifying such amounts that are due) to such Person under the Assumed Contract, (ii) the individual providing such written statement is authorized to bind the Person and make such written such statement, (iii) Buyer is entitled to rely on such written statement in connection with Buyer's assumption of the Assumed Contract, and (iv) such Person consents to the assignment and assumption of the Assumed Contract from Seller to Buyer.

(79) ***"Excluded Assets"*** has the meaning set forth in Section 2.2.

(80) ***"Excluded Contracts"*** means the FMPA Agreements, the OUC-Vero Beach PPA, Seller Collective Bargaining Agreements, and all other Contracts that are not Assumed Contracts.

(81) "***Excluded Inventory***" means any Inventory of Seller described in Schedule 1.1(81)**.**

(82) ***"Excluded Liabilities"*** has the meaning set forth in Section 2.4.

(83) ***"FAA"*** means the Federal Aviation Administration or any successor agency thereto.

(84) ***"Federal Communications Commission"*** means the United States Federal Communications Commission or any successor agency thereto.

(85) ***"Federal Power Act"*** means the Federal Power Act, as amended.

(86) ***"FERC"*** means the Federal Energy Regulatory Commission or any successor agency thereto.

(87) ***"FERC Approval***" has the meaning set forth in Section 6.6(c).

(88) ***Fiber License Agreement"*** means an agreement substantially in the form of Exhibit L-1 attached hereto, or such form as may be otherwise agreed by the Parties pursuant to Section 6.4(d) and approved by Indian River County and the School District of Indian River County.

(89) ***"Fiber Optic System"*** means the fiber optic system described on Schedule 1.1(88).

(90) ***"FDOT***" means the Florida Department of Transportation or any successor agency thereto.

(91) ***"FMPA"*** means the Florida Municipal Power Agency.

(92) "***FMPA Agreement Date***" means February 28, 2018 or such later date, but not later than March 30, 2018, selected by Buyer by giving notice thereof to Seller and FMPA, or such date after March 30, 2018, agreed to in writing by Seller and Buyer with notice thereof given to FMPA.

(93) "***FMPA Agreements***" means all of the following Contracts: (i) St. Lucie Project Power Sales Contract dated June 1, 1982, between FMPA and Seller, as amended; (ii) St. Lucie Project Support Contract dated June 1, 1982, between FMPA and Seller, as amended; (iii) the Stanton Project Power Sales Contract, dated January 16, 1984, between FMPA and Seller; (iv) Stanton Project Support Contract dated January 16, 1984, between FMPA and Seller, as amended; (v) Stanton II Project Power Sales Contract executed on or about May 24, 1991, between FMPA and Seller, as amended; (vi) Stanton II Project Support Contract executed on or about May 24, 1991, between FMPA and Seller, as amended; and (vii) that certain All-Requirements Power Supply Project Contract dated October 1, 1996, between FMPA and Seller, as amended.

(94) "***FMPA ARP***" means the FMPA "all requirements project".

(95) "***FMPA Assigned Agreements***" means the agreements described in clauses (i) through (vii) of the definition of the FMPA Agreements.

(96) "***FMPA Bondholders***" means the holders of revenue bonds issued by FMPA secured by, among other things, the FMPA Agreements.

(97) "***FMPA Members***" means the municipal members of FMPA that are party to any of the FMPA Agreements, and who are required to consent to the FMPA Transfer Agreement.

(98) "***FMPA Transfer Agreement***" means the Transfer Agreements that Seller and FMPA would enter into, if they enter into such Transfer Agreements, with the approval of Buyer, under which, among other matters, at the Closing: (i) Seller would assign to FMPA or the trustee with respect to the FMPA ARP bonds all of Seller's rights under the FMPA Assigned Agreements; (ii) FMPA would release Seller from all of Seller's obligations and liabilities to FMPA and the FMPA Members including under all of the FMPA Agreements; and (iii) Seller would pay to FMPA the FMPA Transfer Payment.

(99) "***FMPA Transfer Payment***" means an amount not to exceed $108 million as determined pursuant to the terms of the FMPA Transfer Agreement.

(100) "***FPL Termination Agreement***" means the Termination of Agreements substantially in the form of Exhibit F attached hereto, which, at the Closing, will terminate (i) the Territorial Boundary Agreement between Buyer and Seller dated June 11, 1980, as amended, approved by the PSC Order dated November 3, 1981 and (ii) that certain Joint Use Agreement, dated July 5, 1956, as supplemented by that certain Supplemental Joint Use Agreement, dated January 29, 1964, in each case between Buyer and Seller, and as the same may have been further amended.

(101) ***"FPSC"*** means the Florida Public Service Commission or any successor agency thereto.

(102) ***"FPSC Approval"*** has the meaning set forth in Section 6.6(d).

(103) ***"FPUA***" means the Fort Pierce Utilities Authority or any successor electric utility.

(104) ***"FPUA Joint Facilities"*** means the transmission and substation facilities owned jointly by Seller and FPUA in St. Lucie County, Florida, and Indian River County, Florida, including the property identified as "Substation 20" on the schedule of the Acquired Land in Fee and the Substation 20 Transmission R/W.

(105) ***"FPUA Right of First Refusal"*** means the right of first refusal with respect to certain of the Acquired Assets granted by Seller to FPUA pursuant to that certain Fort Pierce – Vero Beach Tie-Line Agreement dated May 5, 1992 between Seller and FPUA, as amended.

(106) ***"Franchise Ordinance"*** means the franchise ordinance agreement substantially in the form of Exhibit E attached hereto.

(107) "***GAAP***" means United States generally accepted accounting principles in effect in the United States from time to time.

(108) ***"Governmental Authority"*** means any federal, state, county, city, local or other governmental, regulatory or administrative agency, body, authority (including taxing authority), official, district (including water control district), commission, department, board or other governmental subdivision, court, tribunal or arbitrating body, and any national or regional electric reliability organizations, including NERC.

(109) ***"Grounding Equipment"*** means the cable casing and other parts of the Fiber Optic System that are used as the grounding for any part of the Acquired Assets.

(110) "***Grounding License Agreement***" means an agreement substantially in the form of Exhibit Y attached hereto.

(111) ***"Hazardous Substances"*** means: (i) any petroleum, asbestos, asbestos-containing material, and urea formaldehyde foam insulation and transformers or other equipment that contains polychlorinated biphenyls; (ii) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "contaminants," "pollutants," "toxic pollutants," "hazardous air pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law; and (iii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

(112) ***"Income Tax"*** means any Tax (i) based upon, measured by or calculated with respect to net income, profits or receipts (including capital gains Taxes and minimum Taxes), or (ii) based upon, measured by or calculated with respect to multiple bases (including corporate franchise Taxes) if one or more of the bases on which such Tax may be based, measured by or calculated with respect to, is described in clause (i), in each case together with any interest, penalties or additions to such Tax.

(113) ***"Indebtedness"*** means, with respect to any Person, at any time without duplication, (i) all indebtedness for borrowed money, (ii) all obligations for the deferred purchase price of property or services, (iii) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (iv) all obligations of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person, (v) all obligations of such Person under acceptance, letter of credit or similar facilities, (vii) all obligations of such Person in respect of any exchange-traded or over-the-counter derivative transaction, including interest rate or currency hedging agreements, and (viii) all obligations of such Person to guarantee any Indebtedness, leases, dividends or other payment obligations of such Person or any other Person; provided, however, that the term "Indebtedness" shall not include any lease that is a capital lease.

(114) ***"Indemnifying Party"*** has the meaning set forth in Section 8.1(d).

(115) ***"Indemnitee"*** means either a Seller Indemnitee or a Buyer Indemnitee, as the case may be.

(116) ***"Independent Accounting Firm"*** means such independent accounting firm of national reputation as is mutually appointed by Seller and Buyer.

(117) ***"Intellectual Property***" means the following rights, both statutory and common law rights, if applicable: (i) copyrights, registrations and applications for registration thereof; (ii) trademarks, service marks, trade names, slogans, domain names, business names, logos, trade dress, and registrations and applications for registrations thereof; (iii) patents, as well as any reissued and reexamined patents and extensions corresponding to the patents, and any

patent applications, as well as any related continuation, continuation in part and divisional applications and patents issuing therefrom; (iv) trade secrets and other confidential and proprietary information, including ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable; and (v) computer programs and other software, including source and object codes.

(118) ***"Intellectual Property Licenses"*** means those agreements related to Licensed Intellectual Property.

(119) ***"Interconnection Points"*** mean the points at which Seller's Transmission Assets connect as of the Date of the Agreement to: (a) Seller's West Substation, (b) Buyer's Emerson Substation, and (c) the FPUA Joint Facilities.

(120) ***"Interim Period"*** has the meaning set forth in Section 6.1(a).

(121) ***"Inventory"*** means materials, spare parts, supplies, chemicals and other items of inventory used in or for the Business of the Vero Beach Electric Utility including such other items of inventory located in Seller's warehouses.

(122) ***"IRS"*** means the United States Internal Revenue Service or any successor agency thereto.

(123) ***"Knowledge"*** means (i) with respect to Buyer, the actual awareness (after reasonable inquiry of appropriate employees of Buyer) of the corporate officers of Buyer who are charged with responsibility for the particular function relating to the matter of the inquiry and (ii) with respect to Seller, the actual awareness of the City Manager of Seller (after reasonable inquiry of the director of the following departments of Seller: Electric Utilities; Public Works; and Finance), the City Attorney of Seller, and, solely with respect to Airport matters, the director of the Airport.

(124) ***"Law"*** means any foreign, federal, state or local law, constitutional provision, statute, charter, ordinance or other law, rule, regulation, code (including any zoning code, fire code or health and safety code), or interpretation of any Governmental Authority or any Order of or by any Governmental Authority, including all Environmental Laws and NERC standards, requirements and regulations, applicable to the Business of the Vero Beach Electric Utility or the Acquired Assets.

(125) ***"Lease Agreements"*** means the Airport Property Lease Agreements, the District Sublicenses, and the Grounding License Agreement.

(126) ***"Liability"*** means any direct or indirect liability, commitment, Indebtedness or obligation (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or un-accrued, whether liquidated or un-liquidated, and whether due or to become due) of any kind, character or nature, or any demand, Action asserted or brought against the relevant Person.

(127) "***Licensed Intellectual Property***" means the Intellectual Property described in Schedule 1.1(126).

(128) ***"Loss"*** or ***"Losses"*** means any and all damages, fines, fees, penalties, deficiencies, losses, Liabilities, interest, awards, judgments, and expenses (whether or not involving a third party claim), including all Remediation costs, reasonable fees of attorneys, accountants and other experts, or other expenses of litigation or proceedings or of any claim, default or assessment relating to the foregoing.

(129) ***"Material Adverse Effect"*** means such changes, effects, conditions, facts, circumstances and events resulting in, or reasonably likely to result in, an adverse effect on the Acquired Assets and the Business of the Vero Beach Electric Utility, in an aggregate amount greater than $10,000,000.00; provided, however, that no one or more of the following changes, effects, conditions, facts, circumstances or events shall be taken into account in determining whether a Material Adverse Effect has occurred: (i) general economic or political conditions; (ii) conditions generally affecting the industry in which the Business of the Vero Beach Electric Utility operates, including those affecting fuel prices; (iii) any changes in financial, banking or securities markets in general, including any disruption thereof and any decline in the price of any security or any market index or any changes in prevailing interest rates; (iv) acts of war (whether or not declared), terrorism or armed hostilities, or the escalation or worsening thereof; (v) any action (or omission of an action) required or permitted by this Agreement or any of the Ancillary Agreements or any action taken (or omitted to be taken) with the written consent of or at the request of Buyer; (vi) any actions taken or caused by Buyer or any of its Affiliates, including any change in Buyer's policies relating to retention and compensation of or provision of benefits to Buyer's employees and the Transferred Employees, whether resulting from decisions made by Buyer, regulatory authorities or bargaining with Buyer's Union Representative; (vii) any changes in applicable Laws or accounting rules (including GAAP) or the enforcement, implementation or interpretation thereof other than Laws adopted by the Council; (viii) the announcement, pendency or completion of the transactions contemplated by this Agreement, including losses or threatened losses of employees, customers, suppliers, distributors or others having relationships with Seller or the Business of the Vero Beach Electric Utility; (ix) any Casualty; or (x) any failure by the Business of the Vero Beach Electric Utility to meet any internal or published projections, forecasts or revenue or earnings predictions.

(130) ***"Material Seller Contracts"*** shall have the meaning set forth in Section 4.13(a).

(131) "***Maximum Uncovered Loss Amount***" means five million dollars ($5,000,000).

(132) ***"NERC"*** means the North American Electric Reliability Corporation.

(133) ***[Intentionally Deleted]***

(134) ***"Non-Environmental Permit"*** means any Permit (other than an Environmental Permit) that is necessary for, (i) the Business of the Vero Beach Electric Utility, or (ii) the ownership, use or operation of the Acquired Assets, in each case under clause (i) or (ii), as conducted prior to the Date of this Agreement and as conducted prior to the Closing Date, and specifically includes the Radio Licenses.

(135) ***"Observers"*** has the meaning set forth in Section 6.1(b).

(136) ***"Order"*** means any judgment, decision, consent, assessment, decree, injunction, stay, ruling, writ or order of or by any Governmental Authority.

(137) ***"OUC"*** means the Orlando Utilities Commission.

(138) "***OUC Termination Agreement Date***" means January 5, 2018 or such later date, but not later than January 31, 2018, selected by Buyer by giving notice thereof to Seller and OUC, or such date after January 31, 2018, agreed to in writing by Seller and Buyer with notice thereof given to OUC.

(139) "***OUC Termination Agreement***" means the Termination Agreement that Seller and OUC would enter into, if they enter into such Termination Agreement, with the approval of Buyer, under which, among other matters, at the Closing: (i) Seller and OUC would terminate the OUC-Vero Beach PPA; (ii) OUC would release Seller from all of Seller's obligations and liabilities to OUC including under the OUC-Vero Beach PPA; and (iii) Seller would pay to OUC the OUC Termination Payment.

(140) "***OUC Termination Payment***" means $20 million.

(141) ***"OUC-Vero Beach PPA"*** means the First Amended and Restated Agreement for Purchase and Sale of Electric Energy and Capacity, Gas Transportation Capacity and Asset Management Services dated October 20, 2015 between Seller and OUC and any other agreements between OUC and Seller.

(142) "***Partial Sale Agreement***" has the meaning set forth in Section 10.1.

(143) ***"Party"*** (and the corresponding term ***"Parties"***) has the meaning set forth in the preamble to this Agreement.

(144) ***"Permits"*** means all permits, licenses, approvals, immunities, entitlements, certificates (including certificates of need), authorizations, registrations, waivers, variances, exemptions, notices, application, and filings, from, to, with or issued by any Governmental Authority, that are material to the Business of the Vero Beach Electric Utility or the Acquired Assets, including certificates of occupancy, operating permits, sign permits, development rights and approvals, zoning, building and safety and health approvals.

(145) ***"Permitted Encumbrances"*** means, with the exception of the Encumbrances identified on attached Schedule 4.6(a), which shall be satisfied or removed from such Acquired Assets on or before the Closing Date: (i) as to each and every parcel of Acquired Land in Fee, the real property described in the Airport Substation 5 Lease Agreement and Airport Substation 6 Lease Agreement, Substation Easement Real Property, and any other Real Property Interest for which Buyer obtains a Title Commitment, those exceptions to title listed in Schedule 1.1(143), referenced in any of the Title Commitments, or existing due to the provisions of any Real Property Interest Instruments through which Seller holds its Real Property Interests, or matters identified in any Survey or what would have been disclosed by an accurate survey or inspection; (ii) as to each Acquired Asset constituting personal property, or any Real Property

Interest for which Buyer has not obtained a Title Commitment, any Encumbrance of any type or description on or affecting such Acquired Assets, provided that such Encumbrance does not, to Seller's Knowledge, materially interfere with the operation of the Acquired Assets in the ordinary course consistent with Seller's Past Practices prior to the Date of this Agreement. Without limiting the generality of the foregoing, "Permitted Encumbrances" include the following: (i) Encumbrances created by the Electric Utility Bonds that will be released prior to or at the Closing; provided, however, that such Encumbrances shall cease to be Permitted Encumbrances as of the Closing; (ii) statutory liens for Taxes or other governmental charges or assessments not yet delinquent; (iii) statutory liens (including construction, mechanics' and materialmen's liens and other like statutory liens and inchoate liens incurred in connection with worker's compensation, unemployment insurance, and social security laws) arising in the ordinary course of business securing payments not yet delinquent (or any such lien for a delinquent payment that has been waived in writing by the holder thereof or any such lien for a delinquent payment for which Seller has obtained a waiver, bond or other security in accordance with applicable Law to fully protect the Acquired Assets from any and all claims that may be made on account of any such lien); (iv) existing zoning, entitlement, environmental or conservation restrictions and other land use and environmental regulations imposed by Governmental Authorities and any existing conditions and obligations arising under any Permit so long as such restrictions, regulations, conditions and obligations do not, to Seller's Knowledge, materially interfere with the Business of the Vero Beach Electric Utility in the ordinary course as conducted prior to the Date of this Agreement; (v) the covenants and restrictions set forth in this Agreement or in any of the Ancillary Agreements; (vi) Encumbrances with respect to the Acquired Assets created by or resulting from the acts or omissions of Buyer; (vii) the rights of any owner of real property where any of the personal property included in the Acquired Assets is located and the conditions or limitations of any real property rights associated with the locations where any of such Acquired Assets may exist; (vi) all matters affecting the Acquired Assets that would be disclosed by an accurate survey or inspection of such Acquired Assets; (viii) the terms of any capital leases; (ix) the FPUA Right of First Refusal; and (x) if Seller, after making a good faith effort, is unable to secure a release or satisfaction of the matter set forth in items number 1 and 3 on Schedule 4.6(a), then the matters set forth in item numbers 1 and 3 on Schedule 4.6(a) shall be treated for purposes of Section 4.6 as a "Permitted Encumbrance."

(146) ***"Person"*** means a natural person, a corporation, a partnership, a joint venture, a union, a limited liability company, a trust, an unincorporated organization, an association, a joint stock company, trustee, estate, real estate investment trust or any other entity or organization, including a Governmental Authority or any other separate legal entity recognized pursuant to applicable Law.

(147) "***Pole Agreement***" has the meaning set forth in Section 6.4(d).

(148) ***"Post-Closing Adjustment"*** has the meaning set forth in Section 3.3(c).

(149) ***"Post-Closing Consumption Period"*** has the meaning set forth in Section 6.21.

(150) ***"Post-Closing Statement"*** has the meaning set forth in Section 3.3(c).

(151) "***Post-Closing Taxes***" means Taxes, including sales and use taxes on all leases, (other than Transfer Taxes to which Section 6.8(a) applies) attributable to periods (or portions thereof) beginning on or after the Closing Date, determined by closing the books at the Effective Time for purposes of Income Taxes and by pro rating all other Taxes based on the number of days in the period before the Closing Date, on the one hand, and on and after the Closing Date, on the other hand; provided, however, if the Acquired Assets or the Business of the Vero Beach Electric Utility were not subject to a Tax in the hands of Seller but become subject to that Tax in the hands of Buyer, that Tax shall be a Post-Closing Tax in its entirety.

(152) ***"Power Plant"*** means all facilities and equipment located on the Power Plant Site, other than the Power Plant Substation.

(153) "***Power Plant Site***" means the real property described in Exhibit S.

(154) ***"Power Plant Substation Site"*** means the real property described in Exhibit S.

(155) "***Pre-Closing Taxes***" means Taxes, including sales and use taxes on all leases, (other than Transfer Taxes to which Section 6.8(a) applies) attributable to periods (or portions thereof) ending before the Closing Date, determined by closing the books at the end of the date immediately preceding the Closing Date for purposes of Income Taxes and by pro rating all other Taxes based on the number of days in the taxable period before and after the Closing Date; provided, however, if the Acquired Assets or the Business of the Vero Beach Electric Utility were not subject to a Tax in the hands of Seller but become subject to that Tax in the hands of Buyer, no portion of that Tax shall be a Pre-Closing Tax.

(156) ***"Pre-Closing Consumption Period"*** has the meaning set forth in Section 6.21.

(157) "***Prepaid Expenses***" means all expenses incurred by Seller in the operation of the Acquired Assets in accordance with Seller's Past Practices (excluding pre-payments for tangible assets such as inventory or property, plant and equipment except as provided in Section 3.6(a)(iii), but including prepaid maintenance expense) paid in cash before the Closing and before being incurred for GAAP purposes.

(158) ***"Proposed Post-Closing Adjustment"*** has the meaning set forth in Section 3.3(c).

(159) ***"Public Document"*** has the meaning set forth in Section 6.5(a).

(160) ***"Purchase Price"*** has the meaning set forth in Section 3.2.

(161) ***"Radio Licenses"*** means the Permits set forth in Schedule 1.1(160).

(162) ***"Real Property"*** means the Acquired Land in Fee, the Substation Easement Real Property, the real property described in the Airport Property Lease Agreements, and such other real property rights, interests, and licenses to occupy real property, that are owned by Seller and used by Seller to transmit and distribute electricity or to access or maintain the

Vero Beach Electric Utility including the Easements, each as set forth on Schedule 1.1(161), but excluding any rights of way under the Franchise Ordinance.

(163) ***"Real Property Interests"*** means the interest held by Seller in the Real Property.

(164) ***"Real Property Interest Instrument"*** means any license, deed, lease, easement, agreement or other instrument creating a Real Property Interest.

(165) ***"Release"*** means any actual, threatened or alleged spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping or disposing of a Hazardous Substance into the Environment or within any building, structure, facility or fixture.

(166) ***"Remediation"*** means any action of any kind required by applicable Law to address the presence or Release of Hazardous Substances, including: (i) monitoring, investigation, assessment, treatment, cleanup containment, removal, mitigation, response or restoration work, as well as obtaining any Permits necessary to conduct any such activity; (ii) preparing and implementing any plans or studies for any such activity; and (iii) obtaining a written notice from a Governmental Authority with competent jurisdiction under Environmental Laws, that no material additional work is required.

(167) ***"Representatives"*** of a Party means the Party and its Affiliates and their directors, officers, employees, agents and advisors (including accountants, counsel, environmental consultants, financial advisors and other authorized representatives).

(168) ***"Retained Agreements"*** means the District Licenses and the Seller Pole and Antenna Attachment Termination Agreements.

(169) ***"Retained Employees"*** means all Seller Employees who are employed by Seller as of the date immediately preceding the Closing Date and who do not become Transferred Employees as of the Closing Date.

(170) ***"Schedules"*** means the schedules attached to this Agreement.

(171) "***Schedule Supplement***" has the meaning set forth in Section 6.9.

(172) ***"Seller"*** has the meaning set forth in the preamble to this Agreement.

(173) ***"Seller Benefit Plans"*** has the meaning set forth in Section 4.11(a).

(174) ***"Seller Collective Bargaining Agreements"*** means the Agreement between Seller and Teamsters Local Union No. 769, dated September 15, 2015, with a term of October 1, 2015 to September 30, 2018, and the Agreement between Seller and Teamsters Local Union No. 769 Technical/Clerical with a term of October 1, 2015 to September 30, 2018.

(175) ***"Seller Contracts"*** means all Contracts in effect on the Date of this Agreement that are used in or for the Acquired Assets or the Business of the Vero Beach Electric

Utility to which Seller is a Party or by which any of the Acquired Assets is bound, including (i) the Real Property Interest Instruments, the Assumed Contracts and the Intellectual Property Licenses, (ii) Contracts associated with the forecasting, modeling, management and operation of the Acquired Assets, (iii) Contracts associated with emergency or wind storm preparedness, and (iv) Contracts leasing, or providing the right to use, to attach to or of access to, any portion of the Acquired Assets, including the Attachment Agreements.

(176) ***"Seller Defined Benefit Plan"*** means the City of Vero Beach General Employee Retirement Plan in effect on the Date of this Agreement, which was frozen as of July 15, 2015.

(177) "***Seller Defined Contribution Plan***" means the City of Vero Beach General Employees' Defined Contribution Plan in effect on the date of this Agreement.

(178) "***Seller Disclosure Schedules***" means the disclosure schedules of Seller that pertain to Seller's representations and warranties in Article 4 of this Agreement, delivered concurrently with the execution and delivery of this Agreement and forming a part of this Agreement and any updates to such disclosure schedules.

(179) ***"Seller Employee"*** means an hourly-paid or salaried employee of Seller, who receives an IRS Form W-2 from Seller and whose work responsibilities involve principally the Business of the Vero Beach Electric Utility.

(180) "***Seller Fundamental Representations***" means the representations and warranties made in Sections 4.1, 4.2, 4.3(a), and 4.20.

(181) ***"Seller Indemnitee"*** has the meaning set forth in Section 8.1(a).

(182) ***"Seller Pole and Antenna Attachment Termination Agreements"*** means the agreements to be negotiated and executed by Seller and each Person (other than Buyer) that attaches or uses poles of Seller, including AT&T, Comcast and BellSouth, regarding the termination of such Person's rights relating to poles of Seller.

(183) ***"Seller's Past Practices"*** means the recent historical operation, maintenance and repair practices, methods and actions performed prior to the Date of this Agreement by, or on behalf of, Seller with respect to the Acquired Assets, in a manner complying with applicable Law.

(184) ***"Service Territory"*** means the area described as Seller's service territory in the map attached hereto as Schedule 1.1(183).

(185) ***"Streetlight Agreement"*** means Buyer's standard form of street lighting agreement that is applicable on the date immediately preceding the Closing Date, along with Buyer's street lighting rate schedule on file at the FPSC that is effective on the date immediately preceding the Closing Date. For reference purposes only, Exhibit J contains a copy of the Streetlight Agreement that is applicable on the Date of this Agreement. For the avoidance of doubt, the Streetlight Agreement that is required to be executed under this Agreement may be different than the form attached hereto as Exhibit J.

(186) ***"Streetlight Assets"*** means all assets of Seller used in or for Seller's street lighting business including all Seller-owed poles, fixtures, test equipment, brackets, records, conductor (OH & UG), warranties, tools, photocells, relays, conduit, transformers, handholes/splice boxes, connectors/splices, scrap, salvage, ground rods, nuts, bolts, washers, ballasts, shields, poles and any inventory of the foregoing.

(187) ***"Substation 20 Transmission R/W"*** means the easements or other rights appurtenant to Substation 20 described in Exhibit R attached hereto.

(188) ***"Substation Easement Agreement"*** means an agreement substantially in the form of Exhibit L-2 attached hereto.

(189) ***"Substation Equipment Operating and Dismantling Agreement"*** means an agreement substantially in the form of Exhibit L-3 attached hereto.

(190) ***"Substation Easement Real Property"*** means the real property under the Substation Easement Agreement.

(191) "***Substation License and Access Agreement***" means an agreement substantially in the form of Exhibit L-4 attached hereto.

(192) ***"Survey"*** means an American Land Title Association (ALTA) survey for each parcel of real property identified as an insured parcel in any of the Title Commitments.

(193) ***"Taxes"*** means, all taxes, charges, fees, levies, penalties or other assessments imposed by any federal, state, local, provincial or foreign taxing authority, including income, gross receipts, excise, real or personal property, sales, transfer, customs, duties, franchise, payroll, withholding, social security, receipts, license, stamp, occupation, employment or other taxes, including any interest, penalties or additions attributable thereto, and any payments to any state, local, provincial or foreign taxing authorities in lieu of any such taxes, charges, fees, levies or assessments. The term ***"Tax"*** means any one of the foregoing Taxes.

(194) ***"Tax Return"*** means any return, report, form, information return, declaration, claim for refund or other document (including any schedule or related or supporting information) required to be supplied to any Governmental Authority with respect to Taxes including amendments thereto, including any information return filed by a tax exempt organization.

(195) ***"Termination Date"*** has the meaning set forth in Section 3.1.

(196) ***"Third Party Claim"*** has the meaning set forth in Section 8.2(a).

(197) ***"Title Commitments"*** means the commitments to issue policies of title insurance and the title reports issued by Chicago Title Insurance Company and attached in Schedule 1.1(195) for each and every parcel of Acquired Land in Fee, real property described in the Airport Substation 5 Lease Agreement and Airport Substation 6 Lease Agreement, the Substation Easement Property, and other Real Property Interests that may be referenced or

identified as a parcel or right having been examined or to be insured in any title commitment or title search attached in Schedule 1.1(195).

(198) ***"Total Compensation"*** means base pay, authorized overtime, and benefits provided under all applicable Benefit Plans.

(199) "***Transaction***" has the meaning set forth in the Recitals to this Agreement.

(200) ***"Transferable Permits"*** means the Environmental Permits and the Non-Environmental Permits that are transferable at the Closing.

(201) ***"Transferred Employee Records"*** means all records related to Transferred Employees, including the following information, as long as disclosure is not prohibited under the Health Insurance Portability and Accountability Act, the Health Information Technology for Economic and Clinical Health Act, or similar applicable Laws: (i) skill and development training; (ii) seniority histories; (iii) salary and benefit information; (iv) Occupational, Safety and Health Administration reports; (v) active medical restriction forms; (vi) fitness for duty; (vii) disciplinary actions; (viii) job performance appraisals or evaluations; (ix) employment applications; (x) bonuses; (xi) job history; and (xii) access authorization records.

(202) ***"Transferred Employees"*** means all Seller Employees whose primary work responsibilities are with respect to the Acquired Assets, who are employed by Seller as of the date immediately preceding the Closing Date and who accept continued employment with Buyer as of the Closing Date.

(203) ***"Transfer Taxes"*** means any sales, use, value added, excise, stamp, documentary, recording, registration, conveyance, stock transfer, intangible property transfer, personal property transfer, real property transfer, gross receipts, registration, duty, securities transactions or similar fees or Taxes or governmental charges (together with any interest or penalty, addition to Tax or additional amount imposed) as levied by any Governmental Authority in connection with the transactions contemplated by this Agreement, including any payments made in lieu of any such Taxes or governmental charges which become payable in connection with the transactions contemplated by this Agreement.

(204) ***"Transmission Assets"*** means the electric transmission tangible personal property, excluding real property, used in or for the Business of the Vero Beach Electric Utility or located on the Real Property, including the facilities, equipment and other tangible property and assets that connect the Distribution Assets to the Interconnection Points (and other property and assets associated with or ancillary thereto), transformers, breakers, capacitor banks, switches, arresters, instrument transformers, substation structures, substations, buswork, substation battery and chargers, relay protection panels, relay communications/carriers, remote telemetry and control equipment, metering, fault recorders, sequence of event recorders, annunciators, relay vaults, substation fencing, transmission lines, conductors, transmission line structures and poles, and control buildings.

(205) ***"Vehicles"*** means the vehicles listed in Schedule 1.1(203).

(206) ***"Vero Beach Electric Utility"*** means the electric utility system of electricity transmission and distribution owned and operated by Seller prior to the Closing Date and, provided that the Closing occurs, owned and operated by Buyer on and after the Closing Date.

(207) "***Warn Act***" means the federal Worker Adjustment and Retraining Notification Act of 1988, and similar state, local and foreign laws related to plant closings, relocations, mass layoffs and employment losses.

(208) "***Willful Buyer Breach***" has the meaning set forth in Section 9.2(c).

(209) "***Willful Seller Breach***" has the meaning set forth in Section 9.2(b).

Section 1.2 Certain Interpretive Matters.

(a) Unless otherwise required by the context in which any term appears:

(i) Capitalized terms used in this Agreement shall have the meanings specified in this Article.

(ii) The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and neuter.

(iii) References to "Articles", "Sections", "Schedules" or "Exhibits" shall be to articles, sections, schedules or exhibits of or to this Agreement, and references to "paragraphs" or "clauses" shall be to separate paragraphs or clauses of the section or subsection in which the reference occurs.

(iv) The words "herein", "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; and the words "include", "includes" or "including" shall mean "including, but not limited to."

(v) The term "day" shall mean a calendar day, commencing at 12:00:01 a.m. (Eastern Time). The term "week" shall mean any seven consecutive day period commencing on a Sunday, and the term "month" shall mean a calendar month; provided, however, that when a period measured in months commences on a date other than the first day of a calendar month, the period shall run from and including the date on which it starts to and including the date immediately preceding the corresponding date in the next month and, as appropriate, to succeeding months thereafter. Whenever an event is to be performed or a payment is to be made by a particular date and the date in question falls on a day which is not a Business Day, the event shall be performed, or the payment shall be made, on the next succeeding Business Day; provided, however, that all calculations shall be made regardless of whether any given day is a Business Day and whether or not any given period ends on a Business Day.

(vi) The words "substantially in the form of" or words of similar effect when used with respect to the form of any Ancillary Agreement or other agreement

or document that has been included as an Exhibit to this Agreement and that is to be executed and delivered by the Parties or any third party or third parties, or executed and delivered by one of the Parties or any third party or third parties, in either case after the Date of this Agreement pursuant to, or in order to satisfy, any covenant, obligation or condition set forth in this Agreement shall refer to the applicable form that is attached to this Agreement with such changes as the Parties may otherwise agree are necessary or appropriate, with such agreement to be evidenced by the Parties' execution thereof, including the insertion of mutually agreeable legal descriptions following preparation of a Survey for any applicable real property.

(b) The titles of the articles, sections, schedules and exhibits herein have been inserted as a matter of convenience of reference only, and shall not control or affect the meaning or construction of any of the terms or provisions hereof.

(c) The Parties acknowledge and agree that: (i) this Agreement (A) shall be construed and interpreted as an arms-length contract entered into by parties with equal bargaining power and (B) was negotiated and prepared by both Parties with advice of counsel to the extent deemed necessary by each Party; (ii) the Parties have agreed to the wording of this Agreement; and (iii) none of the provisions hereof shall be construed against either Party on the ground that such Party is the author of this Agreement or any part hereof.

(d) The Schedules and Exhibits hereto are incorporated in and are intended to be a part of this Agreement.

ARTICLE 2
PURCHASE AND SALE

Section 2.1 Acquired Assets.

Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, at the Closing, Seller will sell, assign, convey, transfer and deliver to Buyer, and Buyer will purchase and acquire from Seller, free and clear of all Encumbrances (except for Permitted Encumbrances), all of Seller's right, title and interest in or to the property, assets and rights (other than the Excluded Assets), of every kind, nature, character and description, whether real, personal or mixed, tangible or intangible, owned (or hereafter acquired), wherever located, that are primarily used by Seller in or for, the Business of the Vero Beach Electric Utility (collectively, the ***"Acquired Assets"***); provided, that the Acquired Assets shall specifically include all of Seller's right, title and interest in or to the following property, assets and rights (other than the Excluded Assets):

(a) the Transmission Assets;

(b) the Distribution Assets;

(c) the Customer Service Assets;

(d) the Inventory;

(e) the Vehicles;

(f) except for the Inventory and the Vehicles, all machinery, mobile or otherwise, equipment (including computer hardware and communications equipment), tools, works in progress, fixtures, furniture and furnishings and other personal property;

(g) all books, operating records, licensing records, quality assurance records, purchasing records, manuals, standards, equipment repair, maintenance or service records, operating, safety and maintenance manuals, inspection reports, environmental assessments, engineering design plans, documents, blueprints and as built plans, specifications, drawings, procedures and other similar items of Seller, whether existing in hard copy or magnetic or electronic form other than books and records set forth in Section 2.2(o) (collectively, the ***"Business Books and Records"***);

(h) the Acquired Land in Fee, and any of Seller's improvements to the Acquired Land in Fee, together with all of Seller's rights appurtenant thereto, including related rights of ingress and egress;

(i) the Real Property Interests (other than the Acquired Land in Fee);

(j) the Transferable Permits;

(k) the Assumed Contracts, including any associated unexpired assignable warranties and guarantees from third parties;

(l) Seller's interest in the FPUA Joint Facilities;

(m) the Streetlight Assets;

(n) any causes of action or Actions and defenses against third parties (including indemnification and contribution) to the extent directly related to any Assumed Liabilities, but excluding any defenses by virtue of sovereign immunity or defenses related thereto that may arise pursuant to F.S. 768.28 or otherwise;

(o) the Transferred Employee Records;

(p) the Electric Utility Accounting Records;

(q) all models and systems used for the forecasting, modeling, management and operation of the Acquired Assets; and

(r) all property, assets and rights, excluding cash and cash equivalents, associated with emergency or wind storm preparedness for the Acquired Assets.

Notwithstanding the foregoing, the transfer of the Acquired Assets pursuant to this Agreement shall not include the assumption of any Liability related to the Acquired Assets unless Buyer expressly assumes that Liability pursuant to Section 2.3. Seller may retain a copy of all Business Books and Records and Electric Utility Accounting Records and any other records and documents as deemed appropriate by Seller.

Section 2.2 Excluded Assets.

Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed as conferring on Buyer, and Buyer is not acquiring, any right, title or interest in or to any assets not used primarily in the Business of the Vero Beach Electric Utility (or otherwise identified as an Excluded Contract), including the following specific property, assets and rights (the ***"Excluded Assets"***), which are hereby specifically excluded from the Transaction and the definition of Acquired Assets herein and which shall remain the property of Seller after the Closing:

(a) cash and cash equivalents, including bank deposits and accounts;

(b) customer accounts and notes receivable for periods prior to the Closing Date;

(c) income, sales, payroll and other receivables and assets relating to Taxes, prior to the Closing Date;

(d) except as otherwise set forth in Section 6.10, Seller Benefit Plans and any assets thereof;

(e) refunds, rebates and credits for any period or periods prior to the Closing Date;

(f) the Excluded Contracts;

(g) any portion of the Fiber Optic System and associated assets owned by one or more of Seller, Indian River County and the School District of Indian River County;

(h) the Power Plant real property and improvements thereon;

(i) the Power Plant Substation, the Power Plant Substation Site real property and improvements thereon;

(j) the Grand Harbor property owned by Seller and described in Exhibit T;

(k) Seller's insurance policies and proceeds thereof and all rights to applicable claims and proceeds thereunder, except as set forth in this Agreement;

(l) all rights to the Acquired Assets necessary for or used by Seller to provide other municipal or utility functions other than electric service, including those specified on Schedule 2.2(l);

(m) the Excluded Inventory;

(n) the Customer Deposits;

(o) any books and records which Seller is prohibited from disclosing or transferring to Buyer under applicable Law;

(p) all rights to any causes of action or Actions and defenses against third parties (including indemnification and contribution) other than directly related to the Assumed Liabilities;

(q) all real property not listed in Section 2.1 hereof;

(r) any vehicles that are the subject of capital leases as of the Closing;

(s) all rights of Seller under this Agreement, the Ancillary Agreements, the FMPA Transfer Agreement, OUC Termination Agreement, and the Retained Agreements; and

(t) all rights granted to Buyer under the Franchise Ordinance.

Section 2.3 Assumed Liabilities.

At the Closing, Buyer shall deliver to Seller the Assignment and Assumption Agreement pursuant to which Buyer shall assume and agree to pay, perform and discharge when due, all of the Liabilities and obligations specifically listed below, other than the Excluded Liabilities (collectively, ***"Assumed Liabilities"***):

(a) all Liabilities arising on or after the Closing Date under (i) the Assumed Contracts and (ii) the Transferable Permits;

(b) all Liabilities of Seller with respect to Transferred Employees for which Buyer is responsible pursuant to Section 6.10;

(c) all Liabilities for (i) Transfer Taxes for which Buyer is liable pursuant to Section 6.8(a) and (ii) Post-Closing Taxes, other than Income Taxes, if any, arising from the transactions contemplated by this Agreement;

(d) all Liabilities pursuant to Section 3.6(c) hereof;

(e) any Liabilities as to which Buyer is liable under the terms of Section 6.11 hereof;

(f) all Liabilities explicitly assumed by Buyer in this Agreement and not otherwise listed in this Section 2.3; and

(g) all other Liabilities and obligations arising out of or relating to Buyer's ownership of the Acquired Assets or operation of the Vero Beach Electric Utility on or after the Closing Date, including subject to Section 3.6, all Liabilities under the Assumed Contracts and the Transferable Permits arising out of any event, condition, circumstance, act or omission occurring on or after the Closing Date other than as a result of Seller's breach of any Assumed Contract or Transferable Permit prior to the Closing.

Section 2.4 Excluded Liabilities.

Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to impose on Buyer, and Buyer shall not assume or be obligated to pay, perform or otherwise discharge, the following Liabilities (the ***"Excluded Liabilities"***), with all of such Excluded Liabilities remaining the responsibility, and as obligations hereunder, of Seller except as provided in the last paragraph of this Section:

(a) any Liabilities in respect of any Excluded Assets;

(b) all Liabilities under the Assumed Contracts arising out of any breach (or event that would be a breach if not cured) that occurred and has not been cured prior to the Closing Date;

(c) any Liability under or relating to any Seller Contract that is not an Assumed Contract;

(d) Seller's responsibility with respect to the Environmental Liabilities under the terms of Section 6.22 (not to exceed the Aggregate Environmental Cap);

(e) all Liabilities for Pre-Closing Taxes, including for the avoidance of doubt Income Taxes, if any due by Seller, arising from the transactions contemplated by this Agreement;

(f) all Liabilities with respect to the Transferred Employees relating to or arising from any event, condition, circumstance, or act or omission of Seller occurring prior to the Closing Date, other than Liabilities specifically assumed by Buyer in Section 2.3(b);

(g) all Liabilities with respect to the Retained Employees;

(h) except as otherwise set forth in Section 6.10, all Liabilities relating to any Seller Benefit Plans, or any other plan, program, arrangement or policy of Seller, including accrued sick pay, established or maintained in whole or in part by Seller or by any Person (whether or not incorporated) which is or ever has been under common control, or which is or ever has been treated as a single employer, with Seller or to which Seller contributes or contributed, including any such Liability of Seller (i) for the termination or discontinuance of, or Seller's withdrawal from, any such Benefit Plan (including any multiemployer plan as defined in Section 3(37) of ERISA), (ii) relating to benefits payable under any Seller Benefit Plans, (iii) with respect to noncompliance by Seller with the notice requirements of COBRA under ERISA or the Public Health Service Act, to the extent applicable, (iv) with respect to any noncompliance by Seller with the Code or any other applicable Laws, and (v) with respect to any suit, proceeding or claim which is brought against Seller, any Seller Benefit Plan or any fiduciary or former fiduciary of, any of the Seller Benefit Plans;

(i) any Liabilities relating to the failure by Seller to hire, the employment or services or termination of employment or services by Seller of any individual, including wages, compensation, benefits, affirmative action, personal injury, discrimination, harassment, retaliation, wrongful discharge, unfair labor practices or constructive termination by

Seller of any individual, or any similar or related claim or cause of action attributable to any actions or inactions by Seller prior to the Closing Date with respect to the Transferred Employees, independent contractors, applicants, and any other individuals who are determined by a court or by a Governmental Authority to have been applicants or employees of Seller; and

(j) any other Liabilities not expressly assumed by Buyer pursuant to Section 2.3 or Liabilities expressly allocated to or retained by Seller in this Agreement, including pursuant to Section 3.6(c).

For the avoidance of doubt, the term "***Excluded Liability***" shall not mean any Environmental Liabilities that exceed the limitation on Seller's responsibility or liability for Environmental Liabilities under Section 6.22.

Section 2.5 Airport Warehouse Lease Agreement.

Subject to Section 6.4(f), commencing on the Closing Date for a period of one calendar year, with annual renewal options for Buyer to extend the term for an additional calendar year not to exceed ten years in the aggregate, Buyer shall lease the Airport Warehouse Property from Seller on terms and conditions set forth in the Airport Warehouse Lease Agreement, and pay Seller base rent per year, as approved by the FAA, plus applicable Taxes, payable in monthly installments.

ARTICLE 3
THE CLOSING

Section 3.1 Closing.

Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, the sale, assignment, conveyance, transfer and delivery of the Acquired Assets to Buyer and the assumption of the Assumed Liabilities by Buyer shall take place at a closing (the "***Closing***"), to be held at 700 Universe Blvd, Juno Beach, FL 33408, at 10:00 a.m. local time, or another mutually acceptable time and location, on the date that is the first day of the month following the day on which the last of the conditions precedent to Closing set forth in Article 7 of this Agreement has been either satisfied or waived by the Party for whose benefit such conditions precedent exist (except with respect to those conditions which by their terms are to be satisfied at Closing), but in no event will the Closing occur later than December 31, 2018 or such later date pursuant to the terms of Sections 9.1(e), (f), or (g), or such other date as the Parties may mutually agree to in writing or as extended pursuant to Sections 6.11, 6.12 or 9.1 hereof (the "***Termination Date***"). The date of Closing is hereinafter called the ***"Closing Date."*** The Closing shall be effective for all purposes as of 12:00:01 a.m. Eastern Time, on the Closing Date (the "***Effective Time***").

Section 3.2 Purchase Price.

Upon the terms and subject to the satisfaction of the conditions contained in this Agreement, in consideration of the aforesaid sale, assignment, conveyance, transfer and delivery of the Acquired Assets, the assumption of the Assumed Liabilities and entry into the Ancillary Agreements (including the Franchise Ordinance), Buyer will pay to or for the benefit of Seller in

accordance with Section 3.4 the sum of $185 million dollars (the ***"Purchase Price"***), plus or minus any adjustments to such Purchase Price pursuant to the provisions of Section 3.3 below, subject to the payment requirements set forth in Section 3.4 below.

Section 3.3 Adjustment to Purchase Price.

(a) Subject to Sections 3.3(b) and 3.3(c), the Purchase Price shall be adjusted, without duplication, to account for the items set forth in this Section 3.3(a):

(i) The Purchase Price shall be adjusted to account for the items prorated pursuant to Section 3.6;

(ii) The Purchase Price shall be increased by the amount of Prepaid Expenses; and

(iii) The Purchase Price shall be adjusted by the amount of any change to the FMPA Transfer Payment in accordance with the FMPA Transfer Agreement, to the extent approved by Buyer.

(b) No fewer than ten (10) Business Days prior to the Closing Date, Seller shall prepare in good faith and deliver to Buyer an estimated closing statement (the ***"Estimated Closing Statement"***) that shall set forth Seller's best estimate of all estimated adjustments to the Purchase Price required by Section 3.3(a) (collectively, the ***"Estimated Closing Adjustments"***) together with reasonable supporting information and documentation, which shall include a reasonably detailed explanation of the calculation of the Estimated Closing Adjustments and documentation sufficient to confirm the accuracy of such calculation. The Estimated Closing Statement shall be prepared using the same accounting principles, policies and methods as Seller has historically used in connection with the calculation of the items reflected on such Estimated Closing Statement.

(c) Within sixty (60) Business Days after the Closing Date, Seller shall prepare and deliver to Buyer a final closing statement (the ***"Post-Closing Statement"***) that shall set forth all adjustments and any prorations pursuant to Section 3.6(b), to the Purchase Price required by Section 3.3(a) (the ***"Proposed Post-Closing Adjustment"***) together with reasonable supporting information and documentation, which shall include a reasonably detailed explanation of the calculation of the Proposed Post-Closing Adjustments and documentation sufficient to confirm the accuracy of such calculation. The Post-Closing Statement shall be prepared using the same accounting principles, policies and methods as Seller has historically used in connection with the calculation of the items reflected on such Post-Closing Statement. If Buyer wishes to object to the Proposed Post-Closing Adjustment, Buyer must give notice to Seller of such objection within thirty (30) days after the delivery of the Post-Closing Statement by Seller to Buyer, which objection shall include detailed information for such objections and documentation sufficient to confirm the accuracy of such objections. Seller and Buyer agree to cooperate with one another to provide one another with the information used to prepare the Post-Closing Statement or any objection thereto and information relating thereto. If Buyer objects to the Proposed Post-Closing Adjustment, the Parties shall attempt to resolve such dispute by negotiation. If the Parties do not fully resolve such dispute within thirty (30) days after any

objection by Buyer, the Parties shall appoint the Independent Accounting Firm (with the cost of such Independent Accounting Firm to be borne equally by the Parties) within fifteen (15) days after the expiration of such thirty (30) day period to review the remaining dispute regarding the Proposed Post-Closing Adjustment and determine, subject to any prorations pursuant to Section 3.6(b), the appropriate adjustment to the Purchase Price, if any, within thirty (30) days after such appointment. The Parties agree to cooperate with the Independent Accounting Firm and provide it with such information as it reasonably requests to enable it to make such determination. The Independent Accounting Firm shall act as an expert and not as an arbitrator and shall make findings only with respect to the remaining disputes so submitted to it (and not by independent review). The finding of such Independent Accounting Firm shall be binding on the Parties hereto. Upon determination of the appropriate adjustment (the ***"Post-Closing Adjustment"***) by agreement of the Parties or by binding determination of the Independent Accounting Firm, the Party owing the difference shall deliver such amount to the other Party no later than thirty (30) days after such determination, in immediately available funds or in any other manner as reasonably requested by the payee.

Section 3.4 Payment of Purchase Price.

(a) Payment of the Purchase Price shall be made by wire transfer of immediately available funds denominated in U.S. dollars at the Closing in accordance with customary closing procedures and in accordance with the provisions set forth in this Section 3.4 below.

(b) A portion of the Purchase Price shall be deposited in trust under an escrow deposit agreement acceptable to the Parties with an independent escrow agent acceptable to the Parties either in (i) monies in an amount that shall be sufficient, or (ii) Investment Securities (as defined in the Bond Resolution) the principal of and the interest on which when due will provide monies which, together with other monies, if any, deposited in the escrow deposit agreement, shall be sufficient to pay when due the principal or redemption price, if applicable, and interest due and to become due on the Electric Utility Bonds on or prior to the redemption date or maturity date thereof, as the case may be ("***Bond Release Consideration***"); provided, however, the Bond Release Consideration shall not exceed ***$20.4 million dollars***. The sufficiency of such deposit of monies or non-callable Defeasance Obligations shall be verified by an independent certified public accountant acceptable to the Parties and irrevocable instructions shall be provided under the escrow deposit agreement to the escrow agent thereunder to cause the publication and provision of any required redemption notice in accordance with the Bond Resolution, and there shall be delivered to the Parties opinions of bond counsel to Seller, in a form satisfactory to the Parties, to the effect that the pledge of the Pledged Revenues (as defined in the Bond Resolution), and all covenants, agreements and obligations of Seller to the holders of the Electric Utility Bonds, and all liens, benefits or security under the Bond Resolution with respect to the Electric Utility Bonds, have thereupon ceased, terminated and become void, discharged and satisfied.

(c) Seller may direct Buyer to wire funds on Seller's behalf directly to FMPA as Seller's consideration to FMPA under the FMPA Transfer Agreement and to OUC as Seller's consideration for the OUC Termination Agreement pursuant to procedures acceptable to the Parties, OUC, and FMPA respectively.

(d) Seller may direct Buyer to wire funds not exceeding the balance of the Purchase Price on Seller's behalf to any Person (e.g., Seller's counsel); provided such payment obligation is associated with the Transaction.

(e) The balance of Purchase Price as adjusted by Section 3.3 shall be paid as directed by Seller.

Section 3.5 Allocation of Purchase Price.

(a) At least thirty (30) days prior to the Closing Date, Buyer shall use Commercially Reasonable Efforts to make an estimated allocation among the Acquired Assets of the sum of the Purchase Price and the Assumed Liabilities that is consistent with the allocation methodology provided by Section 1060 of the Code and the regulations promulgated thereunder (the ***"Estimated Allocation"***). The Estimated Allocation (or other allocation determined by Buyer in accordance with Section 1060) will be used for Transfer Tax and for all other Closing document purposes.

(b) A portion of the Purchase Price in the amount of ***$2 million dollars*** shall be in consideration of the Substation Easement Agreement.

(c) Within ninety (90) days after the Closing Date, Buyer shall make an allocation among the Acquired Assets of the sum of the Purchase Price (including any adjustments thereto) and the Assumed Liabilities (together with any other relevant items) that is consistent with the allocation methodology provided by Section 1060 of the Code and the regulations promulgated thereunder (the ***"Allocation"***). Seller (to the extent Seller is required to make any such reports) shall report the transactions contemplated by this Agreement for all purposes in a manner consistent with the Allocation. Subsequent to the preparation of the Estimated Allocation and the Allocation, Buyer and Seller agree to provide the other with any information required to complete Form 8594 or other filing or report within ten (10) days of the request for such information. Buyer and Seller shall notify and provide the other with reasonable assistance in the event of an examination, audit or other proceeding relating to the allocation required under this Section 3.5. Buyer and Seller shall treat the transaction contemplated by this Agreement as the acquisition by Buyer of a trade or business for United States federal income Tax purposes and agree that no portion of the consideration shall be treated in whole or in part as the payment for services or future services.

Section 3.6 Prorations.

(a) Buyer and Seller agree that all of the items normally prorated, including those listed below (but not including Taxes), relating to the Acquired Assets and the Business of the Vero Beach Electric Utility shall be prorated, with Seller liable to the extent such items relate to any time period prior to the Closing Date, and Buyer liable to the extent such items relate to periods commencing on the Closing Date (measured in the same units used to compute the item in question, otherwise measured by calendar days):

(i) assessments and other charges (other than Taxes), if any, relating to the ownership, use or business of the Acquired Assets;

(ii) any prepaid expenses (including security deposits) relating to the Acquired Assets, but excluding any Prepaid Expenses payable by Buyer pursuant to Section 3.3(a)(ii);

(iii) any purchases of Acquired Assets during the six-month period prior to the Closing Date that (A) will have a remaining useful life of more than five years after the Closing Date, (B) exceed $25,000 per Acquired Asset, and (C) the acquisition of such Acquired Asset has been approved by Buyer, such approval not to be unreasonably withheld, conditioned or delayed;

(iv) rent and all other items (including prepaid services or goods not included in Inventory) payable under any of the Assumed Contracts;

(v) any fees, charges or other payments with respect to any Transferable Permit;

(vi) sewer rents and charges for water, telephone, electricity and other utilities for the substations being acquired hereunder;

(vii) fees or charges (other than Taxes) imposed by any Governmental Authority; and

(viii) rent and other items (other than Taxes) payable or receivable relating to the Real Property Interests.

(b) In connection with the prorations referred to in (a) above, in the event that actual figures are not available as of the date immediately preceding the Closing Date, the prorations shall be based upon the actual amounts accrued through the date immediately prior to the Closing Date or paid for the most recent year (or other appropriate period) for which actual amounts paid are available. Such prorated amounts shall be determined at the same time as the Post-Closing Statement, set forth in Section 3.3(c), as part of the Post-Closing Statement. Prorations measured by calendar days shall be based on the number of days in a year or other appropriate period (i) before the Closing Date and (ii) on and after the Closing Date. Seller and Buyer agree to furnish each other with such documents and other records as may be reasonably requested in order to confirm all adjustment and proration calculations made pursuant to this Section 3.6.

(c) To the extent that the proration of an item under this Section 3.6 allocates a portion of such item to a period (or portion thereof) ending before the Closing Date, such portion shall constitute an Excluded Liability. To the extent that the proration of an item under this Section 3.6 allocates a portion of such item to a period (or portion thereof) ending on or after the Closing Date, such portion shall constitute an Assumed Liability.

Section 3.7 Deliverables by Seller.

At the Closing, Seller will deliver, or cause to be delivered, the following to Buyer:

(a) Deeds for the Acquired Land In Fee, excluding the Substation 20 Transmission R/W, duly executed by Seller and in recordable form;

(b) The Assignment and Assumption of Easements, duly executed by Seller and in recordable form;

(c) Each Airport Substation Lease Agreement, together with the related memorandum of such lease, duly executed by Seller and in recordable form;

(d) The Airport Warehouse Lease Agreement, together with the related memorandum of such lease, duly executed by Seller and in recordable form;

(e) The District Licenses, each duly executed by the District and Seller and in recordable form;

(f) The District Sublicenses, each duly executed by Seller and in recordable form;

(g) The Substation Easement Agreement, duly executed by Seller and in recordable form;

(h) The Substation Equipment Operating and Dismantling Agreement, duly executed by Seller;

(i) Releases or satisfactions of Encumbrances, other than Permitted Encumbrances, on the Acquired Assets, arising after the effective date of the Title Commitments (or other action to permit the issuance of a title policy to Buyer without regard to such Encumbrances), if such Encumbrances, to Seller's Knowledge, materially interfere with the Business of the Vero Beach Electric Utility in the ordinary course as conducted prior to the Closing Date;

(j) Seller's affidavit, substantially in the form of Exhibit D attached hereto;

(k) The Bill of Sale, duly executed by Seller;

(l) The Assignment and Assumption Agreement, duly executed by Seller;

(m) Copies of any and all Governmental Authority and other third party consents, waivers or approvals obtained by Seller with respect to the transfer of the Acquired Assets to Buyer, or the consummation of the transactions contemplated by this Agreement, set forth on Schedule 4.3, including the consent of the FMPA Members in the form of binding resolutions by the applicable Governing Authority with respect to each such FMPA Member, the waiver and consent of OUC to the transfer of the FMPA Agreements to which OUC is a third party beneficiary, subject to Section 3.9 below and the release of OUC's third party beneficiary rights under the agreements described in clauses (iii), (iv), (v) and (vi) of the definition of FMPA Agreements;

(n) The Grounding License Agreement, together with the related memorandum of such lease, duly executed by Seller and in recordable form;

(o) All other Ancillary Agreements, duly executed by Seller, as applicable;

(p) All Retained Agreements, duly executed by Seller and the other parties thereto, as applicable;

(q) Copies, certified by the City Clerk of Seller, of evidence of approval by the Council of the Transaction, this Agreement, the Retained Agreements, the FMPA Transfer Agreement, the OUC Termination Agreement, the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby (including the execution and delivery hereof and thereof), in the form of a written resolution adopted by the Council, signed by the Mayor of Seller and attested to by the City Clerk;

(r) A copy of each document required to be delivered by FMPA to Seller at the Closing under the terms of the FMPA Transfer Agreement;

(s) A copy of each document required to be delivered by OUC to Seller at the Closing under the terms of the OUC Termination Agreement;

(t) To the extent available, originals of the Assumed Contracts, the Transferred Employee Records and the Transferable Permits and, if not available, true and correct copies thereof;

(u) All such other instruments of assignment, transfer or conveyance as shall, in the reasonable opinion of Buyer and its counsel, be necessary or desirable to transfer to Buyer Seller's interest in the Acquired Assets and to perform its obligations hereunder, including under Section 6.10, in accordance with this Agreement and where necessary or desirable in recordable form;

(v) [intentionally omitted]

(w) [intentionally omitted]

(x) A complete list of Seller Employees as of the Closing Date by name and by position; and

(y) Such other agreements, consents, documents, instruments and writings as are required to be delivered by Seller at or prior to the Closing pursuant to this Agreement or the Ancillary Agreements.

Section 3.8 Deliverables by Buyer.

At the Closing, Buyer will deliver, or cause to be delivered, the following to Seller or as otherwise provided in Section 3.4:

(a) The Purchase Price payable pursuant to Section 3.4, as adjusted pursuant to Section 3.3;

(b) The Assignment and Assumption Agreement, duly executed by Buyer;

(c) Each Airport Substation Lease Agreement, together with the related memorandum of such lease, duly executed by Buyer and in recordable form;

(d) The Airport Warehouse Lease Agreement, together with the related memorandum of such lease, duly executed by Buyer and in recordable form;

(e) The District Sublicenses, each duly executed by Buyer and in recordable form;

(f) The Assignment and Assumption of Transmission Easements, duly executed by Buyer and in recordable form;

(g) The Assignment and Assumption of Distribution Easements, duly executed by Buyer and in recordable form;

(h) All other Ancillary Agreements to which Buyer is a party, duly executed by Buyer and in recordable form, where applicable;

(i) The Grounding License Agreement, together with the related memorandum of such lease, duly executed by Buyer and in recordable form;

(j) The Substation Easement Agreement, duly executed by Buyer and in recordable form;

(k) The Substation Equipment Operating and Dismantling Agreement, duly executed by Buyer;

(l) The waiver and consent of Buyer to the transfer of the FMPA Agreements to which Buyer is a third party beneficiary;

(m) The release of Buyer's third party beneficiary rights under the agreements described in clauses (i) and (ii) of the definition of FMPA Agreements;

(n) A certificate of the Secretary or any Assistant Secretary of Buyer certifying as to the resolutions adopted by Buyer's board of directors approving the Transaction, this Agreement, and the consummation of the transactions contemplated hereby and thereby (including the execution and delivery hereof and thereof);

(o) A certificate of the Secretary or any Assistant Secretary of Buyer identifying the name and title and bearing the signatures of the officers of Buyer authorized to execute and deliver this Agreement, and the other agreements and instruments contemplated hereby;

(p) A certificate of active status with respect to Buyer, issued by the Secretary of State, Division of Corporations, of the State of Florida;

(q) All such other instruments of assumption as shall, in the reasonable opinion of Seller and its counsel, be necessary for Buyer to assume the Assumed Liabilities in accordance with this Agreement; and

(r) Such other agreements, documents, instruments and writings as are required to be delivered by Buyer at or prior to the Closing pursuant to this Agreement or the Ancillary Agreements.

Section 3.9 Non-Assignable Contracts and Liabilities.

To the extent that the sale, assignment, transfer, or delivery, or attempted sale, assignment, transfer, or delivery, to Buyer of any Acquired Contract or assumption or attempted assumption of an Assumed Liability would require the consent, authorization, approval or waiver of a third party (including any Governmental Authority) and such consent, authorization, approval or waiver shall not have been obtained prior to the Closing, this Agreement shall not constitute a sale, assignment, transfer, or delivery, or attempted sale, assignment, transfer, or delivery, or assumption, or attempted assumption, thereof and, subject to the satisfaction or waiver of the other conditions contained in Article 7, the Closing shall occur notwithstanding the failure to obtain the necessary consent, authorization, approval or waiver of the applicable third party, without any adjustment to the Purchase Price on account thereof. Buyer and Seller shall use Commercially Reasonable Efforts to enter into such arrangements (such as subleasing, sublicensing or subcontracting) to provide to the Parties the economic and operational equivalent, to the extent permitted by applicable Law, of the assignment to Buyer of such Assumed Contract or Assumed Liability, and Buyer's assumption of such Assumed Contract or Assumed Liability effective as of the Effective Time and the performance by Buyer of its obligations with respect thereto. Following the Closing for a period of one calendar year (or such other length of time as may be agreed by the Parties), Seller and Buyer shall use Commercially Reasonable Efforts, and shall cooperate with each other, to obtain any such required consent, authorization, approval or waiver to the assignment or assumption of any such Acquired Contract or Assumed Liability, at which time the arrangements described in this Section 3.9 for any such Acquired Contract or Assumed Liability shall cease and be of no further force or effect.

Section 3.10 Customer Service

At Closing, the Parties shall execute an orderly and seamless transition from Seller to Buyer of the information systems, computer applications and processing of data for Buyer to commence conducting the Business of the Vero Beach Electric Utility pursuant to Section 6.16.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF SELLER

Seller hereby represents and warrants to Buyer as follows:

Section 4.1 Organization.

Seller is a duly created and validly existing municipal corporation under the Constitution and laws of the State of Florida and has all requisite power and authority to own, lease, and operate its properties and to carry on its business as it is now being conducted.

Section 4.2 Authority Relative to This Agreement.

Seller has full power and authority to execute and deliver this Agreement and, except as provided in the next paragraph of this Section 4.2, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and, except as provided in the next paragraph of this Section 4.2, the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action required on the part of Seller and no other proceedings on the part of Seller are necessary to authorize this Agreement or, except as provided in the next paragraph of this Section 4.2, to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Seller, and assuming that this Agreement constitutes a valid and binding agreement of Buyer, this Agreement constitutes the legal, valid and binding agreement of Seller, enforceable against Seller in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

Upon the approval by the Council of the Ancillary Agreements, the Retained Agreements and the FMPA Transfer Agreement and OUC Termination Agreement:

(a) Seller will have full power and authority to execute and deliver the Ancillary Agreements, the Retained Agreements and the FMPA Transfer Agreement and OUC Termination Agreement and to consummate the transactions contemplated thereunder;

(b) the execution and delivery of the Ancillary Agreements, the Retained Agreements and the FMPA Transfer Agreement and OUC Termination Agreement and the consummation of the transactions contemplated thereby will be duly and validly authorized by all necessary action required on the part of Seller and no other proceedings on the part of Seller will be necessary to authorize the Ancillary Agreements, the Retained Agreements and the FMPA Transfer Agreement and OUC Termination Agreement or to consummate the transactions contemplated thereunder; and

(c) at the Closing, the Deeds, the Ancillary Agreements, the Retained Agreements and the FMPA Transfer Agreement and OUC Termination Agreement will be duly and validly executed and delivered by Seller and, assuming that this Agreement, the Ancillary Agreements, the Retained Agreements and the FMPA Transfer Agreement and OUC Termination Agreement constitute the valid and binding agreements of Buyer and the counterparties thereto, as the case may be, the Deeds, the Ancillary Agreements, the Retained Agreements and the FMPA Transfer Agreement and OUC Termination Agreement will constitute the legal, valid and binding agreements of Seller, enforceable against Seller in accordance with their terms, except as such enforceability may be limited by bankruptcy,

insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

Section 4.3 Consents and Approvals; No Violation.

Subject to the receipt of the third party consents set forth in Schedule 4.3, and subject to any Permitted Exception, neither the execution and delivery of this Agreement, the Deeds, the Retained Agreements, the Ancillary Agreements or the FMPA Transfer Agreement and OUC Termination Agreement by Seller nor the consummation by Seller of the transactions contemplated hereby or thereby will:

(a) conflict with or result in the breach or violation of any provision of the charter or other organizational or governing documents of Seller;

(b) to the Knowledge of Seller, except as stated in Schedule 4.3 and excluding any Real Property Interest Instrument, require any consent or other action by any Person, or result in a default (or give rise to any right of termination, cancellation or acceleration), under any of the terms, conditions or provisions of any material Contract with respect to the Business of the Vero Beach Electric Utility to which Seller is a party or by which Seller or any of the Acquired Assets may be bound, except where the failure to obtain such consent or other action or all of such consents or other actions (or a waiver thereof) at or prior to the Closing would not individually or in the aggregate, result in a Material Adverse Effect;

(c) violate any Law of, or applicable to, Seller which violation or violations would individually or in the aggregate, result in a Material Adverse Effect; or

(d) result in the imposition or creation of an Encumbrance (other than a Permitted Encumbrance) on any Acquired Assets which Encumbrance or Encumbrances, individually or in the aggregate, would create a Material Adverse Effect.

Section 4.4 Reports.

Except as provided in Schedule 4.4, Seller has filed or caused to be filed with the applicable federal, state or local utility commissions or regulatory bodies (including NERC and other national and regional electric reliability organizations), as the case may be, all material forms, statements, reports and documents (including all exhibits, amendments and supplements thereto) required to be filed by Seller with respect to the Acquired Assets or the Business of the Vero Beach Electric Utility under applicable Law. To the Knowledge of Seller, all such filings complied in all material respects with all applicable requirements therefor in effect on the date each such form, statement, report and document was filed.

Section 4.5 Undisclosed Liabilities.

Except as set forth in Schedule 4.5, to Seller's Knowledge, the Acquired Assets are not subject to any liabilities that would be required to be disclosed in the liabilities column of a balance sheet prepared in accordance with GAAP, other than: (a) liabilities reflected in the "Electric Utility" portion of the City of Vero Beach comprehensive annual financial report for

2016, including the notes thereto, as of September 30, 2016, that have not been paid or satisfied; and (b) other liabilities incurred in the ordinary course of the Business of the Vero Beach Electric Utility.

Section 4.6 Real Property, Title and Related Matters.

(a) Schedule 4.6(a) contains a list of all Encumbrances (other than Permitted Encumbrances) relating to or affecting any material Real Property Interest for which Seller will secure a release or satisfaction before Closing.

(b) Based exclusively on the Title Commitments, to Seller's Knowledge, Seller has good and marketable or insurable title to each parcel of Acquired Land in Fee, free and clear of all Encumbrances, except for matters disclosed by the Title Commitments and except for Permitted Encumbrances. Except as set forth on Schedule 4.6(b), Seller has good and valid title to each Acquired Asset constituting tangible personal property or a fixture free and clear of all Encumbrances, except Permitted Encumbrances. Except for the FPUA Right of First Refusal, the Permitted Exceptions, or as set forth on Schedule 4.6(b), there are no outstanding rights, options, agreements or other commitments giving any Person any current or future right to require Seller or, following the Closing, Buyer, to sell or transfer to such Person or to any third Person any interest in any of the Acquired Assets that are material to the Business of the Vero Beach Electrical Utility. To Seller's Knowledge, there are no actual or pending claims against Seller that any of the Acquired Assets encroach or trespass on the rights of another Person.

(c) Except for the District Licenses, to Seller's Knowledge, Seller does not license any Real Property material to the Business of the Vero Beach Electrical Utility.

(d) Seller makes no representation or warranty as to the status of title to any Real Property Interest except as may be set forth in the Deed, and except that Seller has no Knowledge of any failure of its title to any Real Property Interest evidenced by a recorded instrument that would prevent its continued operation of the Business of the Vero Beach Electrical Utility in accordance with Seller's Past Practices.

(e) To Seller's Knowledge, no parcel of Acquired Land in Fee has been abandoned by Seller and each such parcel is in the possession of, under the control of, or beneficially used by Seller in connection with the Business of the Vero Beach Electric Utility.

(f) Seller does not have any Knowledge of receipt by Seller of any written notice of:

(i) except as disclosed in Schedule 4.6(e)(i), any pending or threatened proceedings in eminent domain, for rezoning or otherwise, which would result in a taking or rezoning of any Real Property Interests that would prevent the continued operation of the Business of the Vero Beach Electric Utility in accordance with Seller's Past Practices; or

(ii) any violations on the Acquired Land in Fee or any portion thereof of any material covenants, conditions or restrictions applicable thereto.

(g) Except for amounts payable or receivable as set forth in Schedule 4.6(f) or as set forth in any Lease Agreement or any other financial information delivered to Buyer, there are no other rents, fees, royalties, water or sewer charges, Taxes or assessments or other amounts payable or receivable by Seller in connection with any Real Property or any tenancies, licenses, occupancies or co-tenancies related to any Real Property Interests or any improvements thereon that are Acquired Assets.

(h) Except for Permitted Encumbrances, the Lease Agreements, Seller's retained rights to provide municipal and utility services, and as otherwise disclosed in this Agreement, to Seller's Knowledge, there are no commitments or agreements with any Governmental Authority or public or private utility to grant any rights to use any portion of the Real Property without compensation.

Section 4.7 Operability; Condition of the Vero Beach Electric Utility; Sufficiency of Real Property Interests.

(a) Except for the Excluded Assets, the Acquired Assets constitute all of the material assets, property and rights used in the Business of the Vero Beach Electric Utility on the Date of this Agreement and, except as disclosed in Schedule 4.7, the Acquired Assets are in a condition sufficient to operate the Vero Beach Electric Utility as it was being operated on May 17, 2017 in all material respects.

(b) To Seller's Knowledge, no material Acquired Asset is in need of any material repair or replacement except (i) as disclosed in Schedule 4.7(b), (ii) as may be set forth in the Capital Expenditure and Maintenance Plan, (iii) normal wear and tear, (iv) routine repairs or replacements in the ordinary course consistent with Seller's Past Practices and (v) needed repairs or replacements that would be disclosed by a visual inspection.

Section 4.8 Insurance.

Schedule 4.8 sets forth all of Seller's material insurance policies of property damage, fire, liability, worker's compensation and other forms of insurance relating (but not necessarily exclusively) to the Acquired Assets. Such policies are in full force and effect, all premiums with respect thereto covering all periods up to and including the Date of this Agreement have been paid, and no written notice of cancellation, non-renewal or termination has been received by Seller with respect to any such policy which was not replaced by a policy or policy having substantially similar coverages prior to the date of such cancellation. All required notices have been sent to insurers to preserve all material claims under the aforementioned insurance policies.

Section 4.9 Environmental Matters.

Except as disclosed in Schedule 4.9:

(a) To Seller's Knowledge, Seller has obtained and holds all material Environmental Permits necessary with respect to the Acquired Land in Fee, the real property described in the Airport Property Lease Agreements and the Business of the Vero Beach Electric Utility, each such Environmental Permit is in full force and effect and Seller is in compliance with all of its obligations thereunder. There are no proceedings pending or, to Seller's

Knowledge, threatened that would reasonably be expected to result in the revocation, termination, suspension, modification or amendment of any such Environmental Permit, and Seller has not failed to make in a timely fashion any application or other filing required for the renewal of any such Environmental Permit which failure would reasonably be expected to result in any Environmental Permit being revoked, terminated, suspended or adversely modified. To Seller's Knowledge, no such Environmental Permit will terminate or be subject to termination or revocation as a result of the transactions contemplated by this Agreement;

(b) To Seller's Knowledge, Seller has not within the last three (3) years received any written notice from any Governmental Authority that any material Real Property Interest, the Substation Easement Real Property, or the Business of the Vero Beach Electric Utility are not or have not been in compliance with, any Environmental Law or any Environmental Permit;

(c) There are no Environmental Claims pending or, to Seller's Knowledge, threatened against Seller with respect to any material Real Property Interest, the Substation Easement Real Property, or the Business of the Vero Beach Electric Utility. Seller does not have Knowledge of any facts or circumstances which are reasonably likely to result in any Environmental Claim against Seller with respect to the Acquired Land in Fee, the real property described in the Airport Property Lease Agreements, the Substation Easement Real Property, or the Business of the Vero Beach Electric Utility;

(d) Within the last three (3) years, to Seller's Knowledge, no Releases of Hazardous Substances have occurred at, from, on or under, and no Hazardous Substances are present on or migrating from, any of the Acquired Land in Fee, the Substation Easement Real Property, or the real property described in the Airport Property Lease Agreements that are reasonably likely to give rise to an Environmental Claim against Seller or require any Remediation.

(e) To Seller's Knowledge: (i) none of the Acquired Land In Fee, the Substation Easement Real Property, or the real property described in the Airport Property Lease Agreements is an Environmental Clean-up Site, and (ii) Seller has not transported or arranged for treatment, storage, handling, disposal or transportation of any Hazardous Substances from the Acquired Land In Fee or the real property described in the Airport Property Lease Agreements to any location which is an Environmental Clean-up Site;

(f) To Seller's Knowledge, there are no (i) underground storage tanks, active or abandoned, or (ii) polychlorinated-biphenyl-containing equipment, located at, on, or under the Acquired Land In Fee, the Substation Easement Real Property, or the real property described in the Airport Property Lease Agreements;

(g) (i) To Seller's Knowledge, there are no Encumbrances (other than Permitted Encumbrances) arising under or pursuant to any Environmental Law with respect to the Acquired Land In Fee, the Substation Easement Property, the real property described in the Airport Property Lease Agreements or the Business of the Vero Beach Electric Utility, and (ii) Seller does not have Knowledge of any facts, circumstances or conditions that are reasonably likely to or result in any Encumbrance (other than Permitted Encumbrances) arising under or

pursuant to any Environmental Law with respect to the Acquired Land In Fee, the Substation Easement Real Property, the real property described in the Airport Property Lease Agreements or relating to the Business of the Vero Beach Electric Utility;

(h) During the past three (3) years, there have been no environmental audits or assessments with respect to the Acquired Land In Fee, the Substation Easement Real Property, the real property described in the Airport Property Lease Agreements or the Business of the Vero Beach Electric Utility by or on behalf of Seller or which are in the possession of Seller which have not been made available to Buyer prior to the execution of this Agreement;

(i) During the past three (3) years, there have been no claims by Seller against comprehensive general liability or excess insurance carriers for any Loss resulting from, relating to or arising from Environmental Claims (i) with respect to the Acquired Land In Fee, Substation Easement Real Property, or the real property described in the Airport Property Lease Agreements, or (ii) relating to the Business of the Vero Beach Electric Utility;

(j) Schedule 4.9(j) sets forth all Environmental Permits; and

(k) Seller makes no representations or warranties in respect of Environmental matters in any section of this Agreement other than this Section 4.9.

Section 4.10 Labor Matters.

Schedule 4.10 sets forth all Seller Collective Bargaining Agreements and other written employment agreements that relate to the Seller Employees. True, correct, and complete copies of such Seller Collective Bargaining Agreements and other written employment agreements that pertain to the Seller Employees, including all amendments thereto, have been made available to Buyer as of the Date of this Agreement.

Section 4.11 ERISA; Benefit Plans.

(a) Schedule 4.11(a) lists (as of the date of this Agreement) all Benefit Plans covering any Seller Employee, or maintained, administered or with respect to which contributions are made, by Seller in respect of Seller Employees (***"Seller Benefit Plans"***). True, correct, and complete copies of all Seller Benefit Plans, including all amendments thereto have been made available to Buyer.

(b) All Seller Benefit Plans are governmental plans as defined in Section 3(32) of ERISA and the Seller Benefits Plans are not subject to ERISA.

(c) Seller has no ERISA Affiliates.

(d) All Seller Benefit Plans are in material compliance with all applicable Laws.

(e) Seller has materially fulfilled its obligations under the funding requirements and filing requirements of all applicable Laws with respect to Seller Benefit Plans. No Seller Benefit Plan is a "multiemployer plan" as defined in Section 3(37) of ERISA and

Seller has never participated in or made contributions to a multiemployer plan with respect to which any liability remains unsatisfied.

(f) Seller has not made any commitment and will not take any action to establish any new Benefit Plan or modify or amend any Seller Benefit Plan that increases the Total Compensation of Transferred Employees above the Total Compensation of Transferred Employees on the Date of this Agreement, except as required by law and except for increases in Total Compensation in the ordinary course of business consistent with Seller's Past Practices.

Section 4.12 Location of Acquired Assets.

Except as set forth on Schedule 4.12, except for mobile Acquired Assets in transit, and except for Acquired Assets being repaired, all of the material physical Acquired Assets used in the Business of the Vero Beach Electric Utility are located on the Real Property or in the rights of way located in Seller's service territory for the Vero Beach Electric Utility.

Section 4.13 Contracts.

(a) Excluding the Excluded Contracts, Schedule 4.13 sets forth a complete list of the following Seller Contracts, to the extent applicable to the categories set forth in this Section 4.13(a) below, that pertain primarily to the Business of the Vero Beach Electric Utility (the ***"Material Seller Contracts"***):

(i) Contracts for the future purchase, exchange or sale of electricity, energy, capacity or other energy-related products or ancillary services;

(ii) Contracts for the future transmission of electricity;

(iii) interconnection Contracts;

(iv) Contracts (A) for the sale, transfer or other disposition of any Acquired Asset or (B) that grant a right or option to sell, transfer or otherwise dispose of any Acquired Asset, other than in each case under clause (A) or (B), any Contract entered into in the ordinary course of the Business of the Vero Beach Electric Utility with respect to any Acquired Assets or with a value of less than $25,000;

(v) Contracts for the future receipt by Seller of any Acquired Assets or services requiring payments in excess of $25,000 for each individual Contract or $50,000 in the aggregate for Contracts with the same Person;

(vi) Contracts under which Seller has created, incurred, assumed or guaranteed any outstanding Indebtedness;

(vii) Attachment Agreements or any Contract granting the right to use, to attach to or of access to, any portion of the Acquired Assets;

(viii) outstanding futures, swap, collar, put, call, floor, cap, option or other Contracts that have underlying value and payment liability driven by or tied to

fluctuations in the price of commodities, including electric power, natural gas, fuel oil, other fuel or securities;

(ix) Contracts that purport to limit Seller's freedom to compete in any line of business or in any geographic area or contain any exclusivity, most-favored nation or similar covenant; and

(x) (A) operation, maintenance or management Contracts requiring payments in excess of $25,000 for each individual Contract or $50,000 in the aggregate for Contracts with the same Person, or (B) Contracts relating to the purchase or sale of air pollutant emission allowances or credits.

(b) Except for the Excluded Contracts and the Material Seller Contracts, and except as set forth on Schedule 4.13(b), Seller is not, as of the date of this Agreement, a party to any Contract that is material to the ownership or operation of the Acquired Assets or that is material to the Business of the Vero Beach Electric Utility.

(c) Each Assumed Contract is in full force and effect and, assuming that each Assumed Contract constitutes a legal, valid and binding obligation of the other parties thereto, constitutes a legal, valid and binding obligation of Seller, is enforceable against Seller and, to the Knowledge of Seller, constitutes a legal, valid and binding obligation of the other parties thereto and is enforceable against the other parties thereto, in each case except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in law or at equity).

(d) There are no breaches, violations or defaults under any Assumed Contracts (or any conditions or events which, with notice or lapse of time or both, would constitute a default on the part of Seller, or to the Knowledge of Seller, on the part of any of the other parties thereto), which breaches, violations or defaults, individually or in the aggregate, would create a Material Adverse Effect. To Seller's Knowledge, Seller has not received written notice from any other party to any Assumed Contract that such other party intends to terminate or fail to renew at the end of its term any such Assumed Contract or materially reduce the level of any goods or services to be provided under any such Assumed Contract.

Section 4.14 Legal Proceedings.

Except as described in Schedule 4.14, there is no Action pending or, to Seller's Knowledge, threatened against Seller (a) that seeks to enjoin, prohibit, restrain or make illegal the performance of this Agreement, the Retained Agreements, the FMPA Transfer Agreement and OUC Termination Agreement or any of the Ancillary Agreements or the consummation of any of the transactions contemplated hereby or thereby or (b) with respect to any of the material Acquired Assets or the Business of the Vero Beach Electric Utility. To the Knowledge of Seller, except as set forth on Schedule 4.14, Seller is not subject to any outstanding Order affecting any of the Acquired Assets or the Business of the Vero Beach Electric Utility.

Section 4.15 Non-Environmental Permits; Compliance with Law.

(a) Schedule 4.15(a) sets forth all material Non-Environmental Permits.

(b) To Seller's Knowledge, (i) Seller has obtained and holds all material Non-Environmental Permits necessary for the Business of the Vero Beach Electric Utility, (ii) each such Non-Environmental Permit is in full force and effect, (iii) Seller is in compliance with all of its material obligations thereunder and (iv) there are no proceedings pending or threatened that would reasonably be expected to result in the revocation, termination, suspension, modification or amendment of any of such Non-Environmental Permits, except for any such revocation, termination, modification or amendment as would not create a Material Adverse Effect, and (v) Seller has not failed to make in a timely fashion any application or other filing required for the renewal of any such Non-Environmental Permit which failure would reasonably be expected to result in any such Non-Environmental Permit being revoked, terminated, suspended or adversely modified except for any such failure as would not create a Material Adverse Effect. The Acquired Assets and the Business of the Vero Beach Electric Utility are in compliance in all material respects with all terms, conditions and provisions of all applicable Laws (excluding from this representation Environmental Laws, Tax Laws and ERISA and COBRA Laws) and Non-Environmental Permits, and Seller has not, during the three (3) years prior to the Date of this Agreement, received any written notice from any Governmental Authority that Seller is not or has not been in compliance with, any applicable Law (excluding from this representation the Environmental Laws, Tax Laws and ERISA and COBRA Laws) or any Non-Environmental Permit.

Section 4.16 Regulation as a Utility.

Seller is an electric utility within the meaning of Florida Statutes Section 366.02. Except with respect to local tax and zoning Laws, Seller is not, as a result of its ownership or operation of the Acquired Assets or the Business of the Vero Beach Electric Utility, subject to regulation as a public utility or public service company (or similar designation) by any federal agency (other than the FERC) or state of the United States other than the State of Florida, or any municipality (other than Seller) or any political subdivision of the foregoing.

Section 4.17 Tax Matters.

Except as set forth on Schedule 4.17, with respect to the Acquired Assets or the Business of the Vero Beach Electric Utility, (i) all Tax Returns of Seller, if any, required to be filed for taxable periods ending prior to the Closing Date have been timely filed, and all such Tax Returns are complete and accurate in all material respects, and (ii) Seller is not liable to pay, collect, withhold, or remit any Taxes with respect to the Acquired Assets or the Business of the Vero Beach Electric Utility, and, to Seller's Knowledge, has not received any written notice from any Governmental Authority asserting any claim for Taxes. Seller makes no representations or warranties in respect of Tax matters in any section of this Agreement other than this Section 4.17.

Section 4.18 Intellectual Property.

Except as set forth in Schedule 4.18, Seller has ownership of, or a license to use, all of the material Intellectual Property used in the operation of the Acquired Assets or for the Business of the Vero Beach Electric Utility. Except as disclosed on Schedule 4.18, the rights of Seller in the Intellectual Property Licenses are freely assignable to Buyer. Except as set forth in Schedule 4.18, Seller has not received written notice of any claims or demands of any other Person pertaining to any of the Licensed Intellectual Property, and no Action is pending or, to Seller's Knowledge, threatened, which challenges the rights of Seller in respect thereof. Except as set forth in Schedule 4.18, Seller has not granted any rights to any Person in respect of any Licensed Intellectual Property. To Seller's Knowledge, none of the Licensed Intellectual Property that will be assigned to Buyer at the Closing infringes any Intellectual Property of any Person.

Section 4.19 Service Territory.

The Delivery Point for each Person purchasing electricity from Seller is located within the Service Territory.

Section 4.20 No Brokers.

No broker, finder or other Person is entitled to any brokerage fee, commission or finder's fee in connection with the transaction contemplated hereby by reason of any action taken by Seller.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Seller as follows:

Section 5.1 Organization; Qualification.

Buyer is a corporation duly incorporated and validly existing under the laws of the State of Florida and its status is active. Buyer has all requisite corporate power and authority to own, lease and operate its properties and to carry on its business as is now being conducted. Buyer has heretofore delivered to Seller complete and correct copies of its articles of incorporation and bylaws as currently in effect.

Section 5.2 Authority Relative to This Agreement.

Buyer has full corporate power and authority to execute and deliver this Agreement and, except as provided in the next paragraph of this Section 5.2, to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and, except as provided in the next paragraph of this Section 5.2, the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action required on the part of Buyer and no other corporate proceedings on the part of Buyer are necessary to authorize this Agreement or, except as provided in the next paragraph of this Section 5.2, to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and

delivered by Buyer, and assuming that this Agreement constitutes a valid and binding agreement of Seller, will constitute a valid and binding agreement of Buyer, enforceable against Buyer in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

Upon the approval by Buyer's board of directors of the Transaction:

(a) Buyer will have full corporate power and authority to execute and deliver the Ancillary Agreements to which it is a party and to consummate the transactions contemplated thereunder;

(b) the execution and delivery of the Ancillary Agreements to which Buyer will be a party and the consummation of the transactions contemplated thereby will have been duly and validly authorized by all necessary action required on the part of Buyer and no other proceedings on the part of Buyer will be necessary to authorize the Ancillary Agreements to which Buyer is a party or to consummate the transactions contemplated thereunder; and

(c) at the Closing, the Ancillary Agreements to which Buyer is a party will be duly and validly executed and delivered by Buyer and, assuming that this Agreement and the Ancillary Agreements to which Buyer is a party constitute valid and binding agreements of Seller, the Ancillary Agreements to which Buyer is a party will constitute the legal, valid and binding agreements of Buyer, enforceable against Buyer in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

Section 5.3 Consents and Approvals; No Violation.

(a) Subject to the receipt of the third-party consents set forth in Schedule 5.3(a) and the Buyer's Required Regulatory Approvals, neither the execution and delivery of this Agreement and the Ancillary Agreements by Buyer nor the consummation by Buyer of the transactions contemplated hereby or thereby will (i) conflict with or result in any breach of any provision of the articles of incorporation or bylaws of Buyer, (ii) require any consent or other action by any Person, or result in a default (or give rise to any right of termination, cancellation or acceleration), under any of the terms, conditions or provisions of any Contract to which Buyer is a party or by which Buyer or any of its assets may be bound, or (iii) violate any Laws applicable to Buyer.

(b) Except as set forth in Schedule 5.3(b) (the Permits referred to in such Schedule are collectively referred to as the ***"Buyer's Required Regulatory Approvals"***), no Permit, consent or Order is necessary for the consummation by Buyer of the transactions contemplated hereby. Buyer has no Knowledge of any facts or circumstances that make it reasonable to expect that Buyer's Required Regulatory Approvals will not be obtained.

Section 5.4 Availability of Funds.

Buyer currently has sufficient funds immediately available to it through corporate funds, credit facilities and access to capital markets to provide sufficient funds to pay the Purchase Price at the Closing and to enable Buyer to timely perform all of its obligations under this Agreement and the Ancillary Agreements.

Section 5.5 Legal Proceedings.

There are no Actions pending or, to Buyer's Knowledge, threatened against Buyer that seek to challenge, enjoin, prohibit, restrain or make illegal the performance of this Agreement or Ancillary Agreements or the consummation of any of the transactions contemplated hereby or thereby.

Section 5.6 Street Lighting Agreement.

The form of agreement attached as Exhibit J hereto is Buyer's form of street lighting agreement that is applicable on the Date of this Agreement.

Section 5.7 No Brokers.

No broker, finder or other Person is entitled to any brokerage fee, commission or finder's fee in connection with the transactions contemplated hereby by reason of any action taken by Buyer.

Section 5.8 Independent Investigation; As Is.

(a) Buyer has conducted its own independent investigation, review and analysis of the Business of the Vero Beach Electric Utility and the Acquired Assets and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of Seller for such purpose. Buyer acknowledges and agrees that: (a) in making its decision to enter into this Agreement and the Ancillary Agreements to which it is or will be a party and to consummate the transactions contemplated hereby and thereby, Buyer has relied solely upon its own investigation and physical inspection of the Acquired Assets and the express representations and warranties of Seller set forth in Article 4 of this Agreement; and (b) neither Seller nor any other Person has made and Seller specifically negates and disclaims any representation, warranty, promise, covenant, agreement or guaranty of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to Seller, the Business of the Vero Beach Electric Utility, the Acquired Assets or this Agreement or any Ancillary Agreement, except as expressly set forth in Article 4 of this Agreement.

(b) Buyer acknowledges and agrees that, except as expressly represented by Seller in Article 4, the sale of the Acquired Assets is made in an "as is" "where is" condition and basis and with all faults. It is understood and agreed that the Purchase Price has been negotiated based on the fact that the Acquired Assets are sold by Seller and purchased by Buyer subject to the foregoing acknowledgement. Without in any way limiting the generality of the foregoing, the sale of the Acquired Assets contemplated hereby is without any warranty

other than Seller's express warranties in Article 4 of this Agreement, and those warranties expressly set forth in the Ancillary Agreements, and Seller and Seller's Representatives have made no representations or warranties, they each expressly and specifically disclaim, and Buyer accepts that Seller and Seller's Representatives have disclaimed, any and all representations, guaranties or warranties, express or implied, or arising by operation of law (except Seller's warranties expressly set forth in Article 4 of this Agreement, and those warranties expressly set forth in the Ancillary Agreements), of or relating to: (i) the use, expenses, operation, characteristics or condition of the Acquired Assets, or any portion thereof, including, warranties of suitability, habitability, merchantability, design or fitness for any specific purpose or a particular purpose, or good and workmanlike construction; (ii) the environmental condition of any of the Real Property or contamination by Hazardous Substances, or the compliance of any of the Real Property with any or all regulations or laws relating to health or the Environment, including the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, and the Clean Water Act, each as may be amended from time to time, and including any and all regulations, rules or policies promulgated thereunder; or (iii) the soil conditions, drainage, flooding characteristics, accessibility or other conditions existing in, on, or under any of the Real Property.

ARTICLE 6
COVENANTS OF THE PARTIES

Section 6.1 Conduct of Business Relating to the Acquired Assets.

(a) Seller retains the exclusive responsibility for safe operation of the Vero Beach Electric Utility until the Closing, and nothing in this Agreement shall in any way alter Seller's duties or obligations under any Law or Permit. Except as described in Schedule 6.1(a), during the period from the Date of this Agreement to the Closing (the ***"Interim Period"***), Seller shall (i) operate and maintain the Acquired Assets and conduct the Business of the Vero Beach Electric Utility in the ordinary course consistent with Seller's Past Practices, (ii) use Commercially Reasonable Efforts to preserve and protect in all material respects the Acquired Assets, (iii) maintain the Transferable Permits and (iv) comply, in all material respects, with all applicable Laws and Permits relating to the Acquired Assets or the Business of the Vero Beach Electric Utility. Without limiting the generality of the foregoing, and, except as contemplated in this Agreement or as described in Schedule 6.1(a), during the Interim Period, without the prior written consent of Buyer (unless such consent would be prohibited by applicable Law), Seller shall not do any of the following with respect to the Acquired Assets:

(i) sell, transfer, remove, assign, convey, distribute or otherwise dispose of, any Acquired Assets unless such action is consistent with the Capital Expenditure and Maintenance Plan; provided, however, that, if capital expenditures or maintenance with respect to a specific Acquired Asset is not covered in the Capital Expenditure and Maintenance Plan, such Acquired Asset may be sold, transferred, removed, assigned, conveyed, distributed or otherwise disposed of in the ordinary course of the Business of the Vero Beach Electric Utility consistent with Seller's Past Practices;

(ii) except for Permitted Encumbrances (including amendments or replacements to the Permitted Encumbrances), create, permit or allow any Encumbrances to be imposed on or against any of the Acquired Assets;

(iii) grant any waiver of any material term under, exercise any material option under, or give any material consent with respect to any Assumed Contract, including waiving any material default by, or release, settle or compromise any material claim against, any other party thereto;

(iv) enter into any Contract that would, upon its effectiveness, constitute an Assumed Contract, unless such Contract replaces a comparable Assumed Contract, is terminable without cause upon not more than thirty days' notice and upon such termination, Buyer's liability for such termination would not exceed $25,000 for such Contract, and $100,000 in the aggregate, without Buyer's consent, which consent shall not be unreasonably withheld, conditioned or delayed;

(v) enter into any Assumed Contract that is not in the ordinary course of the Business of the Vero Beach Electric Utility consistent with Seller's Past Practices, unless such Contract replaces a comparable Assumed Contract, is terminable without cause upon not more than thirty days' notice and upon such termination, Buyer's liability for such termination would not exceed $25,000 for such Contract, and $100,000 in the aggregate, without Buyer's consent, which consent shall not be unreasonably withheld, conditioned or delayed;

(vi) amend or voluntarily terminate prior to the expiration date thereof any Assumed Contract or Transferable Permit, except for an Assumed Contract or Transferable Permit which is replaced by a comparable Contract or Permit or such entry, amendment or termination that is in the ordinary course of the Business of the Vero Beach Electric Utility consistent with Seller's Past Practices;

(vii) amend in any material respect or cancel any property, liability or casualty insurance policies related to the Acquired Assets or the Business of the Vero Beach Electric Utility, unless a cancelled policy is replaced with a policy having substantially similar coverages prior to the date of such cancellation, or fail to maintain such insurance policies with current insurance companies that have issued such policies, their successors, or other financially responsible insurance companies in such amounts and against such risks and losses as are customary for such assets and businesses consistent with Seller's Past Practices;

(viii) except as required by any applicable Law or GAAP, change, in any material respect, its Tax practice or policy (including making new Tax elections or changing Tax elections and settling Tax controversies not in the ordinary course of the Business of the Vero Beach Electric Utility) to the extent such change or settlement would be binding on Buyer;

(ix) (A) hire any individual (other than to replace any Seller Employee who may have resigned or have been terminated); or (B) increase the compensation or benefits payable to any Seller Employee, in each case except as required under Seller Collective Bargaining Agreements or in accordance with Seller's Past Practices;

(x) except as required by Law, enter into or amend any Contract that (A) binds Buyer to adopt or implement the terms of any Seller Collective Bargaining Agreement (or any portion thereof) or (B) obligates Buyer to deal with or recognize any union; or

(xi) agree or commit to do any of the foregoing.

(b) During the Interim Period, in the interest of cooperation between Seller and Buyer and Buyer's conducting of diligence on the transactions contemplated hereunder (including the representations and warranties of Seller hereunder) and to plan for and facilitate an orderly and seamless transition from Seller to Buyer at the Closing of ownership and operation of the Acquired Assets and the Business of the Vero Beach Electric Utility, the Parties agree that at the sole expense of Buyer, and subject to compliance with all applicable Laws and Permits, Seller will permit designated Representatives of Buyer (the ***"Observers"***) to observe any and all aspects of the Business of the Vero Beach Electric Utility, and such observation will be permitted on a cooperative basis in the presence of one or more individuals designated by Seller; provided, however, that such Observers and their actions shall not interfere unreasonably with the Business of the Vero Beach Electric Utility and such observation will be done during normal office hours of the Vero Beach Electric Utility. Seller shall use Commercially Reasonable Efforts to provide to the Observers interim furnished office space and utilities at Seller's T&D center, as reasonably necessary to allow Buyer to conduct its transition efforts through the Closing; provided, however, that Buyer shall be responsible for all of the costs relating thereto.

Section 6.2 Access to Information; Reporting.

(a) In addition to the rights granted by Section 6.1(b), during the Interim Period, in the interest of cooperation between Seller and Buyer and Buyer's conducting of diligence on the transactions contemplated hereunder (including the representations and warranties of Seller hereunder) and to plan for and facilitate an orderly and seamless transition from Seller to Buyer at the Closing of the Acquired Assets and the Business of the Vero Beach Electric Utility, Seller will (i) give Buyer and Buyer's Representatives reasonable access to (x) all management personnel engaged in the Business of the Vero Beach Electric Utility, and (y) all books, documents, records and information (including financial and operating data and Permits, reports, schedules or other documents filed with or received from any Governmental Authority) relating to the Acquired Assets or the Business of the Vero Beach Electric Utility and furnish copies thereof as Buyer may from time to time reasonably request; and (ii) permit Buyer and Buyer's Representatives to make such reasonable inspections thereof as Buyer may reasonably request; provided, however, that (A) any such investigation shall be conducted in such a manner as not to interfere unreasonably with the Business of the Vero Beach Electric Utility and during normal office hours of Seller, and (B) Seller need not supply Buyer with any information that Seller is legally prohibited from supplying or that is covered by the attorney work product doctrine or similar doctrine.

(b) During the Interim Period, promptly after obtaining Knowledge thereof, Seller shall notify Buyer in writing of, (i) any Material Adverse Effect that has occurred since the Date of this Agreement, (ii) any unanticipated maintenance or repair of any of the

Acquired Assets in an amount greater than $150,000, (iii) any material emergency condition affecting, or material unscheduled interruption of, the operation of the Acquired Assets or the Business of the Vero Beach Electric Utility, or (iv) any receipt by Seller's management personnel of a written notice of a violation of any material Law or Permit relating to the Acquired Assets or the Business of the Vero Beach Electric Utility. Any such notice shall be deemed a Schedule Supplement.

(c) Within thirty (30) days after the Date of this Agreement, Seller shall provide to Buyer true, complete and un-redacted copies of all Material Seller Contracts and Transferrable Permits in effect as of such date, and Seller shall provide an update thereto between sixty (60) and ninety (90) days prior to Closing.

Section 6.3 Expenses.

Except to the extent specifically provided herein or in the Contribution Agreement between Buyer and Seller dated August 21, 2017, whether or not the transactions contemplated hereby are consummated, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby, including the cost of legal, technical and financial consultants, shall be borne by the Party incurring such costs and expenses; provided, however, that Buyer will bear the cost of filing for and prosecuting applications for Buyer's Required Regulatory Approvals.

Section 6.4 Further Assurances; Cooperation.

(a) Subject to the terms and conditions of this Agreement, each of the Parties hereto will take, or cause to be taken, all action, and to do, or cause to be done, all things reasonably necessary, proper or advisable under applicable Laws to consummate and make effective the sale, transfer, conveyance, assignment and delivery of the Acquired Assets, the assumption of the Assumed Liabilities and the exclusion of the Excluded Liabilities pursuant to this Agreement, including taking reasonable action that is within the reasonable control of such Party to satisfy or cause to be satisfied the conditions precedent to the other Party's obligations hereunder, including, subject to the terms of Section 6.6, all regulatory approvals; provided, however, that except for the OUC Termination Payment and the FMPA Transfer Payment by Buyer under Section 3.4, nothing herein shall require either Party to incur more than immaterial expenses or payments in obtaining the agreement of FMPA to the FMPA Transfer Agreement or OUC to the OUC Termination Agreement. To the extent that authorized representatives of the Parties determine that the implementation of any covenant or obligation under this Agreement of a Party is not consistent with, or may be likely to impede, the satisfaction of the conditions precedent to a Party's obligations hereunder, including, subject to the terms of Section 6.6, obtaining all regulatory approvals, the Parties may by mutual written agreement (but without need for any amendment of this Agreement) agree to take alternative actions that the Parties determine are necessary or desirable to ensure satisfaction of the conditions precedent to each Party's obligations hereunder or to otherwise ensure consummation of the transactions contemplated by this Agreement. Except as permitted on Schedule 6.4(a), neither Buyer nor Seller will, without the prior written consent of the other, advocate or take any action which would reasonably be expected to prevent or materially impede, interfere with or delay the transactions contemplated by this Agreement or the Ancillary Agreements or which would

reasonably be expected to cause, or to contribute to causing, the other to receive less favorable regulatory treatment than that sought by the other.

(b) From time to time after the Closing Date, Seller will execute and deliver such documents to Buyer as Buyer may reasonably request, at Buyer's expense, in order to more effectively consummate the sale and purchase, including the transfer, conveyance and assignment, of the Acquired Assets or to more effectively vest in Buyer such title to the Acquired Assets (or such rights to use, with respect to Acquired Assets not owned by Seller), in accordance with the terms of this Agreement, subject to the Permitted Encumbrances. From time to time after the Closing Date, without further consideration, Buyer will, at its own expense, execute and deliver such documents to Seller as Seller may reasonably request in order to evidence Buyer's assumption of the Assumed Liabilities.

(c) Seller and Buyer agree to fully support execution of the District Licenses and the District Sublicenses in the forms attached hereto as Exhibits P and Q during the approval process thereof by the District. If the District does not approve one or more provisions of the District Licenses or the District Sublicenses in the forms attached hereto in Exhibits P and Q, then the Parties agree to negotiate in good faith to finalize and obtain approval from the District of revised terms for each unacceptable provision and each other provision affected thereby (but not any of the other provisions) that will give effect, to the fullest extent possible, to the original intention of the Parties as reflected in Exhibits P and Q.

(d) Seller and Buyer agree to fully support execution of the Fiber License Agreement in the form attached hereto as Exhibit L-1 during the approval process thereof by Indian River County and the School District of Indian River County. If Indian River County or the School District of Indian River County does not approve one or more provisions of the Fiber License Agreement in the form attached hereto in Exhibit L-1, then the Parties agree to negotiate in good faith to finalize and obtain approval from Indian River County and the School District of Indian River County of revised terms for each unacceptable provision and each other provision affected thereby (but not any of the other provisions) that will give effect, to the fullest extent possible, to the intention of the Parties as reflected in Exhibit L-1. Prior to the Closing, Buyer and Seller shall exercise Commercially Reasonable Efforts to negotiate an agreement satisfactory to Buyer, Seller, Indian River County and the School District of Indian River County, regarding the continued attachment, on the poles that are being sold to Buyer under this Agreement, of that portion of the Fiber Optic System that is attached to Seller's electric poles as of the Effective Time (the "***Pole Agreement***").

(e) Seller and Buyer agree to fully support execution of the Airport Substation Lease Agreements in the forms attached hereto as Exhibits I-1A and I-1B during the approval process thereof, if any, by the FAA or FDOT, including rent as set forth in the definitions of the Airport Substation Lease Agreements. If FAA or FDOT approval of any Airport Substation Lease Agreement is required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT and the FAA or FDOT, as applicable, does not approve one or more provisions of the Airport Substation Lease Agreements (including approval of the rent amounts) in the forms attached hereto in Exhibit I-1A or I-1B, then the Parties agree to negotiate in good faith to finalize and obtain approval from the FAA or FDOT, as applicable, of revised terms for each unacceptable provision and each other provision affected

thereby (but not any of the other provisions) that will give effect, to the fullest extent possible, to the intention of the Parties as reflected in Exhibits I-1A or I-1B, as applicable. For the avoidance of doubt, if the FAA or FDOT is required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT to approve an Airport Substation Lease Agreement, Seller shall not be obligated to execute such Airport Substation Lease Agreement unless the form thereof has been approved by the FAA or FDOT, as applicable.

(f) Seller and Buyer agree to fully support execution of the Airport Warehouse Lease Agreement in the form attached hereto as Exhibit I-2 during the approval process thereof, if any, by the FAA or FDOT, including rent as set forth in Section 2.5. If the FAA or FDOT approval of the Airport Warehouse Lease Agreement is required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT and the FAA or FDOT, as applicable, does not approve one or more provisions (including rent as set forth in Section 2.5) of the Airport Warehouse Lease Agreement in the form attached hereto in Exhibit I-2, then the Parties agree to negotiate in good faith to finalize and obtain approval from the FAA or FDOT, as applicable, of revised terms for each unacceptable provision and each other provision affected thereby (but not any of the other provisions) that will give effect, to the fullest extent possible, to the intention of the Parties as reflected in Exhibit I-2. For the avoidance of doubt, if the FAA or FDOT is required by applicable Law or by the provisions of any applicable contract with or grant from the FAA or FDOT to approve the Airport Warehouse Lease Agreement, Seller shall not be obligated to execute such Airport Warehouse Lease Agreement, unless the form thereof has been approved by the FAA or FDOT, as applicable.

(g) To the extent that any of the Grounding Equipment is owned individually by Indian River County or the School District of Indian River County or jointly between them, or jointly among them and Seller, Seller and Buyer agree to fully support execution of one or more Grounding License Agreements, in the form of the Grounding License Agreement, between Buyer and the owner of each segment of such Fiber Optic System during the approval process thereof by Indian River County and the School District of Indian River County, as applicable. If the approval of Indian River County or the School District of Indian River County of any Grounding License Agreement is required by applicable Law or by the provisions of any applicable contract and Indian River County or the School District of Indian River County, as applicable, does not approve one or more provisions of the Grounding License Agreements in the form attached hereto in Exhibit Y, then the Parties agree to negotiate in good faith to finalize and obtain approval from Indian River County or the School District of Indian River County, as applicable, of revised terms for each unacceptable provision and each other provision affected thereby (but not any of the other provisions) that will give effect, to the fullest extent possible, to the intention of the Parties as reflected in Exhibit Y. For the avoidance of doubt, if Indian River County or the School District of Indian River County is required by applicable Law or by the provisions of any applicable contract to approve a Grounding License Agreement, Seller shall not be obligated to execute such Grounding License Agreement unless the form thereof has been approved by Indian River County or the School District of Indian River County, as applicable.

(h) Seller agrees to reasonably cooperate if requested by Buyer to resolve any actual or alleged defect in title of an Acquired Asset, whether or not such defect is a covered under a title insurance policy, at Buyer's sole expense.

(i) For the avoidance of doubt, notwithstanding anything to the contrary in this Agreement, Seller shall not be obligated to incur any additional expenses related to the Airport Lease Agreements, Seller Pole and Antenna Attachment Termination Agreements or any other Ancillary Agreement or to satisfy any conditions precedent in Article 7 hereof, other than what is expressly contemplated by this Agreement.

Section 6.5 Public Documents.

(a) Any document submitted by a Party to the other under this Agreement or during the negotiation of this Agreement or any Ancillary Agreements (***"Public Document"***) will be a public record (as defined in Section 119.011, Florida Statutes) and may be open for inspection or copying by any person or entity except to the extent such document or certain information included in such document is exempted under Chapter 119, Florida Statutes. Buyer may claim that certain information included in one or all of the Public Documents is, or has been treated as, being exempt from disclosure under Chapter 119, Florida Statutes. In the event that Seller is requested or required by legal or regulatory authority to disclose any Public Document, Seller shall within three (3) Business Days notify Buyer of such request or requirement prior to disclosure so that Buyer may seek an appropriate protective order if Buyer believes certain information included in such Public Document is confidential or exempt from disclosure under Florida Law; provided, however, that any fees and costs associated with such protective order shall be paid by Buyer, and Buyer shall defend Seller from any and all liability and pay any fees and costs associated with contesting the confidentiality or exemption of any Public Document. To the extent reasonably possible and permissible under Florida Law, Seller shall endeavor to provide redacted versions of documents, upon request of Buyer if Seller reasonably agrees with Buyer's assertion that certain information included in such Public Document is exempt from public disclosure under Florida Law.

(b) Except to the extent otherwise required by Law, the Parties shall not issue any official press release with respect to this Agreement or the transactions contemplated hereby without first affording the non-disclosing Party the opportunity to review and comment on such official press release, except for any press release made in order to comply with applicable Law or stock exchange rules.

Section 6.6 Consents; Approvals.

(a) ***[Intentionally Omitted.]***

(b) [***Intentionally Omitted***.]

(c) Buyer will have the responsibility for securing approval of the FERC for this transaction under Section 203 of the Federal Power Act (the "***FERC Approval***"). Seller shall promptly provide Buyer any information requested in regards to such application. In fulfilling their respective obligations set forth in this Section 6.6(c), Seller and Buyer shall use their Commercially Reasonable Efforts. Prior to Buyer's submission of such application with the FERC, Buyer shall submit such application to Seller for review and comment and Buyer shall consider any revisions reasonably requested by Seller. Seller and Buyer shall respond promptly to all requests from the FERC or its staff for additional information regarding such application

and use their respective Commercially Reasonable Efforts to participate in any hearings, settlement proceedings or other proceedings ordered by the FERC with respect to the application. Buyer shall be solely responsible for the cost of filing this application, any petition for rehearing, or any reapplication. If requested by Buyer, Seller shall intervene in the proceeding before the FERC and shall support the application.

(d) Buyer will have the responsibility for securing approval of the FPSC for: (i) authority under Rule 25-9.044, Florida Administrative Code, to charge Buyer's existing retail electric rates to former Customers of the Vero Beach Electric Utility; (ii) approval of the FPL Termination Agreement under Rule 25-6.0440, Florida Administrative Code; (iii) regulatory accounting matters including treatment of any acquisition adjustment arising from Buyer's purchase of the Acquired Assets as a regulatory asset; and (iv) any other matters for which approval of the FPSC is determined by Buyer to be necessary or advisable to consummate the transactions contemplated by this Agreement (collectively, "***FPSC Approval***"). Prior to Buyer's submission of any application for FPSC Approval, Buyer shall submit such application to Seller for review and comment and Buyer shall consider any revisions reasonably requested by Seller. Seller and Buyer shall respond promptly to all requests from the FPSC or its staff for additional information regarding such application and use their respective Commercially Reasonable Efforts to participate in any hearings, settlement proceedings or other proceedings ordered by the FPSC with respect to the application. Buyer shall be solely responsible for the cost of filing this application, any petition(s) for rehearing, or any reapplication(s). If requested by Buyer, Seller shall intervene in any proceeding before the FPSC and shall support the application at Buyer's sole cost.

(e) Seller and Buyer shall cooperate with each other and, as promptly as practicable after the Date of this Agreement, (i) prepare and make with the Federal Communications Commission and, to the extent not specified in Section 6.6(a) through (d), any other Governmental Authority having jurisdiction over Seller, Buyer or the Acquired Assets, all necessary filings required to be made with respect to the transactions contemplated hereby, (ii) effect all necessary applications, notices, petitions and filings, (iii) use Commercially Reasonable Efforts to obtain the transfer or reissuance to Buyer of all necessary Transferable Permits, and (iv) use Commercially Reasonable Efforts to obtain all necessary consents, approvals and authorizations of all other parties, in the case of each of the foregoing clauses (i), (ii), (iii), and (iv), necessary or advisable to consummate the transactions contemplated by this Agreement (including Buyer's Required Regulatory Approvals). The Parties shall respond promptly to any requests for additional information made by such agencies, use their respective Commercially Reasonable Efforts to participate in any hearings, settlement proceedings or other proceedings ordered with respect to the applications, and use their respective Commercially Reasonable Efforts to cause regulatory approval to be obtained at the earliest possible date after the date of filing. Buyer shall be solely responsible for the cost of filing any application, any petition(s) for rehearing, or any reapplication(s) with respect to the filings referenced in this Section 6.6(e). Seller and Buyer shall have the right to review in advance all filings made in connection with the transactions contemplated hereby and the filing Party shall consider in good faith any revisions reasonably requested by the non-filing Party.

(f) Buyer shall have the responsibility for securing the transfer, reissuance or procurement of the Transferable Permits effective as of the Closing Date, and for

those Transferable Permits that may not be transferred or reissued until after the transfer of ownership of the Acquired Assets, promptly after the Closing Date. Seller shall cooperate, at Buyer's cost, with Buyer's efforts in this regard and assist in any transfer or reissuance of Transferable Permits held by Seller or the procurement of any other Permit when so reasonably requested by Buyer, even after the Closing. In the event that Buyer is unable, despite its Commercially Reasonable Efforts, to obtain a transfer or reissuance of one or more of the Transferable Permits as of the Closing Date, Buyer may use the applicable Transferable Permit issued to Seller, provided (i) such use is not unlawful, (ii) Buyer continues to make Commercially Reasonable Efforts to obtain a transfer or reissuance of such Transferable Permit after the Closing Date, and (iii) Buyer indemnifies and holds Seller harmless for any Losses, claims or penalties suffered by Seller and pays Seller for any costs or expenses incurred by Seller in connection with such Transferable Permit that is not transferred or reissued as of the Closing Date resulting from Buyer's ownership or operation of the Acquired Assets following the Effective Time.

Section 6.7 [Intentionally Omitted.]

Section 6.8 Tax Matters.

(a) Buyer shall pay any and all Transfer Taxes in connection with this Agreement and the transactions contemplated hereby, including all required documentary stamp tax on the Deed and all instruments executed by either of the Parties in connection with this Agreement. Buyer and Seller will file, to the extent required by applicable Law, all necessary Tax Returns and other documentation with respect to all such Transfer Taxes, and, if required by applicable Law, will each join in the execution of any such Tax Returns or other documentation.

(b) Buyer shall prepare and timely file all Tax Returns required to be filed after the Closing with respect to the Acquired Assets, if any, and shall duly and timely pay all such Taxes shown to be due on such Tax Returns.

(c) Each of the Parties shall provide the other with such assistance as may reasonably be requested by the other Party in connection with the preparation of any Tax Return, any audit or other examination by any taxing authority, or any judicial or administrative proceedings relating to Liability for Taxes or effectuating the terms of this Agreement, and each will retain and provide the requesting Party with any records or information which may be relevant to such return, audit or examination, proceedings or determination. Any information obtained pursuant to this Section 6.8(c) or pursuant to any other Section hereof providing for the sharing of information or review of any Tax Return or other schedule relating to Taxes shall be kept confidential by the Parties hereto, except to the extent such information is required to be disclosed by Law.

Section 6.9 Updating Disclosure Schedules.

During the Interim Period, Seller shall promptly (but no later than thirty (30) days after obtaining Knowledge thereof) notify Buyer of any changes or additions to the Seller Disclosure Schedules required by this Agreement with respect to any matter hereafter arising of which it becomes aware after the date hereof which, if existing or occurring on the Date of this

Agreement, would have been required to be set forth or described in such Seller Disclosure Schedules (each, a "***Schedule Supplement***"). If the matters disclosed in such Schedule Supplement (or the matters disclosed in such Schedule Supplement together with the matters disclosed in prior Schedule Supplements) have had or are reasonably likely to have a Material Adverse Effect, Buyer has the right to terminate this Agreement under the terms and conditions of Section 9.1(e) (including, without limitation, the notice and cure period provided therein). If Buyer does not terminate this Agreement under the terms and conditions of Section 9.1(e), Buyer shall be deemed to have irrevocably waived any right to (a) terminate this Agreement with respect to such matters (including, without limitation, any later right to terminate this Agreement under the terms and conditions of Section 9.1(e) based solely on such matters disclosed and previously disclosed in prior Schedule Supplements), or (b) fail to consummate the Transaction described in this Agreement based solely on such matters disclosed and previously disclosed in prior Schedule Supplements; provided, however, such matters can be taken into consideration together with any matters which are subsequently disclosed to Buyer, or of which Buyer becomes aware, in determining whether the aggregate breaches of representations or warranties and aggregate matters disclosed in any Schedule Supplements, collectively, constitute a Material Adverse Effect with respect to Section 9.1.(e).

Section 6.10 Employees.

(a) Buyer shall offer employment commencing as of the Closing Date to all Seller Employees (i) who are employed by Seller on the date immediately preceding the Closing Date, (ii) who have not previously been terminated for cause by Buyer or any of its Affiliates, and (iii) who meet applicable qualification requirements for the applicable positions with Buyer (which qualification requirements with respect to the Seller Employees will not vary materially from the qualification requirements for other comparable positions within Buyer). Subject to any voluntary separations of Seller Employees from Buyer, Buyer shall continue to employ at least the minimum number of Seller Employees, who accepted Buyer's offer of employment, for the minimum duration necessary to avoid creating any obligation under the WARN Act on the part of Seller. The Seller Employees as of the Date of this Agreement are set forth on Schedule 6.10(a) by position. Except as otherwise negotiated with the Buyer Union Representative, Total Compensation for Transferred Employees shall be in the aggregate comparable to the Total Compensation provided to similarly situated employees of Buyer. The Parties shall cooperate in preparation of communications materials applicable to the Transferred Employees. Seller agrees to provide to Buyer, within ten (10) Business Days following receipt of a request from Buyer at any time and from time to time during the Interim Period and at Closing, a complete list of Seller Employees by name and by position. Not later than 30 days before the Closing Date, Buyer shall give Seller notice as to which Seller Employees, if any, Buyer has determined are not eligible to receive an offer of employment by Buyer.

(b) Transferred Employees offered positions that are covered by Buyer's collective bargaining agreement shall be provided with employment, Total Compensation and terms and conditions of employment as negotiated with the applicable Buyer Union Representative.

(c) As of the Closing Date, Transferred Employees shall commence participation in the Benefit Plans of Buyer, its ERISA Affiliates or, if applicable, the benefit plans negotiated by the Buyer Union Representative (the ***"Buyer Benefit Plans"***).

(d) Effective as of the Closing Date, except as otherwise negotiated by Buyer and the Union Representative, Transferred Employees prospectively shall accrue pension benefits under the Buyer Retirement Plan cash balance formula on terms and conditions applicable to similarly situated Buyer employees. Notwithstanding the foregoing, effective as of the Closing Date and except as otherwise negotiated by Buyer and the Union Representative, Transferred Employees will accrue pension credits at the same level as nonbargaining eligible employees of Buyer who have attained at least five (5) years of service.

(e) Subject to any applicable collective bargaining requirements, Buyer shall (i) waive all waiting periods with respect to the Transferred Employees and (ii) provide each Transferred Employee with credit for any co-payments and deductibles for claims incurred during the plan year of the applicable Buyer Benefit Plan in which the Closing Date falls. Seller will use its reasonable best efforts to provide sufficient information to enable Buyer to provide such credits for co-payments and deductibles. To the extent Seller fails to provide such sufficient information, each Transferred Employee shall be responsible for providing written evidence to enable Buyer to provide accurate credit for such co-payments and deductibles.

(f) Subject to any applicable collective bargaining requirements, Transferred Employees shall be granted credit for all service with Seller under all Buyer Benefit Plans in which such Transferred Employees become participants for purposes of eligibility, vesting and service related level (except for purposes of qualifying for Buyer's retiree welfare benefits and benefit accrual under Buyer's defined benefit pension plan). No period of service with Seller may be credited to Transferred Employees under Buyer's defined benefit plan if such period of service forms the basis of a retirement benefit or pension under Seller's Defined Benefit Plan.

(g) Seller shall be responsible for extending COBRA continuation coverage, or its equivalent, to former Seller Employees and qualified beneficiaries of such former Seller Employees who are or became entitled to such COBRA continuation coverage during the Interim Period by reason of the occurrence of a qualifying event occurring before the Closing Date. Buyer shall be responsible for providing COBRA continuation coverage only to Transferred Employees and qualified beneficiaries of Transferred Employees for COBRA qualifying events occurring on or after the Closing Date.

(h) Seller shall remain responsible for paying Transferred Employees for: (a) all salary, wages, and Seller Benefit Plan benefits, and (b) all workers' compensation, disability benefits, or life insurance benefits for which entitlement to payment is based upon events occurring prior to the Closing including any incurred but unreported claims under the Seller Benefit Plans and Seller shall be responsible for making its required contributions to the Seller Defined Benefit Plan and Seller Defined Contribution Plan. Subject to any applicable collective bargaining requirements, Buyer will assume liability for all floating holidays, sick days, vacation days and personal days of each Transferred Employee that have accrued but

remain unused or unpaid by such Transferred Employee as of the date immediately preceding the Closing Date up to the accrual limits therefor under Buyer's employee policies and procedures for similarly situated employees of Buyer.

(i) Any individual who would have otherwise become a Transferred Employee but who on the date immediately preceding the Closing Date is not actively at work due to a leave of absence covered by the Family and Medical Leave Act or similar state or local Law, short-term disability or any other authorized leave of absence shall be entitled to become a Transferred Employee once the individual is able to return to active-at-work status, but only if the individual is able to return to active-at-work status within ninety (90) days after the Closing Date; otherwise such individual shall remain a Retained Employee of Seller.

Section 6.11 Casualty.

(a) Casualty During the Interim Period. If a Casualty occurs during the Interim Period, Seller shall give notice to Buyer of such occurrence, within thirty (30) days after such occurrence has ended, and shall include in such notice a detailed estimate of the Cure Amount and an estimate of the Available Proceeds with respect to such Casualty (the "***Casualty Notice***").

(b) Casualty Prior to July 1, 2018. If the Casualty occurs during the Interim Period and the occurrence of the Casualty ends prior to July 1, 2018:

(i) if Seller estimates in the Casualty Notice that the Cure Amount will not exceed the sum of the Maximum Uncovered Loss Amount plus the insurance proceeds with respect to such Casualty (as described in clause (i) of the definition of Available Proceeds) that have been collected or are collectible by Seller, Seller shall repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty so that the Vero Beach Electric Utility will operate in accordance with the Seller's Past Practice, and Seller shall bear the risk of recouping any costs associated with such repair or replacement; or

(ii) if Seller estimates in the Casualty Notice that the Cure Amount will exceed the sum of Maximum Uncovered Loss Amount plus the insurance proceeds with respect to such Casualty (as described in clause (i) of the definition of Available Proceeds) that have been collected or are collectible by Seller, Seller may elect in the Casualty Notice either to:

(1) terminate this Agreement, in which event this Agreement will be deemed terminated sixty days after the Casualty Notice has been given unless, during such sixty day period, Buyer gives Seller a notice agreeing to reimburse Seller promptly and hold Seller harmless for the entire amount by which the Cure Amount exceeds the sum of the Maximum Uncovered Loss Amount plus any Available Proceeds actually recovered by Seller during the period prior to the Closing Date (in which event: (A) this Agreement will not be deemed terminated at the end of such sixty day period; (B) Seller shall repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty so that the Vero Beach Electric Utility will operate in accordance with the Seller's Past Practice; and (C) Buyer will reimburse Seller promptly and hold Seller harmless for the entire amount by which the Cure

Amount exceeds the sum of the Maximum Uncovered Loss Amount plus any Available Proceeds actually recovered by Seller); or

(2) extend the Closing Date by up to one (1) year after the occurrence of the Casualty has ended to permit Seller to: (A) repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty; and (B) attempt to obtain the Available Proceeds.

(iii) If Seller makes an election under Section 6.11(b)(ii)(2): (A) Seller shall repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty so that the Vero Beach Electric Utility will operate in accordance with the Seller's Past Practice; (B) the Closing shall occur on the Closing Date as extended by Seller under Section 6.11(b)(ii)(2), provided that all of the other conditions to the Closing have been satisfied or waived in accordance with the terms of this Agreement; and (C) Buyer shall not be responsible for reimbursing Seller or holding Seller harmless for any of the costs of such repairs or replacements.

(iv) If Seller estimates in the Casualty Notice that the Cure Amount will exceed the sum described in Section 6.11(b)(ii), but Seller fails to make an election under Section 6.11(b)(ii)(1) or Section 6.11(b)(ii)(2) in such Casualty Notice, Seller shall be deemed to have elected, and shall be required, to repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty so that the Vero Beach Electric Utility will operate in accordance with the Seller's Past Practice, and the Closing shall proceed in accordance with the terms of this Agreement, provided that all of the other conditions to Closing have been satisfied or waived in accordance with the terms of this Agreement, and Seller shall bear the risk of recouping any costs associated with such repair or replacement.

(c) Casualty On or After July 1, 2018. If a Casualty occurs during the Interim Period and the occurrence of the Casualty ends on or after July 1, 2018:

(i) If Seller estimates in the Casualty Notice that the Cure Amount will not exceed the sum of Maximum Uncovered Loss Amount plus the insurance proceeds with respect to such Casualty (described in clause (i) of the definition of Available Proceeds) that have been collected or are collectible by Seller, then Buyer shall have the right to elect, by giving notice to Seller within thirty (30) days after Seller has given the Casualty Notice to Buyer, to either:

(1) extend the Closing Date to permit Seller to: (A) repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty; and (B) attempt to obtain the proceeds with respect to such Casualty described in clause (ii) of the definition of Available Proceeds; or

(2) proceed to the Closing under this Agreement, provided that all other conditions to the Closing have been satisfied or waived in accordance with the terms of this Agreement.

(ii) If Seller estimates in the Casualty Notice that that the Cure Amount will exceed the sum of the Maximum Uncovered Loss Amount plus the insurance

proceeds with respect to such Casualty (described in clause (i) of the definition of Available Proceeds) that have been collected or are collectible by Seller, then Buyer will have the right to elect, by giving notice to Seller within thirty (30) days after Seller has given Buyer the Casualty Notice, to either:

(1) terminate this Agreement, in which case this Agreement will be deemed to have terminated fifteen (15) days after such notice of termination is given; or

(2) extend the Closing Date to permit Seller to: (A) repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty; and (B) exercise good faith reasonable efforts during the period prior to the Closing Date to collect Available Proceeds with respect to such Casualty, in accordance with Seller's Past Practice during similar Casualty events.

(iii) If Buyer makes an election under Section 6.11(c)(i)(1): (A) Seller shall have the right, in its sole discretion, to determine the period of such extension of the Closing Date (such period not to exceed one year); (B) Seller shall repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty so that the Vero Beach Electric Utility will operate in accordance with the Seller's Past Practice; and (C) Seller shall exercise good faith reasonable efforts during the period prior to the Closing Date to collect Available Proceeds, in accordance with Seller's Past Practice during similar Casualty events.

(iv) If Buyer makes an election under Section 6.11(c)(i)(2): (A) Seller shall repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty so that the Vero Beach Electric Utility will operate in accordance with the Seller's Past Practice; (B) the Closing shall occur on the Closing Date, provided that all of the other conditions to the Closing have been satisfied or waived in accordance with the terms of this Agreement; (C) Seller shall exercise good faith reasonable efforts during the period prior to the Closing Date to collect Available Proceeds, in accordance with Seller's Past Practice during similar Casualty events; and (D) Buyer shall pay, reimburse and hold Seller harmless for the costs of any such repairs or replacements made by Seller that exceed Available Proceeds that have been collected by Seller prior to the Closing Date.

(v) If Buyer makes an election under Section 6.11(c)(ii)(2): (A) Seller shall have the right, in its sole discretion, to determine the period of such extension of the Closing Date (such period not to exceed one year); (B) Seller shall repair or replace the Acquired Assets that were damaged or destroyed as a result of the Casualty so that the Vero Beach Electric Utility will operate in accordance with Seller's Past Practice; (C) Seller shall exercise good faith reasonable efforts during the period prior to the Closing Date to collect the Available Proceeds, in accordance with Seller's Past Practice during similar Casualty events; and (D) Buyer shall pay, reimburse and hold Seller harmless at Closing for the costs of any such repairs or replacements made by Seller that exceed the Available Proceeds that have been collected by Seller.

(d) Closing Before Repairs Completed. If the Closing occurs, under the terms of Section 6.11(b) or Section 6.11(c), before all of the repairs or replacements have

been made to the damaged or destroyed Acquired Assets, then (i) at the Closing, Seller will stop conducting such repairs and replacements and will assign to Buyer all Contracts with respect to such repairs or replacements which have not been completed, or as to which payment in full has not been made by Seller, and Buyer shall assume all of such Contracts as Assumed Liabilities (subject to Buyer's prior approval of such Contracts which approval shall not be unreasonably withheld, conditioned or delayed); (ii) at the Closing, to the extent permitted by applicable Law, Seller shall pay to Buyer any Available Proceeds that have been collected by Seller and that have not been expended by Seller in connection with such repairs and replacements; (iii) at the Closing, Buyer shall pay, reimburse and hold Seller harmless for the costs of any such repairs and replacements made by Seller that exceed the Available Proceeds that have been collected by Seller prior to the Closing Date; (iv) after the Closing, to the extent permitted by applicable Law, Seller shall be entitled to pursue and retain any Available Proceeds for any repairs or replacements expenses incurred by Seller in connection with such Casualty; and (v) Buyer shall be solely responsible for the completion of any remaining repairs or replacements and any and all costs associated with such repairs and replacements.

(e) Right to Inspect. Buyer and Buyer and Buyer's Representatives shall be entitled to inspect and observe any repairs and replacements performed or provided by Seller under this Section 6.11.

(f) Dispute as to Estimate of Cure Amount. If Buyer disputes the estimated Cure Amount set forth in any Casualty Notice, Buyer shall provide Seller with notice of such dispute within thirty (30) days after such Casualty Notice has been given to Buyer and shall include in such notice a detailed breakdown of Buyer's estimate of the Cure Amount with respect to such Casualty. During the fifteen (15) day period after Buyer gives to Seller such dispute notice, Seller and Buyer shall use reasonable efforts to resolve such dispute. If Seller and Buyer have not resolved such dispute during such fifteen (15) day period, then Seller and Buyer shall submit the disputed items related to the estimate of the Cure Amount to a utility consultant reasonably acceptable to Seller and Buyer that has expertise in evaluating casualty losses. The utility consultant shall issue its final decision on the disputed items in writing to Seller and Buyer within thirty (30) days after such disputed items have been submitted to the consultant, and such final decision shall be binding on both Parties as to the estimate of the Cure Amount with respect to the Casualty. Buyer and Seller shall each pay 50% of the engagement fees associated with the consultant. Any dispute under this Section 6.11(g) shall toll the applicable time limits set forth in this Section 6.11 until the resolution of such dispute under this Section 6.11(g).

(g) Available Proceeds. If, after the Closing, the payor of any proceeds (as described in clause (ii) of the definition of Available Proceeds) that have been expended by Seller to make repairs and replacements to any of the Acquired Assets pursuant to a Casualty that occurred during the Interim Period, demands repayment by Seller of all or any portion of such proceeds, Seller shall give notice to Buyer of such demand, and Buyer shall pay, reimburse and hold Seller harmless, promptly after Seller gives such notice to Buyer, for the full amount of such proceeds that Seller is required to repay except to the extent such repayment demand arises from Seller's willful misconduct.

Section 6.12 Eminent Domain.

If, before the Closing, all or any portion of the Acquired Assets material to the operation of the Business of the Vero Beach Utility is taken by eminent domain or is the subject of a pending taking which has not yet been consummated, Seller shall give notice to Buyer promptly of such taking or pending taking. Seller shall use such Commercially Reasonable Efforts to replace any Acquired Assets subject to the eminent domain action as Seller shall deem reasonably necessary for the continued operation of the Vero Beach Electric Utility in accordance with the Seller's Past Practices. If such portion of the Acquired Assets has a value of five million dollars ($5,000,000) or greater, and such proceeding or replacement is not substantially completed by the Closing, Buyer may elect, by giving notice thereof to Seller, to: (a) terminate this Agreement; (b) proceed to Closing and receive any condemnation award for the taking; or (c) extend the Closing Date by not more than 12 months in order to permit Seller to replace any Acquired Assets subject to the eminent domain action as Seller shall deem reasonably necessary for the continued operation of the Vero Beach Electric Utility in accordance with the Seller's Past Practices.

Section 6.13 FMPA Transfer Agreement and OUC Termination Agreement.

(a) Commencing on the Date of this Agreement, the Parties shall use Commercially Reasonable Efforts to negotiate the terms of the OUC Termination Agreement including a binding commitment from OUC to execute the OUC Termination Agreement at Closing (in form and substance that is acceptable to Seller and Buyer) in exchange for the OUC Termination Payment. For the avoidance of doubt, nothing in this Section 6.13(a) or elsewhere in this Agreement shall require any payment to OUC with respect to the OUC Termination Agreement except as provided in Section 3.4(b) of this Agreement.

(b) Commencing on the Date of this Agreement, the Parties shall use Commercially Reasonable Efforts to negotiate the terms of FMPA Transfer Agreement with FMPA (in form and substance that is acceptable to Seller and Buyer) in exchange for the FMPA Transfer Payment. For the avoidance of doubt, nothing in this Section 6.13(b) or elsewhere in this Agreement shall require any payment to FMPA with respect to the FMPA Transfer Agreement except for the FMPA Transfer Payment.

Section 6.14 Franchise Ordinance.

Seller shall adopt the Franchise Ordinance prior to the Closing Date. Buyer's obligations under the Franchise Ordinance are a part of the consideration provided to Seller in exchange for this Agreement and the transactions contemplated by this Agreement. Nothing in this Agreement shall be deemed or construed to transfer or assign to Buyer any of Seller's rights under the Franchise Ordinance or to eliminate or limit any of Buyer's duties or obligations under the Franchise Ordinance.

Section 6.15 Capital Expenditure and Maintenance Plan.

During the Interim Period, Seller agrees to use good faith efforts to comply with the Capital Expenditure and Maintenance Plan, in accordance with the schedule therein.

Section 6.16 Data Conversion.

The Parties shall cooperate with each other to facilitate an orderly and seamless transition from Seller to Buyer of the information systems, computer applications and processing of data for Buyer to commence conducting the Business of the Vero Beach Electric Utility as of the Closing Date in the manner and format acceptable to Buyer, and at Buyer's sole cost.

Section 6.17 Seller as Customer.

Seller shall be a retail electric service customer of Buyer commencing on the Closing Date. Buyer shall be responsible for providing all metering and other equipment necessary for Buyer to measure Seller's consumption of electricity at each facility or other structure of Seller requiring electric service.

Section 6.18 Sale of Real Properties.

Prior to the Closing, Seller shall comply with the City of Vero Beach, Florida Code of Ordinances, Subpart A, Chapter 2, Article VIII, Division 3, Sec. 2-372, relating to the sale of the Acquired Land in Fee contemplated in this Agreement.

Section 6.19 Exclusivity.

Except as expressly permitted by this Agreement, until the Closing or until this Agreement is terminated, Seller will not (a) offer to sell or transfer any of the Acquired Assets to (or offer to enter into any transaction contemplated by this Agreement with) any Person other than Buyer, or (b) request, solicit or otherwise encourage inquiries, proposals or offers from, or participate in any discussions or negotiations with, any Person other than Buyer with respect to the sale or transfer of any of the material Acquired Assets or any transaction contemplated by this Agreement.

Section 6.20 No Seller Changes in Law.

At or prior to the Closing, Seller agrees not to promulgate, enact, adopt, repeal, amend, modify or make effective any Law or resolution, or take or support any action, that would (a) adversely affect Buyer's rights or Seller's obligations in this Agreement or any Ancillary Agreements or (b) adversely affect any of the transactions contemplated by this Agreement or Ancillary Agreements.

Section 6.21 Customer Consumption Allocation and Demand Data.

(a) Seller shall use reasonable efforts to read the meters of all Customers of Seller within one (1) month (reading used for billing) prior to the Closing Date, and Buyer shall use reasonable efforts to read the meters of all such Customers within one (1) month after the Closing Date. The reading obtained by Seller (within one month prior to the Closing Date) shall be included in the Customer data conversion file from Seller to Buyer. Within sixty (60) days after the date on which Buyer reads the last of the meters of such Customers, Buyer shall provide to Seller the date of the first meter reading of each such Customer occurring on or after the Closing Date and a prorated final bill reading (using the allocation method described in this Section 6.21 below). Irrespective of the actual consumption of electricity by a Customer during (a) the period from and including the date of the last meter reading of such Customer occurring prior to the Closing Date to and including the date immediately prior to the Closing Date (the ***"Pre-Closing Consumption Period"***) and (b) the period from and including the Closing Date to and including the date on which Buyer makes the first meter reading of such Customer on or after the Closing Date (the ***"Post-Closing Consumption Period"*** and together with the Pre-Closing Consumption Period, the ***"Consumption Period"***), the Parties agree to allocate such Customer's bill for the Consumption Period as follows:

(i) Allocation to the Pre-Closing Consumption Period shall be: (A) (i) the total consumption of electricity by each Customer during the Consumption Period *divided by* (ii) the total number of days in the Consumption Period *multiplied by* (B) the total number of days in the Pre-Closing Consumption Period; and

(ii) Allocation to the Post-Closing Consumption Period shall be: (A) (i) the total consumption of electricity by each Customer during the Consumption Period *divided by* (ii) the total number of days in the Consumption Period *multiplied by* (B) the total number of days in the Post-Closing Consumption Period.

(b) Seller shall bill, and be entitled to collect payment from Customers, for electric service provided to Customers prior to the Closing Date and Buyer shall bill, and be entitled to collect payment from Customers, for electric service provided to Customers on and after the Closing Date; provided, however, that, for purposes of this Section 6.21, irrespective of the actual amount of electricity provided by Seller or by Buyer to a Customer during the Consumption Period, Seller shall bill such Customer for the Pre-Closing Consumption Period only for the amount of electricity allocated to the Pre-Closing Consumption Period, under the allocations method in Section 6.21(a) and Buyer shall bill such Customer for

the Post-Closing Consumption Period only for the amount of electricity allocated to the Post-Closing Consumption Period under such allocation method.

(c) Notwithstanding Section 6.21(a) and (b), if the FPSC requires Buyer to determine consumption of electricity by Customers during Post-Closing Consumption Period in a manner different than in accordance with Section 6.21(a) and (b), then the allocation between Buyer and Seller of consumption of electricity by Customers during the Consumption Period shall be done with regard to the manner required by the FPSC for Buyer to determine the consumption of electricity by Customers during the Post-Closing Consumption Period.

(d) Buyer shall provide to Seller within sixty (60) days after the Closing Date all demand meter data (which is the maximum metered recorded demand) obtained from Buyer's first meter reading of each commercial and industrial demand Customer on or after the Closing Date. Seller shall be entitled to collect payment from the Customers for such demand charges per Seller's approved rate schedules and billing practices as of the date immediately prior to the Closing Date.

Section 6.22 Environmental Matters.

(a) Except to the extent exacerbated or contributed to by Buyer, Seller agrees to be responsible for any and all Losses of Buyer, and pay and perform when due any and all Liabilities of Buyer:

(i) under Environmental Laws, Environmental Permits or Environmental Claims with respect to the Business of the Vero Beach Electric Utility or the Acquired Assets arising from any event, condition, circumstance, act or omission that occurred prior to the Closing Date; or

(ii) arising from the presence of Hazardous Substances that originated on the Power Plant Substation Site, Acquired Land In Fee or the real property described in the Airport Property Lease Agreements prior to the Closing Date, or the Release of Hazardous Substances at, on, in, under, or migrating from the Power Plant Substation Site, Acquired Land In Fee or the real property described in the Airport Property Lease Agreements prior to the Closing Date (such Losses or Liabilities under Section 6.22(a) and (b) hereof, the "***Environmental Liabilities***");

provided, however, that as an absolute condition to such responsibility and agreement to pay and perform, Buyer must give to Seller notice (the "***Environmental Notice***") of any claim of Environmental Liabilities no later than thirty (30) days prior to the anticipated Closing Date and, solely with respect to any Environmental Liability which Buyer demonstrates occurred subsequent to Buyer's Phase II Environmental Testing, Buyer must give the Environmental Notice prior to the Closing Date, which Environmental Notice, in either case, must contain the estimated total amount of the Environmental Liabilities and a summary of facts then known to Buyer that support such claim; and provided, further, that in no event shall Seller be liable or responsible for any Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate (the "***Aggregate Environmental Cap***"). Buyer hereby releases Seller from, and Seller shall not be liable or responsible for, any Environmental Liabilities as to

which Buyer does not give Seller the Environmental Notice or Environmental Notices prior to the time required in the immediately preceding sentence. Buyer also hereby releases Seller from, and Seller shall not be responsible for, Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate. If Buyer reasonably believes that the amount of Environmental Liabilities would reasonably be likely to exceed Five Hundred Thousand Dollars ($500,000) in the aggregate and Seller disputes that the Environmental Liabilities exceed Five Hundred Thousand Dollars ($500,000) in the aggregate, Seller shall give notice to Buyer of such dispute within fifteen (15) days after the Environmental Notice has been given and the Parties shall attempt to resolve such dispute by negotiation. If the Parties do not fully resolve such dispute within fifteen (15) days after Seller has given notice to Buyer of such dispute, the Parties shall, within ten (10) days after the expiration of such fifteen (15) day negotiation period, appoint an independent environmental consultant (with the costs of such independent environmental consultant to be borne equally between the Parties) to determine whether the Environmental Liabilities would reasonably be likely to exceed Five Hundred Thousand Dollars ($500,000) in the aggregate. The Parties agree to cooperate with the independent environmental consultant and provide it with such information as it reasonably requests to enable it to make such determination. The independent environmental consultant shall provide its findings to the Parties no later than twenty (20) days after its appointment. The independent environmental consultant shall act as an expert and not as an arbitrator and shall make findings only with respect to whether the amount of Environmental Liabilities would be reasonably likely to exceed Five Hundred Thousand Dollars ($500,000) in the aggregate. Notwithstanding anything to the contrary in this Agreement, if the total amount of Environmental Liabilities pursuant to this Section 6.22, is finally determined by the independent environmental consultant to reasonably be likely to exceed Five Hundred Thousand Dollars ($500,000) in the aggregate, either Party may elect, by giving notice thereof to the other Party as promptly as reasonably possible prior to the anticipated Closing Date, to terminate this Agreement. The limitations on Seller's liability or responsibility for Environmental Liabilities under this Section 6.22 are absolute limitations and will control over any other provisions in this Agreement or the Substation Equipment Operating and Dismantling Agreement that are or may be to the contrary including the provisions of Article 8. The Closing Date shall be extended as reasonably necessary to allow for the progression and completion of the procedures set forth in this Section 6.22.

(b) In order to make a claim against Seller pursuant this Section 6.22, Buyer must have completed its environmental testing, including Phase II environmental testing, on each Real Property location and the Power Plant Substation Site and, if so performed, must have submitted the results of such testing to Seller at least thirty (30) days prior to the Closing Date (collectively, "***Buyer's Phase II Environmental Testing***"). If Buyer has not performed such actions within the time periods specified, Buyer shall be deemed to have waived its right to make a claim against Seller under this Section 6.22 with respect to such Real Property location or the Power Plant Substation Site, as applicable.

ARTICLE 7
CONDITIONS PRECEDENT

Section 7.1 Conditions Precedent to Obligations of Buyer.

The obligations of Buyer to purchase the Acquired Assets and to consummate the other transactions contemplated by this Agreement shall be subject to the satisfaction at or prior to the Closing of the following conditions precedent (except to the extent waived in writing by Buyer in its sole discretion):

(a) The representations and warranties of Seller (other than the Seller Fundamental Representations) set forth in Article 4 of this Agreement (without regard to any materiality or Material Adverse Effect qualification) shall be true and correct in all respects on and as of the Date of this Agreement and as of the Closing as though made as of the Closing (except for those representations and warranties that address matters only as of a specified date, the truth and correctness of which shall be determined as of that specified date), except for such failures to be true and correct which would not reasonably be expected to constitute, individually or in the aggregate, a Material Adverse Effect (in determining whether or not a Material Adverse Effect has occurred for purposes of this Section 7.1(a), no matters that have been waived under Section 6.9 shall be taken into account);

(b) The Seller Fundamental Representations (without regard to any Schedule Supplement) shall be true and correct in all respects on and as of the Date of this Agreement and as of the Closing as though made as of the Closing (except for those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date);

(c) Buyer shall have received all of Buyer's Required Regulatory Approvals, in form and substance satisfactory to Buyer in its reasonable discretion, and such approvals shall be in full force and effect and either (i) shall be final and non-appealable or (ii) if not final and non-appealable, shall not be subject to the possibility of appeal, review or reconsideration which is reasonably likely to be unsuccessful as to Buyer;

(d) Seller shall have performed and complied in all material respects with the covenants and agreements contained in this Agreement which are required to be performed and complied with by Seller at or prior to the Closing;

(e) Buyer shall have received a certificate from Seller, dated the Closing Date, signed on behalf of Seller by the City Manager, to the effect that, to the Seller's Knowledge, the conditions set forth in Sections 7.1 (a), (b), (c) and (d) have been satisfied;

(f) Seller shall have delivered, or caused to be delivered, to Buyer at the Closing, Seller's closing deliverables described in Section 3.7;

(g) Since the Date of this Agreement, no Material Adverse Effect shall have occurred and be continuing (in determining whether or not a Material Adverse Effect has

occurred for purposes of this Section 7.1(g), no matters that have been waived under Section 6.9 shall be taken into account); and

(h) If Buyer has obtained Title Commitments and surveys for the Acquired Land in Fee and Substation Easement Agreement, the title insurer thereunder being ready, willing and able, at Buyer's cost and expense, to issue (i) title insurance policies, or agreements to issue such policies, in accordance with the Title Commitments, at regular rates, in the amounts identified in the Title Commitments from the title insurer issuing the Title Commitments, insuring that Buyer has good, marketable and insurable title to the Acquired Land in Fee and the right to control, occupy and use the Acquired Land in Fee, free and clear of Encumbrances other than Permitted Encumbrances, (ii) title insurance policies, or agreements to issue such policies, in accordance with the Title Commitments, at regular rates, in the amount identified in the Title Commitments from the title insurer issuing the Title Commitments, insuring that Buyer has good, marketable and insurable leasehold interests in the real property described in the Airport Substation Lease Agreements and good, marketable and insurable easement interest in the real property described in the Substation Easement Agreement, and the right to control, occupy and use such properties, free and clear of Encumbrances other than Permitted Encumbrances, and (iii) Surveys issued to Buyer and the title company secured by Buyer prepared by certified surveyors showing the Acquired Land In Fee and the real property described in the Airport Substation Lease Agreements and Substation Easement Agreement with all physical encumbrances observed and all matters of record that affect the Acquired Land In Fee and the real property described in the Airport Substation Lease Agreements and Substation Easement Agreement, the form and substance of which are satisfactory to Buyer.

Section 7.2 Conditions Precedent to Obligations of Seller.

The obligations of Seller to sell the Acquired Assets and to consummate the other transactions contemplated by this Agreement shall be subject to the satisfaction at or prior to the Closing of the following conditions precedent (except to the extent waived in writing by Seller in its sole discretion):

(a) The representations and warranties (other than the Buyer Fundamental Representations) of Buyer set forth in Article 5 of this Agreement (without regard to any materiality or Material Adverse Effect qualification therein) shall be true and correct in all material respects on and as of the Date of this Agreement and as of the Closing as though made as of the Closing (except for those representations and warranties that address matters only as of a specified date, the truth and correctness of which shall be determined as of that specified date);

(b) The Buyer Fundamental Representations shall be true and correct in all respects on and as of the Date of this Agreement and as of the Closing as though made as of the Closing (except for those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date);

(c) Buyer shall have received the FPSC Approval and FERC Approval and neither of such Approvals shall include any terms or conditions that are disadvantageous to Seller in any material respect;

(d) Buyer shall have performed and complied with in all material respects the covenants and agreements contained in this Agreement which are required to be performed and complied with by Buyer at or prior to the Closing;

(e) Seller shall have received a certificate from Buyer, dated the Closing Date, signed by an authorized officer of Buyer, to the effect that, to Buyer's Knowledge, the conditions set forth in Sections 7.2 (a), (b), (c) and (d) have been satisfied; and

(f) Buyer shall have delivered, or caused to be delivered, to Seller at the Closing, Buyer's closing deliverables described in Section 3.8.

Section 7.3 Conditions Precedent to Obligations of Both Parties.

The obligations of Buyer to purchase the Acquired Assets and consummate the other transactions contemplated by this Agreement and of Seller to sell the Acquired Assets and consummate the other transactions contemplated by this Agreement shall be subject to the satisfaction at or prior to the Closing of the following conditions precedent (except to the extent waived in writing by both Parties in their sole discretion):

(a) No preliminary or permanent injunction or other Order by any Governmental Authority other than Seller which restrains or prevents the consummation of the transactions contemplated hereby shall have been issued and remain in effect (each Party agreeing to cooperate to take all Commercially Reasonable efforts that are within its reasonable control to have any such injunction or Order lifted) and no Law shall have been enacted by any Governmental Authority which prohibits the consummation of the transactions contemplated hereby;

(b) The satisfaction, discharge and payment in full of the Electric Utility Bonds will be accomplished at the Closing upon Buyer's payment of the Bond Reliance Consideration in accordance with Section 3.4(d) and all Encumbrances on the Acquired Assets that serve as security with respect to the Electric Utility Bonds, other than Permitted Encumbrances, will be released as a result thereof;

(c) FMPA's delivery of the FMPA Transfer Agreement in consideration of the FMPA Transfer Payment;

(d) OUC's delivery of the OUC Termination Agreement in consideration of receipt of the OUC Termination Payment;

(e) The execution and delivery of the Pole Agreement executed by Buyer, Seller, the School District of Indian River County and Indian River County; and

(f) The Parties are able to conduct an orderly and seamless transition from Seller to Buyer of the information systems, computer applications and processing of data for Buyer to commence conducting the Business of the Vero Beach Electric Utility as of the Closing Date pursuant to Section 6.16.

ARTICLE 8
INDEMNIFICATION AND PAYMENT FOR LOSSES

Section 8.1 Indemnification and Payment for Losses.

(a) Subject to the terms and limitations of this Article 8, from and after the Closing, Buyer shall indemnify, defend and hold harmless Seller and its elected and appointed officials, officers, employees and agents (each, a ***"Seller Indemnitee"***) from and against, and pay, reimburse and compensate each Seller Indemnitee for, any and all Covered Losses to the extent resulting from:

(i) Any breach or inaccuracy of any Buyer Fundamental Representation as of the Date of this Agreement or as of the Closing Date as though such representations or warranties were made on the Closing Date, except those representations and warranties that address matters only as of a specified date, the truth and correctness of which shall be determined as of that specified date;

(ii) any breach by Buyer of any covenant or agreement of Buyer contained in this Agreement which, by its terms, contemplates performance on or after the Closing Date;

(iii) any Assumed Liability;

(iv) any Third Party Claim against a Seller Indemnitee with respect to (A) Buyer's ownership, use or operation of the Acquired Assets or (B) Buyer's ownership, use or operation of the Vero Beach Electric Utility, in each case under clause (A) or (B), on or after the Closing Date (other than any Loss resulting from any Excluded Asset or Excluded Liability);

(v) any contribution or exacerbation by Buyer of any matter for which Seller has responsibility under Section 6.22;

(vi) any demand or Action relating to public assistance funds awarded to Seller relating to any damage caused by any hurricane or other named storm, to the extent such demand or Action relates to the transfer to or use of such funds by or on behalf of Buyer;

(vii) the presence or Release of Hazardous Substances at, on, in, under, or migrating from the Acquired Land in Fee or the real property described in the Airport Property Lease Agreements on or after the Closing Date or the Substation Equipment Operating and Dismantling Agreement, except for Seller's responsibility with respect thereto under the terms of Section 6.22 (as limited by the Aggregate Environmental Cap on Seller's responsibility set forth in Section 6.22(a)); or

(viii) the negligence or intentional misconduct by Buyer or Buyer's Representatives during their due diligence investigations, including the Phase II testing described in Section 6.22 and the activities described in Sections 6.1 and 6.2.

(b) Subject to the terms and limitations of this Article 8 and only to the extent permitted by applicable Law, after the Closing, Seller shall indemnify, defend and hold harmless Buyer and its Affiliates and its and their officers, directors, employees, shareholders and agents (each, a ***"Buyer Indemnitee"***) from and against, and pay, reimburse and compensate each Buyer Indemnitee for, any and all Covered Losses to the extent resulting from:

(i) any breach or inaccuracy of any Seller Fundamental Representation as of the Date of this Agreement or as of the Closing Date as though such representations or warranties were made on the Closing Date, except those representations and warranties that address matters only as of a specified date, the truth and correctness which shall be determined as of that specified date;

(ii) any breach by Seller of any covenant or agreement of Seller contained in this Agreement which, by its terms, contemplates performance on or after the Closing Date;

(iii) any Excluded Asset;

(iv) any Excluded Liability; or

(v) except for limitations on Seller's liability or responsibility under Section 6.22 or elsewhere in this Agreement, any Third Party Claim against a Buyer Indemnitee with respect to (A) Seller's ownership, use or operation of the Acquired Assets, or (B) Seller's ownership, use or operation of the Business of the Vero Beach Electric Utility, in each case under clause (A) or (B), prior to the Closing Date (other than any Loss resulting from any Assumed Liability).

(c) Notwithstanding anything in this Agreement to the contrary:

(i) none of the representations or warranties contained in this Agreement shall survive the Closing; except that the Seller Fundamental Representations and the Buyer Fundamental Representations shall survive the Closing indefinitely;

(ii) none of the covenants (to the extent such covenants relate to the performance of obligations prior to the Closing) contained in this Agreement shall survive the Closing; provided, however, that this Section 8.1(c)(ii) does not limit any covenant hereunder which, by its terms, contemplates performance on or after the Closing Date; and

(iii) the covenants and obligations of the Parties set forth in this Agreement which, by their terms, contemplate performance on or after the Closing Date, shall survive the Closing until the expiration, if any, of such covenants or obligations in accordance with their respective terms.

(d) The expiration or termination of any covenant or agreement in this Agreement pursuant to Section 8.1(c)(iii) shall not affect the Parties' obligations under this Section 8.1 if the Indemnitee provided the Person required to provide indemnification, or payment, reimbursement or compensation for Losses under this Article 8 (the ***"Indemnifying***

Party") with proper notice of the claim or event for which indemnification or payment, reimbursement or compensation for Losses prior to such expiration or termination.

(e) Following the Closing, the rights and remedies of Seller and Buyer under this Article 8 shall be the exclusive remedies with respect to this Agreement except for equitable remedies.

(f) Buyer shall have no rights or remedies against Seller (other than a potential right to terminate under Section 9.1(e)) for any misrepresentation by Seller or a breach of any of Seller's warranties in Article 4 of this Agreement under the terms of Section 9.1(e).

(g) Buyer shall have no rights or remedies against Seller (other than a potential right to terminate under Section 9.1(g) (and, if applicable, Buyer's rights pursuant to Section 9.2(b)) and Section 11.13) for any breach of Seller's covenants which do not survive the Closing, as provided in Section 8.1(c)(ii), under the terms of Section 9.1(g).

(h) Payments by an Indemnifying Party pursuant to Sections 8.1(a) or (b) in respect of any Covered Loss shall be limited to the amount of any Covered Loss that remains after deducting therefrom any insurance proceeds and indemnity, contribution or other similar payment received or reasonably expected to be received by an Indemnitee in respect of such Covered Loss. The Indemnitees shall use their Commercially Reasonable Efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Covered Losses prior to seeking indemnification or other recovery under Article 8 of this Agreement.

(i) In no event shall any Indemnifying Party be liable to any Seller Indemnitee or Buyer Indemnitee, as the case may be, for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity or diminution of value or any damages based on any type of multiple.

(j) No Losses may be claimed under the terms of Section 8.1(a) or (b) by an Indemnitee to the extent such Losses are included in the calculation of any adjustment to the Purchase Price pursuant to Section 3.3.

(k) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Covered Loss upon becoming aware of any event or circumstance that would reasonably be expected to, or does, give rise thereto.

Section 8.2 Defense of Claims.

(a) If any Indemnitee has been notified of the assertion of any claim or of the commencement of any Action made or brought by any Person who is not a Party to this Agreement or any Affiliate of a Party to this Agreement or a Representative of any of the foregoing (a ***"Third Party Claim"***), including an information document request, against such Indemnitee with respect to which indemnification is to be sought by such Indemnitee from an Indemnifying Party, the Indemnitee shall give the Indemnifying Party reasonably prompt notice thereof, but in any event such notice shall be given within twenty (20) calendar days after the Indemnitee's having been notified of such Third Party Claim. Such notice shall describe the nature of the Third Party Claim in reasonable detail and shall indicate the estimated amount, to

the extent then known, of the Covered Loss that has been or may be sustained by the Indemnitee. The Indemnifying Party will have the right to participate in or, by giving written notice to the Indemnitee, to assume the defense of any Third Party Claim at such Indemnifying Party's expense and by such Indemnifying Party's own counsel; provided, however, that the counsel for the Indemnifying Party who shall conduct the defense of such Third Party Claim shall be reasonably satisfactory to the Indemnitee. The Indemnitee shall cooperate in good faith in such defense at such Indemnitee's own expense.

(b) (i) If, after an Indemnitee gives notice to the Indemnifying Party of any Third Party Claim, the Indemnitee is given notice by the Indemnifying Party that the Indemnifying Party has elected to assume the defense of such Third Party Claim as provided in Section 8.2(a), (A) the Indemnifying Party will not be liable for any legal expenses subsequently incurred by the Indemnitee in connection with the defense thereof, and (B) subject to Section 8.2(b)(ii), the Indemnifying Party shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third Party Claim in the name and on behalf of the Indemnitee. Seller and Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third Party Claim.

(ii) Without the prior written consent of the Indemnitee, which consent shall not be unreasonably withheld, conditioned or delayed, the Indemnifying Party shall not enter into any settlement of any Third Party Claim which would result in liability or create any financial or other obligation on the part of the Indemnitee for which the Indemnitee is not entitled to indemnification, or payment, reimbursement or compensation for Losses hereunder. If a firm offer is made to settle a Third Party Claim that would result in a liability or the creation of a financial or other obligation on the part of the Indemnitee for which the Indemnitee is not entitled to indemnification, or payment, reimbursement or compensation for Losses hereunder and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give notice to the Indemnitee to that effect. If the Indemnitee fails to consent to such firm offer within twenty (20) calendar days after Indemnifying Party gives such notice to the Indemnitee, the Indemnifying Party, at its election, shall be relieved of its obligations to defend such Third Party Claim and the Indemnitee may contest or defend such Third Party Claim. In such event, the maximum Liability of the Indemnifying Party as to such Third Party Claim will be the amount of such firm offer of settlement. If the Indemnitee has assumed the defense pursuant to Section 8.2(a), it shall not agree to any settlement without the written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, conditioned or delayed.

(c) Any claim by an Indemnitee on account of a Covered Loss which does not result from a Third Party Claim (a ***"Direct Claim"***) shall be asserted by giving the Indemnifying Party reasonably prompt notice thereof, stating the nature of such claim in reasonable detail and indicating the estimated amount, to the extent then known.

(d) A failure to give timely notice as provided in this Section 8.2 shall not affect the rights or obligations of either Party hereunder except to the extent, if any, that the Party which was entitled to receive such notice was actually prejudiced as a result of such failure.

(e) Payment, reimbursement or compensation of a Covered Loss shall be made by the Indemnifying Party within thirty (30) days after a final and non-appealable adjudication of such Indemnifying Party's responsibility for such Covered Loss or such Indemnifying Party's agreement in writing to accept responsibility for such Covered Loss; provided, however, that this Section 8.2(e) shall not be construed to limit or impair the Indemnifying Party's right to dispute its responsibility to indemnify or hold harmless with respect to a Covered Loss, or to assert limitations as to such responsibility, under the terms of this Agreement.

ARTICLE 9
TERMINATION

Section 9.1 Termination.

(a) This Agreement may be terminated at any time prior to the Closing by the mutual written agreement signed by Seller and Buyer.

(b) This Agreement may be terminated by Seller or Buyer, if: (i) any federal or state court of competent jurisdiction shall have issued an Order permanently restraining, enjoining or otherwise prohibiting the Closing, and such Order shall have become final and nonappealable; (ii) any Law shall have been enacted or issued by any Governmental Authority (other than Seller) which, directly or indirectly, prohibits the consummation of the Closing; or (iii) the Closing contemplated hereby shall have not occurred on or before the Termination Date; provided, however, that the right to terminate this Agreement under Section 9.1(b)(iii) shall not be available to either Party whose failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Closing to occur on or before the Termination Date.

(c) This Agreement shall terminate if, on or before the FMPA Agreement Date, Seller and FMPA have not entered into the FMPA Transfer Agreement.

(d) This Agreement shall terminate if, on or before the OUC Termination Agreement Date, Seller and OUC have not entered into the OUC Termination Agreement.

(e) Subject to the limitations on the right to terminate this Agreement in Section 6.9, this Agreement may be terminated by Buyer if there have been one or more misrepresentations by Seller or breaches of warranty by Seller as to any representation or warranty contained in Article 4 hereof and such misrepresentations or breaches (individually or in the aggregate) constitute a Material Adverse Effect and are not cured by the earlier of the Closing Date or ninety (90) days after receipt by Seller (or by Buyer in the case of a Schedule Supplement by Seller pursuant to Section 6.9) of notice specifying particularly such misrepresentations or breaches and the amount of any alleged losses with respect thereto. In determining whether a Material Adverse Effect has occurred for purposes of this Section 9.1(e), any such misrepresentations or breaches of warranty by Seller shall be measured without regard to any Material Adverse Effect qualification in Article 4 or any Schedule Supplement. Notwithstanding the foregoing, if Buyer gives Seller notice of such misrepresentations or

breaches within ninety (90) days before the Termination Date, Seller may elect, by giving notice to Buyer prior to the Closing Date, to extend the Termination Date by up to ninety (90) days if Seller deems such additional time necessary for it to cure such misrepresentations or breaches of warranty. In the event that the ninety (90) day cure period is applicable under this Section 9.1(e), and Seller fails, within such ninety (90) days, to cure the applicable misrepresentation or breach, Buyer must exercise its right, under this Section 9.1(e), to terminate this Agreement by giving to Seller notice of such termination within ten (10) days after the end of the ninety (90) day cure period or such right to terminate will be deemed to have been waived.

(f) This Agreement may be terminated by Seller if there have been one or more material misrepresentations or material breaches of warranty as to any representations or warranties contained in Article 5 of this Agreement and such misrepresentations or breaches are not cured prior to the Closing Date. Notwithstanding the foregoing, if Seller gives Buyer notice of such misrepresentations or breaches within ninety (90) days before the Termination Date, Buyer may elect, by giving notice to Seller prior to the Closing Date, to extend the Termination Date by up to ninety (90) days if Buyer deems such additional time necessary for it to cure such misrepresentations or breaches of warranty.

(g) This Agreement may be terminated by either Party if there have been one or more material breaches by the other Party of any covenant or agreement contained in this Agreement and all of such breaches have not been cured prior to the Closing Date. Notwithstanding the foregoing, if either Party gives the breaching Party notice of any such breaches within ninety (90) days before the Termination Date, the breaching Party may elect, by giving notice to the non-breaching Party prior to the Closing Date, to extend the Termination Date by up to ninety (90) days if the breaching Party deems such additional time necessary for it to cure all of such breaches.

(h) Buyer may terminate this Agreement if permitted under the terms of Section 6.9.

(i) Either Party may terminate this Agreement, if permitted to be terminated by such Party, under the terms of Section 6.11.

(j) Buyer may terminate this Agreement if permitted under the terms of Section 6.12.

(k) Either Party may terminate this Agreement, if permitted to be terminated by such Party, under the terms of Section 6.22.

Section 9.2 Effect of Termination.

(a) In the event of a termination of this Agreement by Seller or Buyer pursuant to Section 9.1 (other than Section 9.1(a)) the terminating Party shall give prompt notice of termination to the other Party, and this Agreement shall thereupon be deemed terminated upon the giving of such notice except as otherwise provided in this Agreement as to the date of termination or deemed termination. If this Agreement is terminated pursuant to Section 9.1 (other than a termination under Section 9.1(e) or (f), or (g) because of a Willful Seller Breach or Willful Buyer Breach, as the case may be), this Agreement shall be null and void and neither

Party shall have any liability or obligation to the other Party under this Agreement (with respect to such misrepresentation or breach, or otherwise) or as a result of the termination of this Agreement; provided, however, that Buyer's obligations pursuant to Section 8.1(a)(vii) shall survive any such termination. If this Agreement is terminated as provided herein, all filings, applications and other submissions made to any Governmental Authority shall, to the extent practicable, be withdrawn from the Governmental Authority to which they were made.

(b) Notwithstanding any provision herein to the contrary, if this Agreement is terminated by Buyer pursuant to Section 9.1(e) or (g) because of an intentional and willful misrepresentation or an intentional and willful breach of warranty by Seller under Article 4, or because of an intentional and willful breach of a covenant or agreement by Seller in this Agreement (any of the foregoing being called a "***Willful Seller Breach***"), then, Seller shall pay to Buyer, by wire transfer of immediately available funds the amount of $5,000,000, which will be the aggregate amount payable by Seller with respect to any and all of such Willful Seller Breaches and will be Buyer's sole and exclusive remedy as a result of a termination of this Agreement by Buyer pursuant to Section 9.1(e) or (g); provided, however, that nothing in this Section 9.2(b) shall limit Buyer's rights under Section 11.13; and provided, further, that Buyer's obligations pursuant to Section 8.1(a)(vii) shall survive any such termination.

(c) Notwithstanding any provision herein to the contrary, if this Agreement is terminated by Seller pursuant to Section 9.1(f) or (g) because of an intentional and willful misrepresentation or an intentional and willful breach of warranty by Buyer under Article 5, or because of an intentional and willful breach of a covenant or agreement by Buyer in this Agreement (any of the foregoing being called a "***Willful Buyer Breach***"), then, Buyer shall pay to Seller, by wire transfer of immediately available funds the amount of $5,000,000, which will be the aggregate amount payable by Buyer with respect to any and all such Willful Buyer Breaches and will be Seller's sole and exclusive remedy as a result of termination of this Agreement by Buyer pursuant to Section 9.1(f) or (g); provided, however, that nothing in this Section 9.2(c) shall limit Seller's rights under Section 11.13; and provided, further, that Buyer's obligations pursuant to Section 8.1(a)(vii) shall survive any such termination.

(d) Seller and Buyer hereby acknowledge and agree that the fixed amounts payable pursuant to Sections 9.2(b) or (c) will be reasonable liquidated damages as a result of a Willful Buyer Breach or Willful Seller Breach, as the case may be. Such amount is agreed by the Parties and fixed hereunder by the Parties as liquidated damages because of the difficulty of ascertaining the exact amount of such Losses that will actually be sustained by the non-breaching Party as a result of the Willful Buyer Breach or Willful Seller Breach, as the case may be, and the Parties hereby agree that the amounts specified in Sections 9.2(b) and (c), respectively, are a reasonable estimate of the non-breaching Party's probable Losses (and not a penalty) and that they shall be applicable regardless of the amount of the Losses that the non-breaching Party actually sustains.

ARTICLE 10
PARTIAL SALE AGREEMENT

Section 10.1 Execution and Delivery.

Contemporaneously with the execution and delivery of this Agreement, Seller and Buyer have executed and delivered to each other an Asset Purchase Agreement with respect to the sale by Seller, and purchase by Buyer, of the assets of that portion of Seller's electric distribution system located in Indian River Shores, Florida (the "**Partial Sale Agreement**").

Section 10.2 Termination of Partial Sale Agreement.

In the event that the Closing occurs under this Agreement, the Partial Sale Agreement will terminate and be deemed null and void.

Section 10.3 Transaction Under Partial Sale Agreement.

In the event that:

(a) the Closing under this Agreement does not occur on or before the Termination Date; or

(b) this Agreement is terminated;

and the termination of this Agreement is not the result of a Willful Buyer Breach or Willful Seller Breach, then the transaction under the Partial Sale Agreement will proceed pursuant to the terms and conditions of the Partial Sale Agreement.

ARTICLE 11
MISCELLANEOUS PROVISIONS

Section 11.1 Amendment and Modification.

This Agreement may not be amended, modified or supplemented, except by written agreement of Seller and Buyer.

Section 11.2 Waiver of Compliance; Consents.

Any term or condition of this Agreement may be waived at any time by the Party that is entitled to the benefit thereof, but no such waiver shall be effective unless set forth in a written instrument duly executed by or on behalf of the Party waiving such term or condition. Except as otherwise provided herein, the failure of a Party to this Agreement to assert any of its rights under this Agreement or otherwise shall not constitute a waiver of such rights. A waiver by a Party of the performance of any covenant, condition, representation or warranty of the other Party shall not invalidate this Agreement, nor shall such waiver be construed as a waiver of any other covenant, condition, representation or warranty. A waiver by a Party of the time for performing any act shall not constitute a waiver of the time for performing any other act or the time for performing an identical act required to be performed at a later time.

Section 11.3 Third Party Beneficiaries.

This Agreement is intended solely for the benefit of the Parties and their respective successors or permitted assigns, and is not intended by the Parties to confer third-party beneficiary rights upon any other Person, including any employee or any beneficiaries or dependents thereof. No provision of this Agreement shall create any third party beneficiary rights in any employee or former employee of Seller (including any beneficiary or dependent thereof) in respect of continued employment or resumed employment, and no provision of this Agreement shall create any rights in any such Persons in respect of any benefits that may be provided, directly or indirectly, under any employee benefit plan or arrangement except as expressly provided for thereunder.

Section 11.4 Notices.

All notices and other communications hereunder shall be in writing and shall be deemed given if delivered personally or by overnight courier or sent by registered or certified mail (return receipt requested), postage prepaid, to the recipient Party at its address (or at such other address for a Party, or to the attention of such other individual or office holder, as shall be specified by like notice; provided, however, that any notice of a change of address (or the individual or office holder to whose attention such notice is to be given) shall be effective only upon receipt thereof):

(a) If to Seller, to:

City of Vero Beach
1053 20th Place
Vero Beach, FL 32960
Attention: City Manager

with copies to:

City of Vero Beach
1053 20th Place
Vero Beach, FL 32960
Attention: City Attorney

-and-

Nathaniel L. Doliner, Attorney at Law
Carlton Fields
P.O. Box 3239
Tampa, FL 33601
(if by mail)

-or-

4221 West Boy Scout Boulevard
Tampa, FL 33607
(if by other than mail)

-and-

if to Buyer, to:

Florida Power & Light Company
700 Universe Boulevard EMT/JB
Juno Beach, FL 33408
Attention: EMT Contracts Department

with a copy to:

Florida Power & Light Company
700 Universe Boulevard JB/Law
Juno Beach, FL 33408
Attention: General Counsel

A notice delivered personally or by courier, under the terms of this Section, will be deemed given when received. A notice sent by mail will be deemed given five (5) days after mailing in accordance with this Section.

Section 11.5 Seller Disclosure Schedules.

The Seller Disclosure Schedules shall be arranged in separate parts corresponding to the numbered and lettered sections in Article 4 hereof. The information disclosed in any schedule of the Seller Disclosure Schedules shall be deemed to be a representation of Seller as if set forth in Article 4 hereof. Disclosure of any matter in the Seller Disclosure Schedule shall not constitute an admission or raise any inference that such matter constitutes a violation of Law or an admission of liability or facts supporting liability.

Section 11.6 Assignment.

Neither this Agreement nor any right, interest or obligation hereunder may be assigned or delegated by either Party without the prior written consent of the other Party, except that, from and after the Closing, Buyer may (without the consent of Seller) assign this Agreement or assign or delegate all or any portion of Buyer's rights, interests or obligations hereunder to any Affiliate of Buyer or any Person providing financing to Buyer or any of its Affiliates, but no such assignment shall release Buyer of its obligations under this Agreement. Subject to this Section 11.6, this Agreement is binding upon, inures to the benefit of and is enforceable by the Parties and their respective successors and permitted assigns.

Section 11.7 Governing Law; Venue; and No Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including matters of validity, construction, effect, performance and remedies.

(b) THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT.

(c) EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT, AND SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT.

Section 11.8 Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 11.9 Schedules and Exhibits.

Except as otherwise provided in this Agreement, all Exhibits and Schedules (including Seller Disclosure Schedules) referred to herein are intended to be and hereby are specifically made a part of this Agreement.

Section 11.10 Entire Agreement.

This Agreement and the Ancillary Agreements, including the Exhibits, Schedules, documents, certificates and instruments referred to herein or therein, including the Partial Sale Agreement, embody the entire agreement and understanding of the Parties hereto in respect of the transactions contemplated by this Agreement and shall supersede all previous oral and written agreements and understandings and all contemporaneous oral negotiations, representations, warranties, commitments and understandings including (a) that certain Letter of Intent dated May 16, 2017, between Seller and Buyer, as amended, and (b) all documents or communications, whether oral, written or electronic, submitted or made by (i) Buyer or any of its representatives to Seller or any of its representatives or (ii) Seller or any of its representatives to Buyer or any of its representatives, in connection with the sale process that occurred prior to the execution of this Agreement or otherwise in connection with the negotiation and execution of this Agreement (except for the Contribution Agreement described in this Section above).

Section 11.11 No Joint Venture.

Nothing in this Agreement creates or is intended to create an association, trust, partnership, joint venture or other entity or similar legal relationship between the Parties, or imposes a trust, partnership or fiduciary duty, obligation or liability on or with respect to the Parties.

Section 11.12 Change in Law.

If and to the extent that any Laws (other than Laws of Seller) that govern any aspect of this Agreement shall change, so as to make any aspect of the transaction described in this Agreement unlawful, then the Parties agree to make such modifications to this Agreement as may be reasonably necessary for this Agreement to accommodate any such legal or regulatory changes, without materially changing the overall benefits or consideration expected hereunder by either Party.

Section 11.13 Specific Performance.

Each Party acknowledges and agrees that the other Party would be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, each Party agrees that the other Party shall be entitled to an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in addition to any other remedy to which it may be entitled, at law or in equity. For the avoidance of doubt, if a Party seeks and is granted specific performance of the obligations of a breaching Party under this Agreement and the Closing occurs in the manner contemplated by this Agreement, then rather than the non-breaching Party terminating this Agreement under Section 9.2(b) or Section 9.2(c), as the case may be, then the breaching Party shall not be obligated to make the payments contemplated by Sections 9.2(b) or Section 9.2(c), as the case may be.

Section 11.14 Severability.

If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future Law, and if the rights or obligations of any Party under this Agreement will not be materially and adversely affected thereby, such provision will be fully severable, this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement and in lieu of such illegal, invalid or unenforceable provision, Seller and Buyer shall negotiate in good faith to restore insofar as practicable the benefits to each party that were affected by such holding and to include as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

Section 11.15 Radon Gas.

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time.

Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized officers as of the date first above written.

FLORIDA POWER & LIGHT COMPANY

By: Pamela Rauch

Legal Review Completed

Name: Pamela M. Rauch

Title: Vice President, External Affairs & Economic Development

(Seal)

ATTEST:

Tammy K. Bursick
City Clerk

CITY OF VERO BEACH, FLORIDA

Laura Moss
Mayor

(City Seal)

ADMINISTRATIVE REVIEW
(For Internal Use Only–Sec. 2-77 COVB Code)

Reviewed and approved as to form and legal sufficiency (exclusive of final exhibits, schedules, and attachments):

Wayne R. Coment
City Attorney

Approved as conforming to municipal policy:

James R. O'Connor
City Manager

EXHIBIT A-1

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "***Agreement***"), dated as of this _____ day of _____, 201_, is made and entered into by and between the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida ("***Assignor***"), and FLORIDA POWER & LIGHT COMPANY, a corporation organized under the laws of the State of Florida ("***Assignee***"). Assignor and Assignee are referred to herein individually as a ***"Party,"*** and collectively as the ***"Parties."***

W I T N E S S E T H:

WHEREAS, Assignor and Assignee have entered into an Asset Purchase and Sale Agreement, dated as of [___], 201_ (the "***PSA***");

WHEREAS, pursuant to Section 2.3 of the PSA, at the Closing, Buyer is required to execute and deliver this Agreement, pursuant to which Buyer shall assume and agree to pay, perform and discharge when due, all of the Assumed Liabilities, as defined in the PSA.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Definitions. All capitalized terms used, but not defined herein, shall have the meanings ascribed to such terms in the PSA.

2. Assignment and Assumption. Subject to the terms and conditions of this Agreement and the PSA, Assignor hereby sells and assigns to Assignee all of Assignor's right, title and interest in and to the Assumed Liabilities, and Assignee hereby assumes and agrees to pay, perform and discharge when due, all of the Assumed Liabilities.

4. Effective Time. This Agreement shall be effective as of the Effective Time.

5. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

6. No Modification. This Agreement is made pursuant to, and is subject to the terms of, the PSA. Notwithstanding anything to the contrary contained in this Agreement, nothing contained herein is intended to or shall be deemed to limit, restrict, modify, alter, amend or otherwise change in any manner the rights and obligations of Assignor or Assignee under the PSA, and in the event of any conflict between the terms and provisions hereof and the terms and provisions of the PSA, the terms and provisions of the PSA shall control. Assignee

acknowledges that Assignor makes no representation or warranty with respect to the Assumed Contracts or Assumed Liabilities except as specifically set forth in the PSA.

7. Section Headings. The descriptive headings herein are inserted for convenience only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

8. Governing Law; Venue; and No Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies.

(b) THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT.

(c) EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT, AND SHALL SURVIVE THE CLOSING.

[Signature Page Follows]

The Parties have caused this Agreement to be signed by their respective duly authorized officers as of the day and year first set forth above.

ASSIGNOR:

ATTEST:

CITY OF VERO BEACH, FLORIDA

_____
Name:
City Clerk

_____
Name:
Mayor

(City Seal)

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

_____
Name:
City Attorney

_____
Name:
City Manager

ASSIGNEE:

FLORIDA POWER & LIGHT COMPANY

By:_____

Name: _____

Title: _____

[*Signature Page to Assignment and Assumption Agreement*]

Exhibit A-2

Form of Assignment and Assumption of Easements

[*Exhibit begins on the following page.*]

This instrument was prepared by and after recording return to:

Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, FL 33408

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this "***Assignment***") is dated as of [_____], 201_, and is made and entered into by and between the **CITY OF VERO BEACH, FLORIDA**, a municipal corporation organized under the laws of the State of Florida ("***Assignor***"), and **FLORIDA POWER & LIGHT COMPANY**, a corporation organized under the laws of the State of Florida ("***Assignee***"). Assignor and Assignee are referred to herein individually as a "***Party***," and collectively as the "***Parties***."

WITNESSETH:

WHEREAS, Assignor and Assignee have entered into an Asset Purchase and Sale Agreement, dated as of [____], 201_ (the "***PSA***"), pursuant to which Assignor has agreed to assign to Assignee all of its right, title and interest in and to the Easements (as such term is defined in the PSA) as may be needed for the provision of electric power, including those described in Schedule 1 attached hereto, and Assignee has agreed to assume all of the obligations of Assignor arising under the Easements assigned to Assignee pursuant to this Assignment arising on and after the Effective Date; and

WHEREAS, some Easements may be used by Assignor for multiple purposes, and Assignor reserves to itself rights, as may be permitted by the Easements, to use the Easements for municipal uses other than the provision of electric power, including, without limitation, water, sewer, and communications; and

WHEREAS, Assignor and Assignee desire to enter into this Assignment to effect such assignment and assumption and to provide notice to third parties of same by recording this Assignment in the Public Records of the counties in which the Easements were recorded.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Assignor and Assignee agree as follows:

1. Definitions. All capitalized terms used, but not defined herein, shall have the meanings ascribed to such terms in the PSA.

2. Acceptance and Assumption. Subject to the terms and conditions of this Assignment and the PSA, Assignor hereby assigns, transfers, sells, conveys and delivers to Assignee all of Assignor's right, title and interest in and to the Easements as may be needed for the provision of electric power, and Assignee hereby assumes, and agrees to pay and perform and discharge when due, all of Assignor's obligations under the Easements arising on and after the Effective Time other than costs associated with Assignor's exercise of its reserved rights as set forth in Section 3 of this Assignment.

3. Reservation of Rights for Municipal Services or Uses. Assignor reserves to itself the rights, as may be permitted by the terms of any of the Easements, to use the Easements for municipal uses other than the provision of electric power, including, without limitation, water, sewer and communications. Assignee acknowledges and agrees to such continuing rights of Assignor to the Easements.

4. Recordation of Assignment. Assignor and Assignee shall take such action as is reasonably necessary to promptly record this Assignment in the Public Records of the counties in the State of Florida where the Easements, or memoranda thereof, have been recorded.

5. Effective Time. This Assignment shall be effective as of the Effective Time.

6. Counterparts. This Assignment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

7. No Modification. This Assignment is made pursuant to, and is subject to the terms of, the PSA. Notwithstanding anything to the contrary contained in this Assignment, nothing contained herein is intended to or shall be deemed to limit, restrict, modify, alter, amend or otherwise change in any manner the rights and obligations of Assignor or Assignee under the PSA, and in the event of any conflict between the terms and provisions hereof and the terms and provisions of the PSA, the terms and provisions of the PSA shall control. Assignee acknowledges that Assignor makes no representation or warranty with respect to the Easements or Assumed Liabilities except as specifically set forth in the PSA.

8. Section Headings. The descriptive headings herein are inserted for convenience only and are not intended to be part of or to affect the meaning or interpretation of this Assignment.

10. Governing Law; Venue; and No Jury Trial.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies.

(b) THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF

THIS AGREEMENT SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT.

(c) EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT, AND SHALL SURVIVE THE CLOSING.

[Signature Page Follows]

Assignor and Assignee have caused this Assignment to be signed by their respective duly authorized officers as of the day and year first set forth above.

ASSIGNOR:

ATTEST:

CITY OF VERO BEACH, FLORIDA

_____
Name:
City Clerk

_____
Name:
Mayor

(City Seal)

Approved as to form and legal sufficiency:

_____
Name:
City Attorney

Approved as conforming to municipal policy:

_____
Name:
City Manager

WITNESSES:

_____
Print name:_____

_____
Print name:_____

ASSIGNEE:

FLORIDA POWER & LIGHT COMPANY, a Florida corporation

(corp. seal)

By:_____
Name:_____
Title:_____

ASSIGNOR ACKNOWLEDGEMENT

STATE OF FLORIDA)
) SS
COUNTY OF _____)

On this, the ___ day of _____, 201_, before me, a Notary Public in and for the State of Florida, personally appeared _____, who is personally known to me or who provided _____ as identification, and who acknowledged himself/herself to be an authorized representative of the City of Vero Beach, and that he/she, as such representative, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of the City of Vero Beach by himself/herself as such.

Given under my hand and official seal, this ___ day of _____, A.D. 201_.

_____
Notary Public

ASSIGNEE ACKNOWLEDGEMENT

STATE OF FLORIDA)
) SS
COUNTY OF _____)

On this, the ___ day of _____, 201_, before me, a Notary Public in and for the State of Florida, personally appeared _____, who is personally known to me or who provided _____ as identification, and who acknowledged himself/herself to be an authorized officer of Florida Power & Light Company, and that he/she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of the Florida Power & Light Company by himself/herself as such.

Given under my hand and official seal, this ___ day of _____, A.D. 201_.

_____
Notary Public

Schedule 1

[LIST OF EASEMENTS]

EXHIBIT B

FORM OF BILL OF SALE

BILL OF SALE AND ASSIGNMENT

This BILL OF SALE AND ASSIGNMENT (this "***Bill of Sale***") is made this _____ day of _____, 201_, by and between the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida ("***Seller***"), and FLORIDA POWER & LIGHT COMPANY, a corporation organized under the laws of the State of Florida ("***Buyer***"). Seller and Buyer are referred to herein individually as a ***"Party,"*** and collectively as the ***"Parties."***

W I T N E S S E T H:

WHEREAS, Buyer and Seller have entered into an Asset Purchase and Sale Agreement, dated as of [___], 201_ (the "***PSA***"), pursuant to which, upon the terms and subject to the conditions set forth therein, among other things, Seller has agreed to sell, assign, convey, transfer and deliver to Buyer, and Buyer has agreed to purchase and acquire from Seller, the Acquired Assets, as defined in the PSA.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Definitions. All capitalized terms used, but not defined herein, shall have the meanings ascribed to such terms in the PSA.

2. Sale, Transfer and Assignment. Subject to the terms and conditions of this Bill of Sale and the PSA, Seller does hereby irrevocably and unconditionally sell, assign, transfer and deliver to Buyer all of Seller's right, title and interest in and to the Acquired Assets that constitute personal property, and Buyer hereby accepts such sale, assignment, transfer and delivery.

3. Effective Time. This Bill of Sale shall be effective as of the Effective Time.

4. No Modification. This Bill of Sale is made pursuant to, and is subject to the terms of, the PSA. Notwithstanding anything to the contrary contained in this Bill of Sale, nothing contained herein is intended to or shall be deemed to limit, restrict, modify, alter, amend or otherwise change in any manner any of the representations, warranties, rights or obligations of Seller or Buyer under the PSA, and in the event of any conflict between the terms and provisions hereof and the terms and provisions of the PSA, the terms and provisions of the PSA shall control.

5. Counterparts. This Bill of Sale may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

6. Section Headings. The descriptive headings herein are inserted for convenience only and are not intended to be part of or to affect the meaning or interpretation of this Bill of Sale.

7. Governing Law; Venue; and No Jury Trial.

(a) This Bill of Sale shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies.

(b) THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF THIS BILL OF SALE SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT.

(c) EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS BILL OF SALE OR THE TRANSACTIONS CONTEMPLATED HEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS BILL OF SALE, AND SHALL SURVIVE THE CLOSING.

[Signature Page Follows]

The Parties have caused this Bill of Sale to be signed by their respective duly authorized officers as of the date first above written.

SELLER:

ATTEST:

CITY OF VERO BEACH, FLORIDA

_____
Name:
City Clerk

_____
Name:
Mayor

(City Seal)

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

_____
Name:
City Attorney

_____
Name:
City Manager

BUYER:

FLORIDA POWER & LIGHT COMPANY

By: _____

Name: _____

Title: _____

Exhibit C

Form of Special Warranty Deed

[*Exhibit begins on the following page.*]

This Instrument Prepared by and return to:

Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, FL 33408

Substation 3:

Tax Parcel ID Number: 33-39-05-00000-1000-00001.0

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into as of the ____ day of _____, 201__, by CITY OF VERO BEACH, a municipal corporation organized under the laws of the State of Florida (the "Grantor"), whose address 1053 20th Place, Vero Beach, FL 32960, to FLORIDA POWER & LIGHT COMPANY, a Florida corporation (the "Grantee"), whose address is 700 Universe Boulevard, Juno Beach, FL 33408.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all that certain parcel of land lying and being in the County of Indian River, State of Florida, as more particularly on Exhibit "A" attached hereto and made a part hereof (the "Property").

To have and to hold, the same in fee simple forever.

SUBJECT TO: Taxes and assessments for the year ____ and all subsequent years; all applicable governmental, zoning, land use conservation and environmental ordinances, restrictions, and prohibitions and other requirements imposed by governmental authority; and the Permitted Encumbrances described in Exhibit "B" attached hereto and made a part hereof.

And the said Grantor hereby covenants with Grantee that Grantor has good right, full power, and lawful authority to sell and convey said land, and hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under the Grantor, but against no others.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed the day and year first above written.

ATTEST:	**CITY OF VERO BEACH, FLORIDA**
_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____

STATE OF FLORIDA)
) ss:
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____, and attested by _____, as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida, on behalf of said municipal corporation, who:

☐ are personally known to me, or

☐ have produced _____ as identification.

_____
Notary Public — State of Florida
Printed Name:_____
(Notary Seal) My Commission Expires:_____

Approved as to form and legal sufficiency:

_____
Printed Name:_____
Title:_____

SUBJECT TO REVISION

EXHIBIT "A"

That portion of the Northeast quarter (NE ¼) of the Northeast quarter (NE ¼) of Section 5, Township 33 South, Range 39 East, Indian River County, Florida, being more particularly described as follows:

Beginning at a point that is 30.00 feet South of and 25.00 feet West of the Northeast corner of said Section 5;

Thence South and parallel with the East line of said Section 5 a distance of 235.00 feet;

Thence West and parallel with the North line of said Section 5 a distance of 367.95 feet;

Thence North and parallel with the said East line of Section 5 a distance of 235.00 feet to a point, said point being 30 feet South of, as measured perpendicular to, the said North line of Section 5;

Thence East and parallel with the said North line of Section 5 a distance of 367.95 feet to the POINT OF BEGINNING;

LESS AND EXCEPT:

The East 35.00 feet thereof for additional road right-of-way purposes.

CHICAGO TITLE INSURANCE AGENCY, INC.

-

EXHIBIT "B"

Permitted Encumbrances

[Permitted Encumbrances, as defined in the Asset Purchase and Sale Agreement, will be supplied]

This Instrument Prepared by and return to:

Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, FL 33408

Substation 7

Tax Parcel ID Number 33-39-04-00001-0120-00004.0

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into as of the ____ day of _____, 201__, by CITY OF VERO BEACH, a municipal corporation organized under the laws of the State of Florida (the "Grantor"), whose address 1053 20th Place, Vero Beach, FL 32960, to FLORIDA POWER & LIGHT COMPANY, a Florida corporation (the "Grantee"), whose address is 700 Universe Boulevard, Juno Beach, FL 33408.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all that certain parcel of land lying and being in the County of Indian River, State of Florida, as more particularly on Exhibit "A" attached hereto and made a part hereof (the "Property").

To have and to hold, the same in fee simple forever.

SUBJECT TO: Taxes and assessments for the year ____ and all subsequent years; all applicable governmental, zoning, land use conservation and environmental ordinances, restrictions, and prohibitions and other requirements imposed by governmental authority; and the Permitted Encumbrances described in Exhibit "B" attached hereto and made a part hereof.

And the said Grantor hereby covenants with Grantee that Grantor has good right, full power, and lawful authority to sell and convey said land, and hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under the Grantor, but against no others.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed the day and year first above written.

ATTEST:	**CITY OF VERO BEACH, FLORIDA**
_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____

STATE OF FLORIDA)
) ss:
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____, and attested by _____, as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida, on behalf of said municipal corporation, who:

☐ are personally known to me, or

☐ have produced _____ as identification.

_____
Notary Public — State of Florida
Printed Name:_____
(Notary Seal) My Commission Expires:_____

Approved as to form and legal sufficiency:

_____
Printed Name:_____
Title:_____

SUBJECT TO REVISION

EXHIBIT "A"

A parcel of land being a portion of Tracts 12 and 13, Section 4, Township 33 South, Range 39 East, Indian River County, Florida, according to the last general plat of lands of the INDIAN RIVER FARMS COMPANY SUBDIVISION, recorded in Plat Book 2, Page 25, of the Public Records of St. Lucie County, Florida, said lands now situate, lying and being in Indian River County, Florida, being more particularly described as follows:

From the Southwest corner of said Tract 12, run East along the South line of said Tract 12 a distance of 30 feet to the East right-of-way of Kings Highway and POINT OF BEGINNING; thence run North on a line parallel to the West line of said Tract 12 a distance of 50 feet; thence run East parallel to the South line of said Tract 12 a distance of 242.05 feet; thence run South on a line parallel to the West line of said Tract 12 and Tract 13, a distance of 199.35 feet to the North right-of-way of the Main Relief Canal; thence run Southwest along said canal right-of-way a distance of 258.70 feet to the East right-of-way of Kings Highway; thence run North along said East right-of-way a distance of 245.45 feet to the POINT OF BEGINNING.

CHICAGO TITLE INSURANCE AGENCY, INC.

EXHIBIT "B"

Permitted Encumbrances

[Permitted Encumbrances, as defined in the Asset Purchase and Sale Agreement, will be supplied]

This Instrument Prepared by and return to:

Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, FL 33408

Substation 8

Tax Parcel ID Number: 33-39-13-00000-5000-0004.0

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into as of the ____ day of _____, 201__, by CITY OF VERO BEACH, a municipal corporation organized under the laws of the State of Florida (the "Grantor"), whose address 1053 20th Place, Vero Beach, FL 32960, to FLORIDA POWER & LIGHT COMPANY, a Florida corporation (the "Grantee"), whose address is 700 Universe Boulevard, Juno Beach, FL 33408.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all that certain parcel of land lying and being in the County of Indian River, State of Florida, as more particularly on Exhibit "A" attached hereto and made a part hereof (the "Property").

To have and to hold, the same in fee simple forever.

SUBJECT TO: Taxes and assessments for the year ____ and all subsequent years; all applicable governmental, zoning, land use conservation and environmental ordinances, restrictions, and prohibitions and other requirements imposed by governmental authority; and the Permitted Encumbrances described in Exhibit "B" attached hereto and made a part hereof.

And the said Grantor hereby covenants with Grantee that Grantor has good right, full power, and lawful authority to sell and convey said land, and hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under the Grantor, but against no others.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed the day and year first above written.

ATTEST:	**CITY OF VERO BEACH, FLORIDA**
_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____

STATE OF FLORIDA)
) ss:
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____, and attested by _____, as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida, on behalf of said municipal corporation, who:

☐ are personally known to me, or

☐ have produced _____ as identification.

_____
Notary Public — State of Florida
Printed Name:_____
(Notary Seal) My Commission Expires:_____

Approved as to form and legal sufficiency:

_____
Printed Name:_____
Title:_____

SUBJECT TO REVISION

EXHIBIT "A"

Two (2) parcels of land lying in Section 13, Township 33 South, Range 39 East, Indian River County, Florida, being more particularly described as follows:

Parcel 1

Commencing at the Southeast corner of the Southwest quarter of Section 13, Township 33 South, Range 39 East, Indian River County, Florida; run North along the quarter Section line a distance of 399.84 feet to the POINT OF BEGINNING; thence continue North along the quarter Section line a distance of 200.0 feet to a point on the South right-of-way line of the South Relief Canal; thence run Southwesterly along said South right-of-way line a distance of 200.0 feet; thence run South and parallel to the aforesaid quarter Section line a distance of 200.0 feet; thence run Northeasterly and parallel to the aforesaid South right-of-way line a distance of 200.0 feet to the POINT OF BEGINNING.

Parcel 2

Beginning at the intersection of the South right of way of the South Relief Canal with the West line of the Southwest one-quarter of the Southeast one-quarter of Section 13, Township 33 South, Range 39 East, Indian River County, Florida; thence run Northeasterly along said South right of way line a distance of 240.0 feet; thence run South and parallel to said West line of Southwest one-quarter of Southeast one-quarter a distance of 337.0 feet; thence run West a distance of 230.97 feet to a point on the said West line of Southwest one-quarter of Southeast one-quarter; said point lying 271.78 feet South of the point of beginning; thence run North along said West line a distance of 271.78 feet to the POINT OF BEGINNING.

CHICAGO TITLE INSURANCE AGENCY, INC.

EXHIBIT "B"

Permitted Encumbrances

[Permitted Encumbrances, as defined in the Asset Purchase and Sale Agreement, will be supplied]

This instrument Prepared by and return to:

Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, FL 33408

Substation 9

Tax Parcel ID Number 32-40-18-00000-0100-00001.0

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into as of the ____ day of _____, 201__, by CITY OF VERO BEACH, a municipal corporation organized under the laws of the State of Florida (the "Grantor"), whose address 1053 20th Place, Vero Beach, FL 32960, to FLORIDA POWER & LIGHT COMPANY, a Florida corporation (the "Grantee"), whose address is 700 Universe Boulevard, Juno Beach, FL 33408.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all that certain parcel of land lying and being in the County of Indian River, State of Florida, as more particularly on Exhibit "A" attached hereto and made a part hereof (the "Property").

To have and to hold, the same in fee simple forever.

SUBJECT TO: Taxes and assessments for the year ____ and all subsequent years; all applicable governmental, zoning, land use conservation and environmental ordinances, restrictions, and prohibitions and other requirements imposed by governmental authority; and the Permitted Encumbrances described in Exhibit "B" attached hereto and made a part hereof.

And the said Grantor hereby covenants with Grantee that Grantor has good right, full power, and lawful authority to sell and convey said land, and hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under the Grantor, but against no others.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed the day and year first above written.

ATTEST:	**CITY OF VERO BEACH, FLORIDA**
_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____

STATE OF FLORIDA)
) ss:
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____, and attested by _____, as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida, on behalf of said municipal corporation, who:

☐ are personally known to me, or

☐ have produced _____ as identification.

_____
Notary Public — State of Florida
Printed Name:_____
(Notary Seal) My Commission Expires:_____

Approved as to form and legal sufficiency:

_____
Printed Name:_____
Title:_____

SUBJECT TO REVISION

EXHIBIT "A"

The Southeast one acre of Government Lot 10, Section 18, Township 32 South, Range 40 East, Indian River County, Florida, shown as the Water Plant Site on the Plat of Fred R. Tuerk Drive as filed in Plat Book 7, Page 86, of the Public Records of Indian River County, Florida, LESS AND EXCEPT therefrom that portion thereof conveyed to the Town of Indian River Shores by Quit Claim Deed recorded in Official Records Book 884, Page 2669, of the Public Records of Indian River County, Florida.

EXHIBIT "B"

Permitted Encumbrances

[Permitted Encumbrances, as defined in the Asset Purchase and Sale Agreement, will be supplied]

This Instrument Prepared by and return to:

Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, FL 33408

Substation 10

Tax Parcel ID Number 33-40-05-00008-0001-00000.2
Tax Parcel ID Number 33-40-05-00008-0001-00000.4

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into as of the ____ day of _____, 201__, by CITY OF VERO BEACH, a municipal corporation organized under the laws of the State of Florida (the "Grantor"), whose address 1053 20th Place, Vero Beach, FL 32960, to FLORIDA POWER & LIGHT COMPANY, a Florida corporation (the "Grantee"), whose address is 700 Universe Boulevard, Juno Beach, FL 33408.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all that certain parcel of land lying and being in the County of Indian River, State of Florida, as more particularly on Exhibit "A" attached hereto and made a part hereof (the "Property").

To have and to hold, the same in fee simple forever.

SUBJECT TO: Taxes and assessments for the year ____ and all subsequent years; all applicable governmental, zoning, land use, conservation and environmental ordinances, restrictions, and prohibitions and other requirements imposed by governmental authority; and the Permitted Encumbrances described in Exhibit "B" attached hereto and made a part hereof.

And the said Grantor hereby covenants with Grantee that Grantor has good right, full power, and lawful authority to sell and convey said land, and hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under the Grantor, but against no others.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed the day and year first above written.

ATTEST:	**CITY OF VERO BEACH, FLORIDA**
_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____

STATE OF FLORIDA)
) ss:
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____, and attested by _____, as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida, on behalf of said municipal corporation, who:

☐ are personally known to me, or

☐ have produced _____ as identification.

_____
Notary Public — State of Florida
Printed Name:_____
(Notary Seal) My Commission Expires:_____

Approved as to form and legal sufficiency:

_____
Printed Name:_____
Title:_____

SUBJECT TO REVISION

EXHIBIT "A"

That portion of Tract A, PELICAN COVE, according to the Plat thereof, as recorded in Plat Book 3, Page 75, of the Public Records of Indian River County, Florida, being more particularly described as follows:

From the Northeast corner of Government Lot 7, Section 5, Township 33 South, Range 40 East, Indian River County, Florida, run Westerly along the North boundary of said Government Lot 7 a distance of 45 feet to the West right-of-way line of Avenue "K", said point being the Northeast corner of said Tract A;

thence run South 0° 4' 32" East along the West right-of-way line of Avenue "K", which said line is also the East boundary line of said Tract A, a distance of 277.76 feet to the POINT OF BEGINNING;

thence continue along the said West right-of-way line of Avenue "K" and the East boundary line of said Tract A in a Southerly direction, a distance of 173.00 feet;

thence run South 89° 56' 28" West, a distance of 140.48 feet to the West boundary line of said Tract A, which is also the East boundary line of State Road A1A;

thence run North 16° 54' 02" West along the Western boundary line of said Tract A, which is also the Easterly right-of-way line of said State Road, a distance of 178.05 feet;

thence run parallel to the North boundary line of said Tract A on a line which bears North 89° 10' 05" East, a distance of 192.37 feet to the POINT OF BEGINNING.

CHICAGO TITLE INSURANCE AGENCY, INC.

EXHIBIT "B"

Permitted Encumbrances

[Permitted Encumbrances, as defined in the Asset Purchase and Sale Agreement, will be supplied]

This Instrument Prepared by and return to:

Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, FL 33408

Substation 11

Tax Parcel ID Number: 33-40-16-00000-0030-00017.0
Tax Parcel ID Number: 33-40-17-00000-0020-00004.0.

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into as of the ____ day of _____, 201__, by CITY OF VERO BEACH, a municipal corporation organized under the laws of the State of Florida (the "Grantor"), whose address 1053 20th Place, Vero Beach, FL 32960, to FLORIDA POWER & LIGHT COMPANY, a Florida corporation (the "Grantee"), whose address is 700 Universe Boulevard, Juno Beach, FL 33408.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all that certain parcel of land lying and being in the County of Indian River, State of Florida, as more particularly on Exhibit "A" attached hereto and made a part hereof (the "Property").

To have and to hold, the same in fee simple forever.

SUBJECT TO: Taxes and assessments for the year ____ and all subsequent years; all applicable governmental, zoning, land use conservation and environmental ordinances, restrictions, and prohibitions and other requirements imposed by governmental authority; and the Permitted Encumbrances described in Exhibit "B" attached hereto and made a part hereof.

And the said Grantor hereby covenants with Grantee that Grantor has good right, full power, and lawful authority to sell and convey said land, and hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under the Grantor, but against no others.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed the day and year first above written.

ATTEST:	**CITY OF VERO BEACH, FLORIDA**
_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____

STATE OF FLORIDA)
) ss:
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____, and attested by _____, as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida, on behalf of said municipal corporation, who:

☐ are personally known to me, or

☐ have produced _____ as identification.

_____
Notary Public — State of Florida
Printed Name:_____
(Notary Seal) My Commission Expires:_____

Approved as to form and legal sufficiency:

_____
Printed Name:_____
Title:_____

EXHIBIT "A"

SUBJECT TO REVISION

The North one-half (N ½) of Government Lot 3, Section 16, Township 33 South, Range 40 East, Indian River County, Florida, lying West of State Highway A-1-A, less the North 546.245 feet thereof; and the North one-half (N ½) of Government Lot 2, Section 17, Township 33 South, Range 40 East, Indian River County, Florida, less the North 546.245 feet thereof, and also, the South 10 acres of the North 40 acres of Government Lot 2, Section 17, Township 33 South, Range 40 East, Indian River County, Florida.

EXHIBIT "B"

Permitted Encumbrances

[Permitted Encumbrances, as defined in the Asset Purchase and Sale Agreement, will be supplied]

This Instrument Prepared by and return to:
Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, FL 33408

Substation 20

Tax Parcel ID Number (Parcel 1):	**33-40-31-00000-5000-00002.1**
Tax Parcel ID Number (Parcel 2):	**33-40-31-00000-5000-00001.1 and 33-40-31-00000-5000-00002.0**
Tax Parcel ID Number (Parcels 3, 4 and 5):	**33-39-36-00005-0002-00001.0** **33-39-36-00005-0003-00001.00** **33-40-31-00000-5000-00004.1**

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into as of the ____ day of _____, 201__, by CITY OF VERO BEACH, a municipal corporation organized under the laws of the State of Florida (the "Grantor"), whose address 1053 20th Place, Vero Beach, FL 32960, to FLORIDA POWER & LIGHT COMPANY, a Florida corporation (the "Grantee"), whose address is 700 Universe Boulevard, Juno Beach, FL 33408.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, all that certain parcel of land lying and being in the County of Indian River, State of Florida, as more particularly on Exhibit "A" attached hereto and made a part hereof (the "Property").

To have and to hold, the same in fee simple forever.

SUBJECT TO: Taxes and assessments for the year ____ and all subsequent years; all applicable governmental, zoning, land use conservation and environmental ordinances, restrictions, and prohibitions and other requirements imposed by governmental authority; and the Permitted Encumbrances described in Exhibit "B" attached hereto and made a part hereof.

And the said Grantor hereby covenants with Grantee that Grantor has good right, full power, and lawful authority to sell and convey said land, and hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under the Grantor, but against no others.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed the day and year first above written.

ATTEST:	**CITY OF VERO BEACH, FLORIDA**
_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____

STATE OF FLORIDA)
) ss:
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____, and attested by _____, as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida, on behalf of said municipal corporation, who:

☐ are personally known to me, or

☐ have produced _____ as identification.

_____
Notary Public — State of Florida
Printed Name:_____
(Notary Seal) My Commission Expires:_____

Approved as to form and legal sufficiency:

_____
Printed Name:_____
Title:_____

SUBJECT TO REVISION

EXHIBIT "A"

Five (5) parcels of land lying in Section 31, Township 33 South, Range 40 East, Indian River County, Florida, and Section 36, Township 33 South, Range 39 East, Indian River County, Florida, being more particularly described as follows:

Parcel 1

The South 404.00 feet of the Southwest one-quarter (SW ¼) of Section 31, Township 33 South, Range 40 East, Indian River County, Florida, lying East of the East right-of-way line of Lateral "J" Canal, LESS AND EXCEPT therefrom the East 25 feet thereof for road right-of-way purposes.

Parcel 2

Easement for the benefit of Parcel 1 over, under and across the following described parcel of land:

An easement 40 feet in width lying parallel and adjacent to the East right-of-way line of the Lateral "J" Canal extending from the North line of said Southwest one-quarter (SW ¼) South to a point 416.82 feet North of the South line of said Southwest one-quarter (SW ¼) as measured along the said right-of-way line of Lateral "J" Canal in Section 31, Township 33 South, Range 40 East, Indian River County, Florida.

Parcel 3

Tract "B", VERO BEACH HIGHLANDS UNIT FIVE, according to the Plat thereof, as recorded in Plat Book 8, Page 56, of the Public Records of Indian River County, Florida.

Parcel 4

Tract "C", VERO BEACH HIGHLANDS UNIT FIVE, according to the Plat thereof, as recorded in Plat Book 8, Page 56, of the Public Records of Indian River County, Florida.

Parcel 5

The North 25 feet of the South 145 feet of the Southwest one-quarter (SW ¼) of Section 31, Township 33 South, Range 40 East, Indian River County, Florida, lying West of the West right-of-way line of Lateral "J" Canal, LESS AND EXCEPT therefrom the West 40 feet thereof for road right-of-way purposes.

CHICAGO TITLE INSURANCE AGENCY, INC.

EXHIBIT "B"

Permitted Encumbrances

[Permitted Encumbrances, as defined in the Asset Purchase and Sale Agreement, will be supplied]

AND

1. Use limitations and conditions contained in the unrecorded Fort Pierce-Vero Beach Tie –Line Agreement dated May 5, 1992 and amendments thereto, as made subject to in each of the Quit-claim Deeds of on-half interest in the subject property by the City of Vero Beach, Florida, a municipal corporation to the City of Fort Pierce, a municipal corporation, for the use and benefit of he Fort Pierce Utilities Authority, dated March 16, 1994, recorded October 7, 1994, in Official Records Book 1036, page 190, in Official Records Book 1036, Page 192 and in Official Records Book 1036, Page 194, all of te Public Records of Indian River County, Florida.

This Instrument Prepared by and return to:

Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, FL 33408

St. Lucie County Parcels

Tax Parcel ID Number (Parcel 1):	**1406-211-0002-010.4**
Tax Parcel ID Number (Parcel 2):	**1406-211-0001-010.7**
Tax Parcel ID Number (Parcel 3):	**1406-121-0001-000.8**
Tax Parcel ID Number (Parcel 3):	**1406-121-0002-000.5**
Tax Parcel ID Number Parcel 3):	**1406-210-0000-000.4**
Tax Parcel ID Number Parcels A and B):	**1310-412-0002-000.4**

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into as of the ____ day of _____, 201__, by CITY OF VERO BEACH, a municipal corporation organized under the laws of the State of Florida (the "Grantor"), whose address 1053 20th Place, Vero Beach, FL 32960, to FLORIDA POWER & LIGHT COMPANY, a Florida corporation (the "Grantee"), whose address is 700 Universe Boulevard, Juno Beach, FL 33408.

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, to it in hand paid, the receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, its successors and assigns forever, an undivided one half interest in that certain parcel of land lying and being in the County of Indian River, State of Florida, as more particularly on Exhibit "A" attached hereto and made a part hereof (the "Property").

To have and to hold, the same in fee simple forever.

SUBJECT TO: Taxes and assessments for the year ____ and all subsequent years; all applicable governmental, zoning, land use conservation and environmental ordinances, restrictions, and prohibitions and other requirements imposed by governmental authority; and the Permitted Encumbrances described in Exhibit "B" attached hereto and made a part hereof.

And the said Grantor hereby covenants with Grantee that Grantor has good right, full power, and lawful authority to sell and convey said land, and hereby warrants the title to the Property and will defend the same against the lawful claims of all persons whomsoever, claiming by, through or under the Grantor, but against no others.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed the day and year first above written.

ATTEST:	**CITY OF VERO BEACH, FLORIDA**
_____	By:_____
Printed Name:_____	Printed Name:_____
Title:_____	Title:_____

STATE OF FLORIDA)
) ss:
COUNTY OF INDIAN RIVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____, and attested by _____, as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida, on behalf of said municipal corporation, who:

☐ are personally known to me, or

☐ have produced _____ as identification.

_____
Notary Public — State of Florida
Printed Name:_____
(Notary Seal) My Commission Expires:_____

Approved as to form and legal sufficiency:

_____
Printed Name:_____
Title:_____

EXHIBIT "A"

SUBJECT TO REVISION

An undivided one half interest in the following property:

Two (2) parcels of land lying in the North one-half (N ½) of the Southeast one-quarter (SE ¼) in Section 10, Township 34 South, Range 39 East, St. Lucie County, Florida, more particularly described as follows:

Parcel A

The South 200 feet of the South 863.18 feet of the North (N ½) of the Southeast (SE ¼) in Section 10, Township 34 South, Range 39 East, St. Lucie County, Florida, LESS the West 60 feet and the East 775 feet thereof.

Parcel B

The West 40 feet of the East 775 feet of the North 460 feet of the South 660 feet of the North (N ½) of the Southeast (SE ¼) in Section 10, Township 34 South, Range 39 East, St. Lucie County, Florida.

AND

An undivided one half interest in the following property:

Three (3) parcels of land lying in Section 6, Township 34 South, Range 40 East, St. Lucie County, Florida, more particularly described as follows:

Parcel 1

The North 60 feet of the West one-half (W ½) of the East two-fifths (E 2/5) of the North one-half (N ½) of the North one-half (N ½) of the Northeast one-quarter (NE ¼) of the Northeast one-quarter (NE ¼) of the Northwest one-quarter (NW ¼) of Section 6, Township 34 South, Range 40 East, St. Lucie County, Florida. (Also identified as Tract 19, as shown on Location Map "A" as drawn by McLaughlin Engineering Co., dated April 8, 1966.)

Parcel 2

The North 60 feet of the East one-fifth (E 1/5) of the North one-half (N ½) of the North one-half (N ½) of the Northeast one-quarter (NE ¼) of the Northeast one-quarter (NE ¼) of the Northwest one-quarter (NW ¼) of Section 6, Township 34 South, Range 40 East, St. Lucie County, Florida. (Also identified as Tract 20, as shown on Location Map "A" as drawn by McLaughlin Engineering Co., dated April 8, 1966.)

Parcel 3

Easement created by Easement Deed granted by Violet Klatt and Bill R. Winchester, as a majority of the Special Trustees of the Revocable Trust Agreement created by Ernest F. Klatt, also known as Ernest Klatt, dated May 18, 1990, in favor of the City of Vero Beach, a municipal corporation of the State of Florida, said Easement dated March 18, 1993, recorded April 2, 1993, in Official Records Book **834**, Page **2265**, in the Public Records of St. Lucie County, Florida, over, across and upon the following described property situate in the County of St. Lucie, State of Florida and being more particularly bounded and described as follows:

The North 60 feet of the West one-third (W 1/3) of the East three-fifths (E 3/5) of the North one-half (N ½) of the North one-half (N ½) of the Northeast one-quarter (NE ¼) of the Northeast one-quarter (NE ¼) of the Northwest one-quarter (NW ¼) of Section 6, Township 34 South, Range 40 East, St. Lucie County, Florida. (Also identified as Tract 18, as shown on Location Map "A" as drawn by McLaughlin Engineering Co., dated April 8, 1966.)

AND

The North 35 feet of the West 235 feet of the Northwest one-quarter (NW ¼) of the Northwest one-quarter (NW ¼) of the Northeast one-quarter (NE ¼) of Section 6, Township 34 South, Range 40 East, St. Lucie County, Florida.

AND

The North 60 feet of the Northwest one-quarter (NW ¼) of the Northwest one-quarter (NW ¼) of the Northeast one-quarter (NE ¼), LESS the West 235 feet thereof, in Section 6, Township 34 South, Range 40 East, St. Lucie County, Florida.

AND

The North 60 feet of the Northeast one-quarter (NE ¼) of Section 6, Township 34 South, Range 40 East, St. Lucie County, Florida, lying West of the West right-of-way line of U.S. Highway No. 1, LESS the Northwest one-quarter NW ¼) of the Northwest one-quarter (NW ¼) of the Northeast one-quarter (NE ¼) thereof in said Section 6.

Subject to the terms, provisions and conditions set forth in said Easement Deed.

CHICAGO TITLE INSURANCE AGENCY, INC.

EXHIBIT "B"

Permitted Encumbrances

[Permitted Encumbrances, as defined in the Asset Purchase and Sale Agreement, will be supplied]

AND

1. Subject to the limitations and conditions contained in that certain unrecorded Fort Pierce – Vero Beach Tie-Line Agreement dated May 5, 1992, as amended, as made subject to in a Quite-Claim Deed of one-half interest in the subject property by the City of Vero Beach, Florida, a municipal corporation to the city of Fort Pierce, a municipal corporation for the use and benefit of Fort Pierce Utilities Authority, dated March 16, 1994, recorded October 5, 1994 in Official Records Book 923, Page 644 of the Public Records of Indian River County, Florida.

EXHIBIT D

OWNER'S AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared _____, as _____, and attested by _____, as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida, on behalf of said municipal corporation, (the "Seller"), ("Seller" refers to singular or plural as context requires) who, first being duly sworn, deposes and says that, to the actual awareness of the City Manager of the City of Vero Beach without investigation:

A. OWNER'S AFFIDAVIT

1. Seller is the owner of the following described property (the "Property"):

   All those certain parcels of land lying and being in the County of Indian River, State of Florida, as more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Property").

2. There is no outstanding contract for the sale of the property to any person or persons whomsoever, nor any unrecorded deed, mortgage or other conveyances affecting the title to the Property.

3. There are no liens, encumbrances, mortgages, claims, boundary line or other disputes, demands or security interests in, on or against the Property; that there are no unpaid taxes, levies, assessments, paving liens or utility liens against the Property (other than real estate taxes for the current year).

4. There have been no improvements made upon the Property within the past ninety (90) days for which there remain any outstanding and unpaid bills for labor, materials or supplies for which a lien or liens might be claimed by anyone.

5. There are no matters pending against Seller which could give rise to a lien that would attach to the Property during the period of time between the effective date of the title insurance commitment and the time of recording of the instruments evidencing the Buyer's fee simple or other interests in the Property; and that the Seller has not executed and will not execute any instrument that would adversely affect the title to the Property from the date of this Affidavit forward.

6. There are no judgments, claims, disputes, demands or other matters pending against Seller that could attach to the Property.

7. Except as may be described in Chicago Title Insurance Company Commitment No. ____, Seller is in sole constructive or actual possession of the Property and no other person has any right to possession of the Property, or asserts any claim of title or other interests in it.

8. Seller represents there are no violations of governmental laws, regulations or ordinances pertaining to the use of the Property.

Seller states that this instrument is given for the express purpose of inducing CHICAGO TITLE INSURANCE AGENCY, INC. as agent for CHICAGO TITLE INSURANCE COMPANY to insure title to said property and may be relied upon solely by CHICAGO TITLE INSURANCE AGENCY, INC. as agent

OWNER'S AFFIDAVIT - Page 2

for CHICAGO TITLE INSURANCE COMPANY. This Affidavit is made under the full understanding of the law regarding liability for any misrepresentation herein.

OWNER'S AFFIDAVIT - Page 3

Dated this ___day of _____, 2013.

:
ATTEST:

By: _____

Printed Name: _____

Title: _____

CITY OF VERO BEACH, FLORIDA

By: _____

Printed Name: _____

Title: _____

STATE OF FLORIDA)
ss:
COUNTY OF INDIAN RIVER)

Sworn and subscribed before me this ____ day of _____, 2013 by _____,

as _____, and attested by _____,

as _____, of the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized

under the laws of the State of Florida, on behalf of said municipal corporation, who:

are personally known to me, or

have produced _____ as identification.

NOTARY RUBBER STAMP SEAL

_____
Notary Signature

_____
Print Name

Approved as to form and legal sufficiency:

By: _____

Printed Name: _____

Title: _____

113093572.2
113120871.1

EXHIBIT E

Form of Franchise Ordinance

EXHIBIT E

ORDINANCE NO. 2017-_____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, GRANTING TO FLORIDA POWER & LIGHT COMPANY AN ELECTRIC UTILITY FRANCHISE WITHIN THE CITY OF VERO BEACH; ESTABLISHING TERMS AND CONDITIONS RELATING THERETO; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Vero Beach, Florida ("City") owns and operates an electric utility in Indian River County, Florida, and wishes to exit the electric utility business; and

WHEREAS, Florida Power & Light Company ("FPL") is a public utility and desires to purchase and assume from the City, and the City desires to sell and assign to FPL, certain electric utility assets and certain associated liabilities upon the terms and conditions set forth in that certain Asset Purchase and Sale Agreement, dated as of October [_____], 2017, by and between the City, as seller, and FPL, as buyer (the "Agreement"); and

WHEREAS, the City and FPL desire for FPL to provide retail electric service to the City's electric utility customers, commencing on the day that FPL purchases from the City such electric utility assets upon the terms and conditions set forth in the Agreement (the "Closing Date"); and

WHEREAS, in connection with the purchase of such electric utility assets and the assumption of such associated liabilities pursuant to the Agreement, the City and FPL have agreed that, on or prior to the Closing Date, the City will adopt this Franchise Ordinance providing for the payment of fees by FPL to the City effective on and after the Closing Date in exchange for the nonexclusive right and privilege of supplying retail

electricity and providing other retail electric utility-related services incidental thereto, within the City free of competition from the City, pursuant to certain terms and conditions set forth herein;

WHEREAS, the City owns and will own certain streets, avenues, alleys, wharves, bridges, public thoroughfares, public grounds, and rights-of-way within the City municipal incorporated boundaries; and

WHEREAS, the City Council for the City finds that the franchise provided for in this Franchise Ordinance and the provisions thereof are in the public interest and serve a municipal purpose,

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF VERO BEACH, FLORIDA:

Section 1.

The preceding recitals are (i) hereby ratified as true and correct and incorporated herein, and (ii) form the purpose and legislative intent of this Franchise Ordinance.

Section 2.

There is hereby granted to FPL, its successors and assigns (hereinafter called the "Grantee"), for the period of 30 years from the Closing Date (alternatively referred to herein as the "Effective Date"), the nonexclusive right, privilege and franchise (hereinafter called "Franchise") to construct, operate and maintain in, under, upon, along, over and across the present and future roads, streets, alleys, bridges, public easements, rights-of-way and other public places (hereinafter called "public rights-of-way") throughout all of the incorporated areas, as such incorporated areas may be constituted from time to time, of the City and its successors (hereinafter called the

"Grantor"), in accordance with the Grantee's customary practice with respect to construction and maintenance, electric light and power facilities, including, without limitation, conduits, poles, wires, transmission and distribution lines, and all other facilities installed in conjunction with or ancillary to all of the Grantee's operations (herein called "facilities"), for the purpose of supplying electricity and other services to the Grantor and its successors, the inhabitants thereof, any and all other Customers (as defined in the Agreement) and other persons beyond the city limits of the Grantor.

Section 3.

The facilities of the Grantee shall be installed, located or relocated so as to not unreasonably interfere with traffic over the public rights-of-way or with reasonable egress from and ingress to abutting property. To avoid such conflicts, the location or relocation of all facilities shall be made as representatives of the Grantor may prescribe in accordance with the Grantor's reasonable rules and regulations with reference to the placing and maintaining in, under, upon, along, over and across said public rights-of-way; provided, however, that such rules or regulations (a) shall not prohibit the exercise of the Grantee's right to use said public rights-of-way for reasons other than unreasonable interference with motor vehicular traffic; (b) shall not unreasonably interfere with the Grantee's ability to furnish reasonably sufficient, adequate and efficient electric service to all of its customers; and (c) shall not require the relocation of any of the Grantee's facilities installed before or after the Effective Date in public rights-of-way unless or until widening or otherwise changing the configuration of the paved portion of any public right-of-way used by motor vehicles causes such installed facilities to unreasonably interfere with motor vehicular traffic. Such rules and regulations shall recognize that above-grade facilities of the Grantee installed after the Effective Date

should be installed near the outer boundaries of the public rights-of-way to the extent possible. When any portion of a public right-of-way is excavated by the Grantee in the location or relocation of any of its facilities, the portion of the public right-of-way so excavated shall within a reasonable time be replaced by the Grantee at its expense and in as good condition as it was at the time of such excavation. The Grantor shall not be liable to the Grantee for any cost or expense in connection with any relocation of the Grantee's facilities required under subsection (c) of this Section, except, however, the Grantee shall be entitled to reimbursement of its costs from others as may be provided by law.

Section 4.

The Grantor shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by the Grantee of its facilities hereunder, and the acceptance of this Franchise Ordinance shall be deemed an agreement on the part of the Grantee to indemnify the Grantor and hold it harmless against any and all liability, loss, cost, damage or expense, including reasonable attorney and paralegal fees and expert costs, which may accrue to the Grantor or the Grantor may incur by reason of the negligence, default, or misconduct of the Grantee in the construction, operation, or maintenance of its facilities hereunder.

Section 5.

All rates and rules and regulations established by the Grantee from time to time shall be subject to such regulation as may be provided by law.

Section 6.

As a consideration for this Franchise, the Grantee shall pay to the Grantor, commencing 90 days after the Effective Date and each month thereafter for the

remainder of the term of this Franchise (and for two months thereafter due to the lag between collection and payment by Grantee), an amount which added to the amount of all licenses, excises, fees, charges, and other impositions of any kind whatsoever (except ad valorem property taxes and non-ad valorem tax assessments on property), levied or imposed by the Grantor against the Grantee's property, business, or operations and those of its subsidiaries during the Grantee's monthly billing period ending 60 days prior to each such payment, will equal six percent (6%) of the Grantee's billed revenues, less actual write-offs, from the sale of electrical energy to residential, commercial, and industrial customers (as such customers are defined by FPL's tariff) within the incorporated areas of the Grantor for the monthly billing period ending 60 days prior to each such payment, and in no event shall payment for the rights and privileges granted herein exceed six percent (6%) of such revenues for any monthly billing period of the Grantee (such monthly amount, as calculated pursuant to this paragraph, the "Monthly Payment.")

The Grantor understands and agrees that such revenues as described in the preceding paragraph are limited to the precise revenues described therein, and that such revenues do not include, by way of example and not limitation: (a) revenues from the sale of electrical energy for Public Street and Highway Lighting (service for lighting public ways and areas); (b) revenues from Other Sales to Public Authorities (service with eligibility restricted to governmental entities); (c) revenues from Sales to Railroads and Railways (service supplied for propulsion of electric transit vehicles); (d) revenues from Sales for Resale (service to other utilities for resale purposes); (e) franchise fees; (f) Late Payment Charges; (g) Field Collection Charges; (h) other service charges.

If during the term of this Franchise Ordinance the Grantee enters into a franchise with any other municipality or other governmental entity located in Indian River County, Brevard County, or St. Lucie County, the terms of which provide for the payment of franchise fees by the Grantee at a rate greater than 6% of the Grantee's residential, commercial, and industrial revenues under the same terms and conditions as specified in Section 6 hereof, the Grantee, upon written request of the Grantor, shall negotiate and enter into a new franchise with the Grantor in which the percentage to be used in calculating monthly payments under Section 6 utilizing the same terms and conditions as set forth in Section 6 hereof shall be that greater rate provided for such other municipality or other governmental entity within Indian River County, Brevard County, or St. Lucie County; provided, however, that if the franchise with such other municipality or other governmental entity contains additional benefits given to Grantee in exchange for the increased franchise rate, which such additional benefits are not contained in this Franchise Ordinance, such new franchise shall include those additional benefits to the Grantee.

Section 7.

As a further consideration, during the term of this Franchise Ordinance or any extension thereof, the Grantor agrees: (a) not to engage in the distribution and/or sale, in competition with the Grantee, of electric capacity and/or electric energy to any ultimate consumer of electric utility service (herein called a "retail customer") or to any electrical distribution system established solely to serve any retail customer formerly served by the Grantee; (b) not to participate in any proceeding or contractual arrangement, the purpose or terms of which would be to obligate the Grantee to

transmit and/or distribute, electric capacity and/or electric energy from any third party(ies) to any other retail customer's facility(ies); and (c) not to seek to have the Grantee transmit and/or distribute electric capacity and/or electric energy generated by or on behalf of the Grantor at one location to the Grantor's facility(ies) at any other location(s). Nothing specified herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale transactions which are subject to the provisions of the Federal Power Act. Nothing herein shall prohibit the Grantor, if permitted by law, (i) from purchasing electric capacity and/or electric energy from any other person, or (ii) from seeking to have the Grantee transmit and/or distribute to any facility(ies) of the Grantor electric capacity and/or electric energy purchased by the Grantor from any other person; provided, however, that before the Grantor elects to purchase electric capacity and/or electric energy from any other person, the Grantor shall notify the Grantee. Such notice shall include a summary of the specific rates, terms and conditions which have been offered by the other person and identify the Grantor's facilities to be served under the offer. The Grantee shall thereafter have ninety (90) days to evaluate the offer and, if the Grantee offers rates, terms, and conditions which are equal to or better than those offered by the other person, the Grantor shall be obligated to continue to purchase from the Grantee electric capacity and/or electric energy to serve the previously-identified facilities of the Grantor for a term no shorter than that offered by the other person. If the Grantee does not agree to rates, terms and conditions which are equal to or better than the other person's offer, then Grantor may proceed with the other person's offered sale and purchase arrangement and all of the terms and conditions of this Franchise shall remain in effect.

Section 8.

If the Grantor grants a right, privilege or franchise to any other person or otherwise enables any other such person to construct, operate or maintain electric light and power facilities within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve or compete on terms and conditions which the Grantee determines are more favorable than the terms and conditions contained herein, the Grantee may at any time thereafter terminate this Franchise Ordinance if such terms and conditions are not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least one hundred and fifty (150) days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of such terms and conditions that it considers more favorable. The Grantor shall then have one hundred and fifty (150) days in which to correct or otherwise remedy the terms and conditions complained of by the Grantee. If the Grantee determines that such terms or conditions are not remedied by the Grantor within said time period, the Grantee may terminate this Franchise Ordinance by delivering written notice to the Grantor's City Manager and termination shall be effective on the date of delivery of such notice.

Section 9.

If as a direct or indirect consequence of any legislative, regulatory or other action by the United States of America or the State of Florida (or any department, agency, authority, instrumentality or political subdivision of either of them), any person is permitted to provide electric service within the incorporated areas of the Grantor to a customer then being served by the Grantee, or to any new applicant for electric service

within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve, and the Grantee reasonably determines that its obligations hereunder, or otherwise resulting from this Franchise Ordinance in respect to rates and service, place it at a competitive disadvantage with respect to such other person, the Grantee may, at any time after the taking of such action, terminate this Franchise Ordinance if such competitive disadvantage is not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least one hundred and fifty (150) days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of the consequences of such action which resulted in the competitive disadvantage. The Grantor shall then have one hundred and fifty (150) days in which to correct or otherwise remedy the competitive disadvantage. If such competitive disadvantage is not remedied by the Grantor within said time period, the Grantee may terminate this Franchise Ordinance by delivering written notice to the Grantor's City Manager and termination shall take effect on the date of delivery of such notice. Nothing contained herein shall be construed as constraining Grantor's rights to legally challenge Grantee's reasonable determination of competitive disadvantage leading to termination under this section.

Section 10.

Failure on the part of the Grantee to comply in any substantial respect with any of the provisions of this Franchise shall be grounds for forfeiture, but no such forfeiture shall take effect if the reasonableness or propriety thereof is protested by the Grantee until there is a final determination (after the expiration or exhaustion of all rights of appeal) by a court of competent jurisdiction that the Grantee has failed to comply in a

substantial respect with any of the provisions of this Franchise, and the Grantee shall have six months after such final determination to make good the default before a forfeiture shall result, with the right of the Grantor at its discretion to grant such additional time to the Grantee for compliance as necessities in the case require. Such final determination by a court of competent jurisdiction, including any final appellate determination or ruling, shall allow Grantor to proceed with its choice of remedies, provided, however, that the Grantor may, in its discretion, grant such additional time to the Grantee for compliance as the Grantor determines are in the best interests of Grantor and Grantor's citizens. Non substantial or non-material defaults or failures by the Grantee shall be remediable pursuant to any available legal remedies.

Section 11.

Failure on the part of the Grantor to comply in substantial respect with any of the provisions of this Ordinance, including, but not limited to: (a) denying the Grantee use of public rights-of-way for reasons other than unreasonable interference with motor vehicular traffic; (b) imposing conditions for use of public rights-of-way contrary to Florida law or the terms and conditions of this Franchise; (c) unreasonable delay in issuing the Grantee a use permit, if any, to construct its facilities in public rights-of-way, may constitute breach of this Franchise and entitle the Grantee to withhold all or part of the payments provided for in Section 6 hereof until such time as a use permit is issued. However, no such breach shall take effect if the reasonableness or propriety thereof is protested by the Grantor until there is a final determination (after the expiration or exhaustion of all rights of appeal) by a court of competent jurisdiction that the Grantor has failed to comply in a substantial respect with any of the provisions of the Franchise,

and the Grantor shall have thirty (30) days after such final determination to make good the default before a breach shall result, with the right of the Grantee at its discretion to grant such additional time to the Grantor for compliance as necessities in this case require. The Grantor recognizes and agrees that nothing in this Ordinance constitutes or shall be deemed to constitute a waiver of the Grantee's delegated sovereign right of condemnation and that the Grantee, in its sole discretion, may exercise such right.

Section 12.

Upon the Grantor's annexation of any property and appropriate written notice to Grantee, the portion of Grantee's electrical system located within such annexed territory, and in, under, over, and upon the streets, alleys, rights-of-way, or public grounds of such annexed territory, shall be subject to all the terms of this Franchise Ordinance within ninety (90) days of the Grantee's receiving written notice by U.S. certified mail return receipt requested of such annexation from the Grantor, which notice shall include the legal description(s) of the property annexed and the addresses of the individual properties within the annexed property to the extent that information is available to the Grantor.

Section 13 .

The Grantor may, upon reasonable written notice and within ninety (90) days after each anniversary date of this Franchise Ordinance, at the Grantor's expense, examine the records of the Grantee relating to the calculation of the franchise payment for the year preceding such anniversary date. Such examination shall be during normal business hours at the Grantee's office where such records are maintained. Records not prepared by the Grantee in the ordinary course of business may be provided at the

Grantor's expense and as the Grantor and the Grantee may agree in writing. Information identifying the Grantee's customers by name or their electric consumption shall not be taken from the Grantee's premises. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Grantor, shall be reported to the Grantee. The Grantor's right to examine the records of the Grantee in accordance with this Section shall not be conducted by any third party employed by the Grantor whose fee, in whole or part, for conducting such audit is contingent on findings of the audit. In the event the audit reveals that an underpayment or overpayment of franchise fees under the terms of this Franchise Ordinance has occurred, Grantor or Grantee, respectively, shall pay the other the amount of the underpayment or overpayment within a reasonable period of time under the circumstances.

Section 14.

If any of the provisions of Sections 2, 3, 4, 6, 7, 8, 9, 10, 11, or 12 are found or adjudged to be invalid, void or of no effect by a court of competent jurisdiction, this Franchise Ordinance shall be null and void and of no force and effect. If any other section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding in no way shall affect the validity of the remaining portions of this Ordinance.

Section 15.

As used herein "person" means an individual, a partnership, a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint venture, a governmental authority or any other entity of whatever nature.

Section 16.

In the event any provision of this Franchise Ordinance conflicts or is inconsistent with any provision of the Code of the City or any other Ordinance or resolution of the City, the provisions of this Franchise Ordinance shall apply and supersede on the subject matter of this Franchise Ordinance.

The failure of either party to insist on any one or more instances upon the strict performance of any one or more of the terms or provisions of this Franchise Ordinance shall not be construed as a waiver or relinquishment of that instance or for any instance in the future of any such term or provision, and the same term or provision shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by either party unless said waiver or relinquishment is in writing signed by the parties.

In the event that any legal proceeding is brought to enforce the terms of this Franchise Ordinance, the legal proceeding shall be brought in Indian River County, Florida.

Except in exigent circumstances, all notices by either Grantor or Grantee to the other shall be made by either depositing such notice in the United States Mail, Certified Mail return receipt requested. Any notice served by certified mail return receipt requested shall be deemed delivered five (5) days after the date of such deposit in the United States mail unless otherwise provided. All notices shall be addressed as follows:

To Grantor: City Manager;

To Grantee: General Counsel.

Section 17.

This Franchise Ordinance, being of limited scope and applicability, shall not be codified in the Code of the City of Vero Beach.

Section 18.

As a condition precedent to the taking effect of this Ordinance, the Grantee shall file its acceptance hereof with the Grantor's Clerk within 30 days of adoption of this Ordinance. The "Effective Date" of this Ordinance shall be the Closing Date, a condition of which shall be the filing with the Grantor's City Clerk of acceptance of this Ordinance by the Grantee on or before the Closing Date.

****

This Ordinance was read for the first time on the ___ day of _____ 2017, and was advertised on the ___ day of _____ 2017, for a public hearing to be held on the ___ day of 2017, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote of the City Council:

ATTEST:

Print Name:
City Clerk

(CITY SEAL)

Approved as to form and
legal sufficiency:

Print name:
City Attorney

CITY OF VERO BEACH, FLORIDA

Print Name:
Mayor

Approved as conforming to
municipal policy:

Print name:
City Manager

EXHIBIT F

Form of Termination of Agreements

EXHIBIT F

FORM OF TERMINATION OF AGREEMENTS

THIS TERMINATION OF AGREEMENTS (this "***Agreement***"), dated as of [___], 201_, is made and entered into by and between the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida ("***Seller***"), and FLORIDA POWER & LIGHT COMPANY, a corporation organized under the laws of the State of Florida ("***Buyer***"). Seller and Buyer are referred to herein individually as a "***Party***," and together as the "***Parties***."

W I T N E S S E T H:

WHEREAS, Seller and Buyer have entered into an Asset Purchase and Sale Agreement, dated as of [___], 2017, for the sale and purchase of substantially all of the assets of Seller's electric system (the "***APA***");

WHEREAS, Seller and Buyer have heretofore entered into [(i) that certain Territorial Boundary Agreement, dated June 11, 1980, as amended prior to the date hereof, and (ii) that certain Joint Use Agreement, dated July 5, 1956, as supplemented by that certain Supplemental Joint Use Agreement, dated January 29, 1964, and as the same may have been further amended prior to the date hereof][1] (such agreements and all amendments thereto, collectively the "***Applicable Agreements***");

WHEREAS, pursuant to the terms of the APA, Seller and Buyer are required to terminate the Applicable Agreements; and

WHEREAS, this Agreement effectuates the termination by Seller and Buyer of the Applicable Agreements;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. All capitalized terms used, but not defined herein, shall have the meanings ascribed to such terms in the APA.

2. Termination of Applicable Agreements. Provided that the Closing occurs: (a) the Applicable Agreements are each terminated effective as of the Effective Time; (b) as of the Effective Time the Applicable Agreements will be of no further force or effect; and (c) neither of the Parties will have any further rights against, or obligations or liabilities to, the other Party or to any other Person under either of the Applicable Agreements, all of which rights, obligations and liabilities are hereby released and waived by the Parties.

[1] NTD: Subject to confirmation.

4. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

5. Section Headings. The descriptive headings herein are inserted for convenience only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

6. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. THE PARTIES AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT. EACH OF THE PARTIES IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT, AND SHALL SURVIVE THE CLOSING.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their respective duly authorized officers as of the day and year first set forth above.

SELLER:

ATTEST:

CITY OF VERO BEACH, FLORIDA

_____

Name:
City Clerk

_____

Name:
Mayor

(City Seal)

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

_____

Name:
City Attorney

_____

Name:
City Manager

BUYER:

FLORIDA POWER & LIGHT COMPANY

By: _____

Name: _____

Title: _____

Exhibit I-1A

Form of Airport 5 Substation Lease Agreement and Memorandum of Lease

[*Exhibit begins on the following page.*]

Prepared by and return to:
Nathaniel L. Doliner
Carlton Fields
4221 W. Boy Scout Blvd., Ste. 1000
Tampa, Florida 33607-5780

AIRPORT SUBSTATION 5 LEASE AGREEMENT

THIS AIRPORT SUBSTATION 5 LEASE AGREEMENT (the "**Lease**"), made and entered into as of [_____ __], 201[__] (the "**Effective Date**") is between THE CITY OF VERO BEACH, FLORIDA, a Florida municipal corporation (herein called "**Landlord**"), with an address of 1053 20th Place, Vero Beach, FL 32960, and FLORIDA POWER & LIGHT COMPANY, a Florida corporation (herein called "**Tenant**"), with an address of 700 Universe Boulevard, Juno Beach, FL 33408. Landlord and Tenant are sometimes together referred to herein as the "**Parties**" and individually as a "**Party.**"

RECITALS

A. As of the Effective Date, Landlord has sold, assigned and conveyed certain electric utility assets of Landlord to Tenant, and Tenant has commenced providing retail electric service to the City of Vero Beach's electric utility customers as contemplated under that certain Asset Purchase and Sale Agreement, dated [_____], 201[__], by and between Landlord and Tenant (the "**Asset Purchase and Sale Agreement**"). As used in this Lease, the "**Vero Beach Electric Utility**" means the electric utility system of electricity transmission and distribution owned or operated by Tenant providing retail electric service to the City of Vero Beach's electric utility customers on and after the Effective Date.

B. In order to provide retail electric services to the electric utility customers as contemplated by the Asset Purchase and Sale Agreement, Tenant desires to lease from Landlord, and Landlord desires to lease to Tenant, for use exclusively as an electrical substation, the real property more commonly known as "**Substation #5**" (the "**Substation**") and more particularly described and depicted on attached **Exhibit "A"** made a part hereof, together with all improvements and fixtures located thereon, and all appurtenances pertaining thereto (collectively, the "**Premises**").

C. To provide ingress and egress for the Premises during the Term, as defined below, Landlord desires to provide a temporary non-exclusive access easement (the "**Access Easement**") in favor of Tenant and benefitting the Premises, across property adjacent to the Premises, as legally described and depicted on **Exhibit "B"** attached hereto and made a part hereof (the "**Access Parcel**").

D. It is intended that the Rent provided for in this Lease shall be absolutely net to Landlord throughout the Term, free of any taxes, costs, utilities, insurance expenses, liabilities,

charges or other deductions whatsoever with respect to the Premises and Access Parcel and the operation, maintenance, repair, rebuilding, use or occupation thereof all of which shall be Tenant's sole responsibility during the entire Term.

NOW THEREFORE, in consideration of and subject to the terms, covenants, agreements, provision and limitations set forth in this Lease, Landlord and Tenant agree as follows:

1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

2. Lease of Premises. Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord. Tenant will rely exclusively upon its own investigation into the title relating to the Premises and the Access Parcel and Landlord makes no warranty of title relating to the Premises or the Access Parcel. Tenant's leasehold and easement interest in the Premises and Access Parcel pursuant to this Lease is made subject to the Permitted Encumbrances (as defined in the Asset Purchase and Sale Agreement).

3. Access to Premises. Landlord grants and conveys to Tenant, its permitted successors and assigns under this Lease, for the duration of the Term, the Access Easement benefitting the Premises and providing ingress and egress to and from the Premises over and across the Access Parcel. This Lease also includes the right, during the Term, as defined below, to use all existing easements and appurtenances, if any, benefitting the Premises and necessary or now used to operate the Substation. Such existing easements benefitting the Premises and the Access Easement granted by this Lease are herein referred to collectively as the "**Easements**".

(a) **Nature of the Easements**. All Easements shall be non-exclusive, appurtenant to the Premises, shall run with the Premises, and shall continue in full force and effect for the Term and any extension or diminution thereof unless a shorter period is provided in any instrument creating any such Easement. Tenant's rights in or to the Easements shall terminate on the Expiration Date, defined below.

(b) **Non-Interference with Easements**. Landlord covenants and agrees not to use the Access Parcel in a way that interferes with Tenant's operation of the Substation.

4. Triple Net Lease. This is a triple net lease and the Rent required to be paid to Landlord pursuant to this Lease shall be completely net rent to Landlord. During the entire Term, Landlord shall have absolutely no cost, obligation, responsibility or liability whatsoever relating to the Premises or the Access Parcel. Without limiting the generality of the foregoing, Landlord shall have no obligations for repairing or maintaining any portion of the Premises or any systems with respect thereto. All Rent shall be paid by Tenant to Landlord without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction whatsoever and Tenant shall pay any and all applicable sales and use tax, local surtaxes, any and all ad valorem taxes on the Premises, and any documentary stamp tax or other taxes on the Rent or the grant of rights described in this Lease.

5. Use. The Premises may be used by Tenant for operation and maintenance of a functioning electrical substation for the distribution of electric power, with related amenities and facilities, in the business of the Vero Beach Electric Utility, and for no other use whatsoever. Tenant covenants that it shall comply with all applicable building, zoning, fire and other governmental laws, ordinances, regulations and rules in its use and operation of the Premises.

6. FAA and FDOT. Tenant acknowledges that the Premises and the Access Parcel are under the regulatory jurisdiction of the Federal Aviation Administration (the "**FAA**") and Florida Department of Transportation (the "**FDOT**"), and this Lease is made expressly subject to the regulatory authority, rules and regulations of the FAA and the FDOT as may be applicable.

7. Term. Unless otherwise provided by this Lease, the term of this Lease shall be for a period of thirty (30) years beginning on the Effective Date (the "**Initial Term**") and can be extended by Tenant at Tenant's sole option for up to two (2) additional terms of ten (10) years each (each, an "**Extended Term**") provided that Tenant shall deliver to Landlord notice of Tenant's intent to extend the Term of this Lease not less than thirty (30) days prior to the expiration the then-current Initial Term or Extended Term, as the case may be. The Initial Term and each Extended Term, if Tenant exercises its option, under the terms of this Lease, as to one or both of the Extended Terms, shall be collectively referred to herein as the "**Term**." For purposes of this Lease, the term "**Lease Year**" shall mean: (a) that period, during the Term, commencing upon the Effective Date and continuing until and including the last day of the month of the twelfth (12th) full month following the Effective Date; (b) each such successive twelve (12) month period during the Term; and (c) in the event that this Lease terminates prior to the end of a Lease Year, that period commencing on the first date of such Lease Year and ending on the date of termination of this Lease. The expiration date of the Term (the "**Expiration Date**") shall be the last day of the 30th Lease Year, the last day of the 40th Lease Year or the last day of the 50th Lease Year, whichever shall be applicable depending on whether Tenant shall exercise any option as to the first or both Extended Terms. Notwithstanding the foregoing, at any time during the Term, Tenant may terminate this Lease at its sole option provided that: (i) Tenant shall deliver to Landlord notice of Tenant's intent to terminate (the "**Termination Notice**") not less than thirty (30) days prior to the date of termination, and (ii) contemporaneously with the Termination Notice, Tenant shall deliver to Landlord a termination fee, together with all applicable taxes, in an amount equal to three (3) times the annual Rent then due pursuant to this Lease.

8. Rent. The rent (the **"Rent"**) to be paid under this Lease shall be paid in the amounts as set forth below, plus any and all applicable sales and use tax, local surtaxes, and any documentary stamp tax or other taxes on the Rent, or rights granted to Tenant by this Lease, and shall be paid to Landlord in advance without demand or offset:

(a) **Rent During Initial Term**. Rent during the Initial Term shall be in an amount approved by the FAA and equal to the fair market rental value of the Premises and Access Parcel as determined by an appraiser selected by Landlord, with the cost of such appraisal split equally by the Parties, and with such appraisal being performed no more than six (6) months prior to the Effective Date. The Rent shall be paid in thirty (30) equal annual installments of [_____ ($_____)] commencing on the Effective Date and continuing on each subsequent anniversary date of the Effective Date for each of the subsequent Lease Years of

the Initial Term thereafter. Beginning on October 1st of the second Lease Year, and annually on each October 1st thereafter, including any Extended Term pursuant to an option to renew or extend the Term, if any, exercised by Tenant under this Lease, the Rent shall be adjusted and increased in accordance with any increase in the annual percentage change for the prior year in the index known on the Effective Date as the "United States Bureau of Labor Statistics Consumer Price Index ("**CPI**") for All Urban Consumers," using the July to July report. If the CPI ceases to be published, Landlord shall select an alternative index measuring price increases in its reasonable discretion. In no event shall the Rent decline due to any change in the CPI, and in the event of a decline in the CPI for any applicable annual period, there will be no adjustment to the Rent for that Lease Year.

9. Representations and Warranties.

(a) Landlord represents and warrants to Tenant as follows:

(i) Landlord has full power and authority to enter into this Lease.

(ii) The person executing and delivering this Lease on Landlord's behalf is acting pursuant to proper authorization and this Lease is the valid, binding and enforceable obligation of Landlord enforceable against Landlord in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

(b) Tenant represents and warrants to Landlord as follows:

(i) Tenant is a corporation duly incorporated, validly existing and having active status under the laws of the State of Florida, with the necessary corporate power and authority to enter into this Lease.

(ii) The person executing and delivering this Lease on Tenant's behalf is acting pursuant to proper authorization, and this Lease is the valid, binding and enforceable obligation of Tenant enforceable against Tenant in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

10. Hazardous Materials and Pre-Existing Conditions.

(a) For purposes of this Lease:

(i) "***Environmental Claim***" means any and all communications, whether written or oral, alleging potential Liability, administrative or judicial actions,

suits, orders, liens, notices alleging Liability, notices of violation, investigations which have been disclosed to Landlord, complaints, requests for information relating to the Release or threatened Release into the Environment of Hazardous Substances, proceedings, or other communication, whether criminal or civil, pursuant to or relating to any applicable Environmental Law, by any person (including any governmental authority) based upon, alleging, asserting, or claiming any actual or potential (i) violation of, or Liability under any Environmental Law, (ii) violation of any Environmental Permit, or (iii) Liability for investigatory costs, cleanup costs, removal costs, remedial costs, response costs, monitoring costs, natural resource damages, property damage, personal injury, fines, or penalties arising out of, based on, resulting from, or related to the presence, Release, or threatened Release into the environment of any Hazardous Substances at the Premises or Access Parcel including any off-Site location to which Hazardous Substances, or materials containing Hazardous Substances, were sent.

(ii) "***Environmental Laws***" means all Laws regarding pollution or protection of the Environment, the conservation and management of land, natural resources and wildlife or human health and safety or the Occupational Safety and Health Act (only as it relates to Hazardous Substances), including Laws regarding Releases or threatened Releases of Hazardous Substances (including Releases to ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport, disposal or handling of Hazardous Substances, including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Oil Pollution Act (33 U.S.C. §§ 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §§ 11001 et seq.), and all other Laws analogous to any of the above.

(iii) "***Environmental Permit***" means any Permit under or in connection with any Environmental Law, including any and all orders, consent orders or binding agreements issued or entered into by a governmental authority under any applicable Environmental Law, that is used in, or necessary for, (i) the business of the Vero Beach Electric Utility, or (ii) the ownership, use or operation of the Premises, in each case under clause (i) or (ii), as conducted prior to the Effective Date.

(iv) "***Hazardous Substances***" means: (i) any petroleum, asbestos, asbestos-containing material, and urea formaldehyde foam insulation and transformers or other equipment that contains polychlorinated biphenyls; (ii) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous

substances," "toxic substances," "contaminants," "pollutants," "toxic pollutants," "hazardous air pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law; and (iii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

(v) "***Liability***" means any direct or indirect liability, commitment, indebtedness or obligation (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or un-accrued, whether liquidated or un-liquidated, and whether due or to become due) of any kind, character or nature, or any demand, claim or action asserted or brought against the relevant Party.

(vi) ***"Law"*** means any foreign, federal, state or local law, constitutional provision, statute, charter, ordinance or other law, rule, regulation, code (including any zoning code, fire code or health and safety code), or interpretation of any governmental authority or any order of or by any governmental authority, including all Environmental Laws, requirements and regulations, applicable to the Premises or the Vero Beach Electric Utility.

(vii) "***Loss***" or "***Losses***" means any and all damages, fines, fees, penalties, deficiencies, losses, Liabilities, interest, awards, judgments, actions and expenses (whether or not involving a third party claim), including all remediation costs, reasonable fees of attorneys, accountants and other experts, or other expenses of litigation or proceedings or of any claim, default or assessment relating to the foregoing.

(viii) "***Release***" means any actual, threatened or alleged spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping or disposing of a Hazardous Substance into the environment or within any building, structure, facility or fixture.

(ix) "***Remediation***" means any action of any kind required by applicable Law to address the presence or Release of Hazardous Substances, including: (i) monitoring, investigation, assessment, treatment, cleanup containment, removal, mitigation, response or restoration work, as well as obtaining any permits necessary to conduct any such activity; (ii) preparing and implementing any plans or studies for any such activity; and (iii) obtaining a written notice from a governmental authority with competent jurisdiction under Environmental Laws, that no material additional work is required.

(b) As may be more fully described in the Asset Purchase and Sale Agreement and this Lease, except to the extent exacerbated or contributed to by Tenant, Landlord agrees to be responsible for any and all Losses of Tenant, and pay and perform when due any and all Liabilities of Tenant:

(i) under Environmental Laws, Environmental Permits or Environmental Claims with respect to the Premises arising from any event, condition, circumstance, act or omission that occurred prior to the Effective Date; or

(ii) arising from the presence of Hazardous Substances that originated on the Premises prior to the Effective Date or the Release of Hazardous Substances at, on, in, under, or migrating from the Premises prior to the Effective Date (such Losses or Liabilities under this Section 10(b)(i) or Section 10(b)(ii) hereof, the "**Environmental Liabilities**");

Provided, however, that as an absolute condition to such responsibility, Tenant must give to Landlord notice (the "**Environmental Notice**") of any claim of Environmental Liabilities no later than thirty (30) days prior to the anticipated Effective Date and, solely with respect to any Environmental Liability which Tenant demonstrates occurred subsequent to Tenant's Phase II environmental testing described below, Tenant must give the Environmental Notice prior to the Effective Date, which Environmental Notice, in either case, must contain the estimated total amount of the Environmental Liabilities and a summary of facts then known to Tenant that support such claim; and provided, further, that in no event shall Landlord be liable or responsible for any Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate, from all sources as described in the Asset Purchase and Sale Agreement, (the "**Aggregate Environmental Cap**"). Tenant hereby releases Landlord from, and Landlord shall not be liable or responsible for, any and all Environmental Liabilities as to which Tenant does not give Landlord the Environmental Notice or Environmental Notices prior to the time required in the immediately preceding sentence. Tenant also hereby releases Landlord from, and Landlord shall not be responsible for, any and all Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate from all sources as described in the Asset Purchase and Sale Agreement. The limitations on Landlord's liability or responsibility for Environmental Liabilities under this Section 10 are absolute limitations and will control over any other provisions in this Lease or other agreements between the Parties that are or may be to the contrary.

(c) In order to make a claim against Landlord pursuant to Section 10 (b) above, Tenant must have completed its environmental testing, including Phase II environmental testing, on the Premises and, if so performed, must have submitted the results of such testing to Landlord at least thirty (30) days prior to the Effective Date (collectively, "**Tenant's Phase II Environmental Testing**"). If Tenant has not performed such actions by the within the time periods specified, Tenant shall be deemed to have waived its right to make a claim against Landlord under Section 10 (b) above with respect to the Premises.

(d) Tenant shall not cause or permit the Release in any manner of any Hazardous Substances upon the Premises, the Access Parcel or upon adjacent lands, which violates any Environmental Laws. Tenant shall give prompt notice to Landlord of any Release of a Hazardous Substance in violation of Environmental Laws, whether caused by Tenant or, to the knowledge of Tenant, any third party.

(e) To evidence any changes to the environmental condition of the Premises at the expiration or termination of this Lease, Tenant shall perform an environmental assessment, including soils and groundwater sampling, of the Premises (the **"Closure Environmental Assessment")** as close in time as practical to the Expiration Date or the earlier termination of this Lease, at its expense and provide a copy thereof to Landlord as soon as practical. Tenant's obligation to provide the Closure Environmental Assessment shall survive the expiration or termination of this Lease.

(f) Except to the extent of Landlord's responsibility as described in Section 10 (b) above, Tenant shall be responsible, at Tenant's sole cost and expense, for commencing and thereafter performing, or causing to be performed, any and all assessments, Remediation, cleanup and monitoring of all Hazardous Substances existing or Released on, in, under, from or related to the Premises during the Term in violation of Environmental Laws; provided, however, that the foregoing shall not in any way limit or expand any liability, obligations or rights of Tenant or Landlord, to the extent expressly provided in the Agreement for Sale and Purchase. In the event any Remediation is required in the previous sentence, Tenant shall furnish to Landlord, within a reasonable period of time, written proof from the appropriate local, state or federal agency with jurisdiction over the Remediation that the Remediation has been satisfactorily completed in full compliance with all Environmental Laws. Tenant's obligation to provide Remediation as required by this Section 10 shall survive the expiration or termination of this Lease.

(g) Tenant shall indemnify, defend and hold harmless Landlord from and against, and pay, reimburse and fully compensate as the primary obligor Landlord for, any and all claims, suits, judgments, loss, damage, and liability which may be incurred by Landlord including, without limitation, Landlord's reasonable attorney's fees and costs, arising in any way from Hazardous Substances existing or Released on, in, under, from the Premises by Tenant, its employees, agents or contractors, or related to Tenant's use of the Premises or the Access Parcel during the Term in violation of Environmental Laws, or any violation of the Environmental Laws, by Tenant, its agents, licensees, invitees, subcontractors or employees on, in, under or related to the Premises or the Access Parcel during the Term. This responsibility shall continue to be in effect for any such Release or presence of Hazardous Substances as to which Landlord gives notice to Tenant on or before the fifth (5^{th}) anniversary of the Expiration Date. Tenant's obligation to provide the indemnity, defense and hold harmless required by this Lease shall survive the expiration or termination of this Lease.

(h) With respect to Remediation of any Releases at the Premises or migrating from the Premises, Tenant will remediate such Release, including any Baseline Recognized Environmental Conditions or Hazardous Substances migrating from the Premises (such Baseline Recognized Environmental Conditions and Hazardous Substances migrating from onto the Premises (but excluding any impacts to extent of any contribution or exacerbation by Tenant), the **"Landlord Responsible Environmental Conditions"**) as required by the Florida Department of Environmental Protection or Environmental Protection Agency, subject the following conditions:

(i) Unless otherwise agreed by the Parties, Tenant will remediate a Release to the least stringent standard permitted by the Florida Department of

Environmental Protection and Environmental Protection Agency, as applicable, and obtain a final non-appealable agency action approving such remediation, if applicable (such remediation standard, the **"Minimum Required Standard"**). The Landlord may direct Tenant to remediate to a higher (cleaner) standard in which case the incremental cost (the **"Incremental Cost"**) will be the Landlord's responsibility.

(ii) If the cost of remediating any Landlord Responsible Environmental Conditions to the Minimum Required Standard, or such higher standard as may be requested or required by the Landlord, will exceed $50,000 as reasonably estimated by Tenant based on reasonable bids from a third party contractor in accordance with Tenant's standard procurement practices, the total cost of remediating the Landlord Responsible Environmental Condition will be the responsibility of Landlord; subject to the limitation set forth in Section 10 (b) above.

(iii) If the Florida Department of Environmental Protection or Environmental Protection Agency requires remediation or other actions (e.g., monitoring), Tenant has the sole right to direct such Remediation activities regardless of the estimated cost and the Landlord shall be responsible for the costs associated with Remediating the Landlord Responsible Environmental Conditions, subject to the limitation set forth in Section 10 (b) above.

(iv) With respect to the Landlord's payment obligations set forth in Section 8 (h)(ii)-(iii), the Landlord shall reimburse Tenant within fifteen (15) calendar days of Tenant's providing to the Landlord an invoice for the costs incurred by Tenant along with copies of the underlying invoices from the contractors who performed the work. Notwithstanding anything herein to the contrary, in no event shall the Landlord shall be responsible for the costs to remediate Landlord Responsible Environmental Conditions in excess of the Aggregate Environmental Cap as defined in Section 6.22 of the Asset Purchase and Sale Agreement and Section 8 (b) above except for Incremental Costs that exceed the Aggregate Environmental Cap.

11. Non-interference. Landlord covenants and agrees not to use or construct any improvements on, under or over the Premises.

12. Assumption of Risk; Indemnification. Tenant agrees as follows:

(a) Tenant will rely exclusively upon its own investigation into the title relating to the Premises and the Access Parcel and Landlord makes no warranty of title relating to the Premises or the Access Parcel. Tenant's leasehold and easement interest in the Premises and Access Parcel pursuant to this Lease is made subject to the Permitted Encumbrances (as defined in the Asset Purchase and Sale Agreement).

(b) Except as specifically provided in this Lease, Tenant acknowledges and agrees that Landlord has not made, does not make and specifically negates and disclaims any

representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to the Premises and Access Parcel and that the rights granted with respect to the Premises provided for in this Lease are made on an "as is" condition and basis and with all faults. Without in any way limiting the generality of the foregoing, the grant of easement rights contemplated hereby is without any warranty other than Landlord's express representations and warranties in this Lease; and Landlord and Landlord's elected and appointed officials, officers, directors, employees, and affiliates (collectively the "**Landlord's Related Parties**") have made no, and expressly and specifically disclaim, and Tenant accepts that Landlord and the Landlord's Related Parties have disclaimed, any and all representations, guaranties or warranties, express or implied, or arising by operation of law (except for the representations and warranties, if any, expressly made by Landlord in this Lease), of or relating to: (i) the use, expenses, operation, characteristics or condition of the Premises and Access Parcel, or any portion thereof, including, without limitation, warranties of suitability, habitability, merchantability, design or fitness for any specific or particular purpose, or good and workmanlike construction; (ii) the environmental condition of the Premises or Access Parcel, or contamination by hazardous materials, or the compliance of any portion of the Premises or Access Parcel with any or all Environmental Laws; or (iii) the soil conditions, drainage, flooding characteristics, accessibility or other conditions existing in, on or under any portion of the Premises or Access Parcel. Tenant acknowledges and agrees that it is not relying on any representations or statements (oral or written) which may have been made or may be made by Landlord or any of the Landlord's Related Parties (except for Landlord's representations and warranties expressly set forth in this Lease), and is relying solely upon Tenant's or Tenant's representatives' own physical inspection of the Premises and Access Parcel and other investigations by Tenant or Tenant's representatives. Tenant acknowledges that any condition of the Premises or Access Parcel, whether apparent or latent, which Tenant discovers or desires to correct or improve on or after the Effective Date shall be subject to Landlord's review and approval rights, as set forth in this Lease, and shall be at Tenant's sole expense.

(c) Tenant recognizes and hereby expressly and fully assumes all risks, known and unknown, that arise or might arise incidental to or in any way connected with the condition or use of the Premises or access to the Premises. This assumption of risk by Tenant is made for and on behalf of Tenant and Tenant's successors, and permitted assigns.

(d) Tenant agrees to indemnify, defend and hold harmless Landlord and Landlord's Related Parties against any and all claims, including costs and expenses, of any kind or nature, including, without limitation, costs of investigation, attorneys' fees, paralegal fees, experts' fees and costs through regulatory proceedings, trial and review or appeal, including but not limited to claims for personal injury, death of persons and property damage, or other liability to the extent arising from Tenant's use, improvement, operation, condition or maintenance of the Substation or the Premises, provided however that this indemnity shall not apply to the negligence or willful misconduct of the Landlord and/or the Landlord's Related Parties as determined by a court of competent jurisdiction.

(e) Tenant's obligations under this Section 12 shall survive the termination of this Lease.

13. Construction, Mechanics and Materialmen's Liens; Notice of Work. Tenant will make no alteration, change, improvement or addition to the landscaping or exterior of the Premises without the prior written consent of Landlord which will not be unreasonably withheld, conditioned or delayed. Tenant will be responsible for payment of any and all work performed on Tenant's behalf on the Premises and Access Parcel. In no event will Landlord be responsible for payment of any work relating to the Premises nor will the Premises or Access Parcel, or any interest therein, be subject to any lien for payment of any construction or similar work performed by or for Tenant on or for the Premises or Access Parcel. Further, Tenant shall promptly notify the contractor performing any such work or alterations on the Premises or Access Parcel at Tenant's request or making such improvements to the Premises or Access Parcel at Tenant's request of this provision exculpating Landlord of responsibility for payment and liens. Notwithstanding the foregoing, if any mechanic's lien or other lien, attachment, judgment, execution, writ, charge or encumbrance is filed or recorded against any portion of the Premises or Access Parcel as a result of any work performed on or materials delivered to the Premises or Access Parcel at Tenant's direction, Tenant shall, within sixty (60) days following written notice of any such lien, cause same to be paid, discharged or otherwise removed of record. In the event that Tenant fails to remove any such mechanics or materialmen's lien relating to Tenant's work at the Premises or Access Parcel, the Landlord may cause such lien to be removed and Tenant shall reimburse Landlord for all reasonable costs and expenses, including attorney's or paralegal fees incurred by Landlord within forty-five (45) days following receipt of Landlord's written invoice and supporting documentation.

14. Insurance. Landlord understands that Tenant self-insures, and that prior to accessing the Premises or Access Parcel, Tenant will provide Landlord with a letter of such self-insurance. In the event that Tenant ceases to self-insure, then, during the Term of this Lease, and thereafter so long as Tenant operates, uses or maintains any portion of the Substation:

(a) Tenant shall procure and maintain, at Tenant's sole cost and expense, commercial general liability insurance providing coverage which protects Tenant and Landlord and the Landlord's Related Parties from and against any and all claims and liabilities for bodily injury, death and property damage arising from operations, premises liability, fire with respect to the Substation. Such insurance shall provide minimum coverage of $1,000,000.00 per occurrence and $2,000,000.00 aggregate. Tenant shall be and remain liable for and pay all deductibles and other amounts not covered, paid or reimbursed under the insurance policies.

(b) Tenant shall procure and maintain, at Tenant's sole cost and expense, workers' compensation insurance as required by applicable law, and employers' liability insurance, with coverage amounts with a limit of (i) One Million Dollars ($1,000,000) for bodily injury per accident, (ii) One Million Dollars ($1,000,000) for bodily injury by disease per policy and (iii) One Million Dollars ($1,000,000) for bodily injury by disease per employee.

(c) The certificate of insurance required herein for commercial general liability insurance, including, without limitation, all renewals, shall include a blanket additional insured endorsement and provide for at least thirty (30) days advance notice to Landlord of any non-renewal or cancellation. Tenant shall provide Landlord with a copy of certificates of insurance stating that the coverage as required herein is in full force and effect no later than the Effective

Date. Tenant shall cause certificates of insurance or a self-insured letter in conformance with the requirements hereof to be promptly provided to Landlord for each subsequent policy renewal.

(d) Tenant's insurance in all instances shall be primary and any insurance that may be maintained by Landlord shall be in excess of and shall not contribute with Tenant's insurance. All insurance policies shall be issued by a company or companies licensed to do business in the State of Florida.

(e) Landlord shall have the right to periodically review the adequacy of the required insurance, its forms and types, the amounts of coverage and, notwithstanding any other provision of this Lease, unilaterally modify the insurance requirements of this Section 12 by giving notice of such modification to Tenant. Such modification shall be as found reasonably necessary in the sole discretion of Landlord. Factors which may be considered by Landlord include, without limitation, changes in generally accepted insurance industry standards and practices, changes in use of the Premises, changes in risk exposure, measurable changes in local and national economic indicators and changes in Landlord's policies and procedures.

(f) Tenant understands and acknowledges that the responsibility and obligation to provide and maintain insurance in the forms, types and coverages required herein are solely Tenant's responsibilities and obligations which continue for the entire Term of this Lease, and until such time as Tenant no longer operates the Substation or enters the Premises, whichever date is later.

(g) In the event that Tenant fails for any reason to procure or maintain insurance in the forms, types or coverages required and to name Landlord as an additional insured on the certificates of insurance, Tenant shall cure such material breach within fifteen (15) calendar days after Tenant is given notice of such breach. Should Tenant fail to cure the breach within such period or such other time as may be agreed to by the Parties in writing, Landlord in Landlord's sole discretion may, but is not obligated to, secure replacement insurance coverage at Tenant's sole expense. Should Landlord elect to secure replacement insurance, Tenant shall thereafter reimburse Landlord within fifteen (15) calendar days of Landlord's providing to Tenant an invoice for the costs and premiums incurred by Landlord for the replacement insurance coverage, plus an administrative charge of ten percent (10%) or $250.00, whichever is greater. Tenant shall continue to be responsible for the payment of all deductibles applicable to the insurance policies and all losses incurred with respect to any lapse in coverage. Should Tenant subsequently obtain the required insurance, Tenant shall remain responsible for and reimburse Landlord for all costs and expenses to Landlord for the insurance premiums incurred by Landlord and the administrative charges set forth in this Section 14(g).

(h) Tenant's obligations under this Section 14 shall survive the termination or expiration of this Lease.

15. No Consequential Damages. Notwithstanding any other provisions in this Lease to the contrary, neither Party nor any of its elected officials, directors, officers, employees, lenders, shall be liable to the other Party for consequential, incidental, exemplary, punitive, anticipatory profits or indirect loss or damage of any nature, including, without limitation, loss of profit, loss

of use, loss of operating time, loss of revenue, increased costs of producing revenues, cost of capital or loss of goodwill whether arising in tort, contract, warranty, strict liability, by operation of law or otherwise, even if by such Party's, its representatives', agents', contractors', subcontractors', invitees' or licensees' negligence or fault, in connection with this Lease, except to the extent claimed by third parties. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, sole remedy provisions and limitations on liability expressed in this Lease shall survive termination or expiration of this Lease and shall extend to the parent, affiliates, and subsidiaries of each Party and their respective, partners, directors, officers, and employees and elected officials.

16. Taxes. Tenant shall pay any and all real property taxes for the Premises for the entire Term. As used herein, the term "**real property tax**" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Premises or any portion thereof by any authority having the direct or indirect power to tax, including, without limitation, any city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, as against any legal or equitable interest of Landlord or Tenant in the Premises or in any portion thereof. Tenant shall pay the real property taxes and shall deliver to Landlord official receipts evidencing such payment, which payment of real property taxes shall be made and the receipts delivered at least thirty (30) days before the real property taxes would become delinquent in accordance with the law then in force governing the payment of such real property taxes. If, however, Tenant desires to contest the validity of any real property taxes, Tenant may do so without being in default hereunder, provided Tenant gives Landlord notice of Tenant's intention to do so and provided the real property taxes are paid before any such real property taxes become delinquent after any applicable contest or appeal period.

17. Utilities. Tenant shall pay for all water, gas, heat, light, power, telephone and other utilities and services supplied to the Premises, together with any taxes thereon.

18. Compliance with Laws. During the Term, Tenant shall, at its expense, comply with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Premises. Further, during the Term, Tenant shall, at its expense, cause the Premises to attain compliance or remain in compliance with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Premises.

19. Assignment and Subletting. Landlord acknowledges that this Lease and Tenant's interests hereunder shall be subject to the encumbrance of Tenant's pre-existing mortgage with Deutsche Bank Trust Company Americas. Tenant shall not otherwise mortgage or assign its interest in this Lease without the prior written consent of Landlord, and such consent may be withheld in Landlord's unfettered discretion unless such proposed assignment is to the purchaser of all or substantially all of the assets of Florida Power & Light Company, as a part of a bona fide sale by Florida Power & Light Company to a third party purchaser for value and in such event Landlord's consent will not be unreasonably withheld or delayed. Notwithstanding any assignment of this Lease, Tenant will not be released from any of its obligations hereunder

unless such assignee executes an assignment and assumption agreement in form reasonably acceptable to Landlord agreeing to be bound by the terms of this Lease and Landlord determines in its reasonable discretion that such assignee is creditworthy. Further, any assignment in violation of this Section 17 shall be deemed void and a breach of this Lease by Tenant.

20. Relocation of Premises or Access Parcel. Landlord may elect to relocate the Premises or the Access Parcel as follows:

(a) Tenant agrees that at any time before or during the Term, and upon at least two (2) years prior written notice (the "**Relocation Notice**"), Landlord shall have the right to relocate the Premises described herein (the "**Existing Premises**") to another area (the "**New Premises**"), as determined by Landlord in its commercially reasonable discretion using prudent electric utility industry practice after consultation with Tenant. The New Premises shall include reasonable vehicular access, be suitable for placement of an electric substation and of sufficient size to accommodate the substation equipment then placed on the Premises. Landlord shall bear any and all direct costs and expenses of such relocation, including (i) providing the New Premises, (ii) moving all Tenant's equipment from the Existing Premises to the New Premises, and (iii) the installation of such substation equipment together with any and all lines or other equipment necessary for the use and operation of an electric substation on the New Premises. In no event shall Landlord be liable to Tenant for any consequential damages as a result of any such relocation, including, but not limited to, loss of business income or opportunity. Landlord and Tenant shall promptly execute an amendment to this Lease reciting the relocation of the Premises which shall be recorded in the Public Records.

(b) Tenant agrees that at any time before or during the Term, and upon at least two (2) years prior written notice (the "**Access Relocation Notice**"), Landlord shall have the right to relocate the Access Easement and Access Parcel described herein (the "**Existing Access Parcel**") to another area (the "**New Access Parcel**"), as determined by Landlord in its commercially reasonable discretion using prudent electric utility industry practice after consultation with Tenant. The New Access Parcel shall include reasonable vehicular access to the Premises. Landlord shall bear any and all direct costs and expenses of such relocation, including (i) providing the New Access Parcel, (ii) moving all Tenant's equipment, if any, in the Existing Access Parcel to the New Access Parcel as is necessary for the use and operation of the Substation. In no event shall Landlord be liable to Tenant for any consequential damages as a result of any such relocation, including, without limitation, loss of business income or opportunity. Landlord and Tenant shall promptly execute an amendment to this Lease reciting the relocation of the Access Parcel which shall be recorded in the Public Records.

21. Default and Remedies.

(a) **Tenant Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by Tenant**" under this Lease by Tenant:

(i) The failure by Tenant to make any payment of Rent or any other payment required to be made by Tenant hereunder, as and when due, which failure continues for a period of ten (10) days following notice given by Landlord to Tenant.

(ii) Failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, where such failure shall continue for a period of forty-five (45) days after notice thereof given by Landlord to Tenant. In the event the default cannot reasonably be cured within such forty-five (45) day period, Tenant shall not be in default if Tenant commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(iii) (A) The making by Tenant of any general arrangement or general assignment for the benefit of creditors; (B) Tenant becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within sixty (60) days.

(b) **Landlord Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by Landlord**" under this Lease by Landlord:

(i) Failure by Landlord to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Landlord, where such failure shall continue for a period of forty-five (45) days after notice thereof is given by Tenant to Landlord. In the event the default cannot reasonably be cured within such forty-five (45) day period, Landlord shall not be in default if Landlord commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(ii) (A) The making by Landlord of any general arrangement or general assignment for the benefit of creditors; (B) Landlord becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against Landlord, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of Landlord 's assets, where possession is not restored to Landlord within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of Landlord's assets, where such seizure is not discharged within sixty (60) days.

(c) **Remedies.** If an Event of Default by Tenant or an Event of Default by Landlord occurs hereunder, the non-defaulting Party shall have the right at its option and without further notice, but subject to the limitations set forth in the last sentence of this subsection, to exercise any remedy available at law or in equity, including, without limitation, a suit for specific performance of any obligations set forth in this Lease or any appropriate injunctive or other equitable relief, or for damages resulting from such event of default. The Parties agree that remedies at law may be inadequate to protect against any actual or threatened breach of this

Lease. In the event of any breach or threatened breach, either Party shall have the right to apply for the entry of an immediate order to restrain or enjoin the breach and otherwise specifically enforce the provisions of this Lease. If an Event of Default by Tenant occurs, Landlord may, in addition to any other remedies set forth in this Lease or available under applicable law, accelerate the Rent due under this Lease for the period of three (3) years after the date of the Default by Tenant, which amount shall be due and payable immediately.

Notwithstanding the foregoing or anything to the contrary contained in this Lease, in no event shall any Event of Default by Tenant or Event of Default by Landlord, terminate, or entitle any Party to terminate, rescind or cancel this Lease or the rights granted hereunder. In the event that Tenant, by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed, shall be in default under this Lease, then Landlord may, but shall not be required to, do or perform or cause to be done or performed such act or thing, and Tenant shall repay to Landlord on demand the entire expense incurred within forty-five (45) days following receipt of Landlord's invoice and supporting documentation. Any act or thing done by Landlord pursuant to the provisions of this subsection shall not be or be construed as a waiver of any such Event of Default by Tenant, or as a waiver of any covenant, term or condition herein contained or the performance thereof, or of any other right or remedy of Landlord, hereunder or otherwise. Except for Landlord's obligations set forth in Section 10 of this Lease, Landlord's liability under this Lease shall be at all times limited to the fair market value of Landlord's interest in the Premises. All amounts payable by Tenant to Landlord under this Lease, if not paid when the amounts become due under this Lease, shall bear interest from the date they become due until paid at the highest rate allowed by law.

22. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain, or sold under the threat of the exercise of such power (all of which are herein called "**condemnation**"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If so much of the Premises is taken under the power of eminent domain such that the Premises is no longer suitable for its intended use or suitable access cannot be provided to the Premises, Tenant may, at Tenant's option, to be exercised in writing only within ten (10) days after Landlord shall have given Tenant notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord; provided, however, that Tenant shall be entitled to any award for loss of Tenant's leasehold interest.

23. Severability. If any provision or portion of this Lease shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (a) such portion or provision shall be deemed separate and independent, (b) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling or adjudication, and (c) the remainder of this Lease shall remain in full force and effect.

24. Repair Obligations. Landlord shall have absolutely no obligations of any kind for the repair or maintenance of any part of the Premises or Access Parcel or any improvement or equipment thereon. During the Term, Tenant shall maintain the Premises, and the improvements and equipment thereon, in a neat, clean, safe and sanitary condition. Tenant shall be solely responsible at its own expense for regular removal and disposal of all refuse, garbage, debris, trash and other discarded materials and shall not allow an accumulation thereof on, in or adjacent to the Premises.

25. Termination. On the Expiration Date, or earlier termination of this Lease, Tenant shall peaceably and quietly deliver possession of the Premises to Landlord. At Landlord's request, Tenant shall remove any and all improvements, fixtures and equipment from the Premises and deliver the Premises to Landlord free of any improvements or equipment of any kind. Tenant agrees that, upon expiration or termination of this Lease, Tenant will, within thirty (30) days of request by Landlord, execute and deliver to Landlord a release of this Lease in recordable form. The foregoing provisions shall survive expiration or earlier termination of this Lease.

26. Waivers. Any waiver by either Party with respect to this Lease must be in writing, signed by the Party granting the waiver, and shall be limited to the express terms set forth in the waiver.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity. Any and all sums due from Tenant to Landlord under this Lease shall be considered rent.

28. Binding Effect. This Lease shall bind the Parties, and their respective successors and permitted assigns.

29. Signs. Subject to applicable rules and regulations, Tenant will be permitted, without Landlord's consent, to have one or more signs on the Premises which identify the Premises as a Florida Power & Light Company Substation.

30. Quiet Possession. Upon Tenant paying the Rent for the Premises and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises and use of the Premises from any interference from Landlord for the entire Term.

31. Right of Entry. Subject to Landlord's duties, if any, relating to police, fire and other municipal services for which no advance notice is required, Landlord, or any of its agents, shall have the right to enter the Premises during reasonable hours to examine the same but only when accompanied by a qualified or designated employee of Tenant.

32. Force Majeure. In the event that either Party is unable to fulfill, or shall be delayed or restricted in the fulfillment of any obligation, or the curing of a default, under any provision of this Lease due to reasons outside of its reasonable control, or not wholly or mainly within such Party's reasonable control, including strike, lock-out, war, acts of military authority, acts of terrorism, sabotage, rebellion or civil commotion, fire or explosion, flood, wind, storm, hurricane, water, earthquake, acts of God or other casualty or by reason of any statute or law or

any regulation or order passed or made, or by reason of any order or direction of any administrator, controller, board or any governmental department or officer or other authority (other than, in the case of Landlord claiming relief under this Section 32, any statute or law or any regulation or order passed or made, or by reason of any order or direction of, any administrator, controller, board or any governmental department or officer or other authority of Landlord), and whether of the foregoing character or not, such Party shall, so long as any such impediment exists, be relieved from the fulfillment of such obligation and the other Party shall not be entitled to compensation for any damage, inconvenience, nuisance or discomfort thereby occasioned or to terminate this Lease.

33. Counterparts. This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument.

34. Brokerage. Landlord and Tenant each represent and warrant one to the other that neither of them has employed any broker in connection with the negotiations of the terms of this Lease or the execution thereof. Landlord and Tenant hereby agree to indemnify and to hold each other harmless against any loss, expense or liability with respect to any claims for commissions or brokerage fees arising from or out of any breach of the foregoing representation and warranty. This provision shall survive the expiration or earlier termination of this Lease.

35. Attorneys' Fees. In the event Tenant or Landlord defaults in the performance of any of the terms, covenants, conditions, agreements, or provisions contained in this Lease and Landlord or Tenant employs attorneys and brings suit in connection with the enforcement of this Lease or any provision hereof or the exercise of any of its remedies hereunder, then the prevailing Party in any suit so instituted shall be promptly reimbursed by the other Party for all reasonable attorneys' fees and expenses so incurred, including, without limitation, any such fees and expenses incurred in appellate, bankruptcy and post-judgment proceedings. Any monetary judgment rendered in any litigation concerning this Lease shall bear interest at the highest rate allowed by applicable law. The foregoing provisions shall survive expiration or earlier termination of this Lease.

36. Estoppel Certificate. Landlord and Tenant shall, from time to time and without additional consideration, execute and deliver to each other or to any person whom the requesting Party may designate, within twenty (20) days after the request therefor: (a) an estoppel certificate consisting of statements, if true, that (i) this Lease is in full force and effect, with Rent current through the date of the certificate; (ii) this Lease has not been modified or amended (or setting forth all modifications and amendments); and (iii) to the best of such Party's knowledge and belief, the other Party is not then in default (or if in default, specifying such default), and Tenant and Landlord have fully performed all of Tenant's and Landlord's obligations, respectively, required to have been performed under this Lease as of the date of the certificate; and (b) such further consents and instruments of a similar nature evidencing the agreement (subject to the provisions of this Lease) of Landlord or Tenant to the mortgage or other hypothecation by Tenant of the leasehold estate created hereby, as may be reasonably requested by Tenant or any approved leasehold mortgagee, or authorized assignee or transferee of the interest of Landlord or Tenant, as applicable. Notwithstanding the foregoing, neither Party may make excessive requests for estoppel certificates, and neither Party shall be obligated to provide more than two (2) estoppel certificates in any Lease Year.

37. Notices. Every notice, approval, consent or other communication required or permitted under this Lease shall be in writing, shall be deemed to have been duly given on the date of receipt, and shall be deemed delivered if either served personally on the Party to whom notice is to be given, or sent to the Party to whom notice is to be given, by overnight courier or by first class registered or certified mail (return receipt requested), postage prepaid, and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by notice given to the other Party in the manner provided in this Section.

To Landlord:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Manager
With a required copy to:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Attorney
To Tenant:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Corporate Real Estate
With a required copy to:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Law Department

38. Recording. This Lease shall be recorded in the Public Records of Indian River County, Florida at Tenant's expense.

39. No Personal Liability. Excluding any successor-in-interest to Tenant or Landlord under this Lease, notwithstanding anything to the contrary in this Lease, no present or future parent, subsidiary, affiliate, member, principal, shareholder, manager, officer, official, director, or employee of Tenant or Landlord will be personally liable, directly or indirectly, under or in connection with this Lease, or any document, instrument or certificate securing or otherwise executed in connection with this Lease, or any amendments or modifications to any of the foregoing made at any time or times, or with respect to any matter, condition, injury or loss related to this Lease, and each of the Parties, on behalf of itself and each of its successors and assignees, waives and does hereby waive any such personal liability.

40. Entire Agreement. This Lease and any exhibits, schedules or addenda attached hereto and forming a part hereof, contains the entire agreement between the Parties hereto with respect to the subject matter of this Lease, and supersedes all previous negotiations leading thereto, and it may be modified only by an agreement in writing executed and delivered by Landlord and Tenant. All exhibits, schedules or addenda attached to this Agreement are expressly incorporated herein by this reference.

41. Governing Law; Forum. This Lease shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES OR THE ACCESS PARCEL, OR ANY CLAIM FOR INJURY OR DAMAGE, SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

42. WAIVER OF JURY TRIAL. THE PARTIES HERETO SHALL, AND THEY HEREBY DO, IRREVOCABLY WAIVE TRIAL BY JURY IN ANY AND EVERY ACTION OR PROCEEDING BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES OR THE ACCESS PARCEL, AND ANY CLAIM FOR INJURY OR DAMAGE. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

43. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present a health risk to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

44. Holding Over. If Tenant remains in possession of the Premises after this Lease expires or terminates for any reason:

(a) Tenant shall be deemed to be occupying the Premises as a tenant from month-to-month at the sufferance of Landlord. Tenant will continue to be subject to and comply with all of the provisions of this Lease, except that, at Landlord's discretion, the rent will be at a monthly rate up to an amount equal to 1/12th of the fair market annual rental value of the Premises, including all improvements and fixtures, calculated at the time of the expiration or termination, and paid by Tenant on the first day of each month subsequent to the expiration or termination.

(b) Tenant shall reimburse Landlord and indemnify and hold Landlord harmless for any and all additional losses and damages which Landlord suffers by reason of Tenant's continued occupancy.

(c) Tenant shall indemnify Landlord from and against all claims made by any

successor tenant insofar as such delay is occasioned by Tenant's failure to surrender possession of the Premises.

45. Landlord/Tenant Relationship; and Third Party Beneficiaries. This Lease creates a landlord/tenant relationship, and no other relationship, between the Parties. This Lease is for the sole benefit of the Parties hereto and, except for assignments permitted hereunder, no other person or entity shall be a third party beneficiary hereunder.

46. No Waiver of Regulatory Authority. Nothing in this Lease constitutes a waiver of Landlord's regulatory, public safety or other municipal authority with respect to the Premises, the Access Parcel or any other matter. Further, nothing in this Lease shall be deemed to waive Landlord's or Tenant's right of eminent domain.

47. Sovereign Immunity. Landlord is a Florida municipal corporation whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of Landlord beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of Landlord's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything that might allow claims otherwise barred by sovereign immunity or operation of law.

48. Time, Interpretation. In computing any period of time pursuant to this Lease, the day of the act, event, or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. A legal holiday as used in this Lease includes days on which banks in Vero Beach, Florida are not open for regular business. Time is of the essence. The captions in this Lease are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Lease or any of the provisions hereof. This Lease shall not be construed more strongly against or for either Party regardless of the drafter. Unless the context otherwise requires, (a) all references to Sections or Exhibits are to Sections or Exhibits in or to this Lease, and (b) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter and the term "including" shall mean by way of example and not by way of limitation.

[Remainder of page intentionally blank; Signature pages follows]

City of Vero Beach Execution Pages

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Lease to be executed as of the Effective Date.

ATTEST: **CITY OF VERO BEACH**

_____ By:_____
Tammy K. Bursick Laura Moss
City Clerk Mayor

[SEAL]

WITNESSES:

_____
Print
name:_____

_____
Print
name:_____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing Lease Agreement was acknowledged before me this _____ day of _____ 2016 by **Laura Moss, as Mayor**, and attested by **Tammy K. Bursick, as City Clerk**, of the City of Vero Beach, Florida. They are both known to me.

_____
NOTARY PUBLIC
Print name:
Commission No. [SEAL]
My Commission Expires:

ADMINISTRATIVE REVIEW

(For Internal Use Only–Sec. 2-77 COVB Code)

Approved as to form and legal sufficiency:

Wayne R. Coment
City Attorney

Approved as conforming to municipal policy:

James R. O'Connor
City Manager

Approved as to technical requirements:

Ted Fletcher
Director of Electric Utility Operations

Approved as to technical requirements:

Cynthia D. Lawson
Director of Finance

Approved as to technical requirements:

Timothy J. McGarry
Director of Planning and Development

Florida Power & Light Company Execution Page

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Lease to be executed as of the Effective Date specified in this Lease.

WITNESSES:

TENANT:

FLORIDA POWER & LIGHT COMPANY, a Florida corporation

_____
Print
name:_____

_____
Print
name:_____

By:_____
Name:_____
Title:_____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____, 20__, by , the of **FLORIDA POWER & LIGHT COMPANY**, a Florida corporation, who [ ] is personally known to me or [ ] has produced as identification.

Seal:

_____
Notary Public, State of Florida at Large
Print Name: _____
Notary Commission No.: _____
My Commission Expires: _____

Lease by and between the City of Vero Beach, Florida and Florida Power & Light Company

Exhibit "A"

Premises Legal Description and Map

SUBJECT TO REVISION

PROPERTY DESCRIPTION
VERO BEACH AIRPORT PARCEL #45
Southern Portion of Parcel #32-39-26-00011-0440-00001.0

Situated in the State of Florida, County of Indian River, City of Vero Beach, and being a portion of Section 3, Township 33 South, Range 39 East and being more particularly bounded and described as follows:

Commencing at the Northeast corner of Section 3-33-39, run North 89°45'39" West along the North line of said Section 3 for a distance of 633.00 feet to a point of intersection with the West line of a 55 foot wide drainage right-of-way;

Thence South 0°09'00" West along the West line of said drainage right-of-way for a distance of 92.09 feet to the Point of Beginning;

Thence from the Point of Beginning, continue South 0°09'00" West along said West right-of-way line for a distance of 180.35 feet;

Thence South 21°18'00" East along said West right-of-way line for a distance of 122.79 feet to a point of intersection with the North right-of-way line of the Main Canal;

Thence South 69°21'47" West along said North right-of-way line of the Main Canal for a distance of 360.18 feet;

Thence North 20°41'28" West for a distance of 290.73 feet;

Thence North 69°15'05" East for a distance of 423.10 feet to the Point of Beginning;

Containing 109,956 square feet more or less.

Said parcel subject to a 25-foot drainage and maintenance easement across the East 25 feet;

SUBJECT TO REVISION

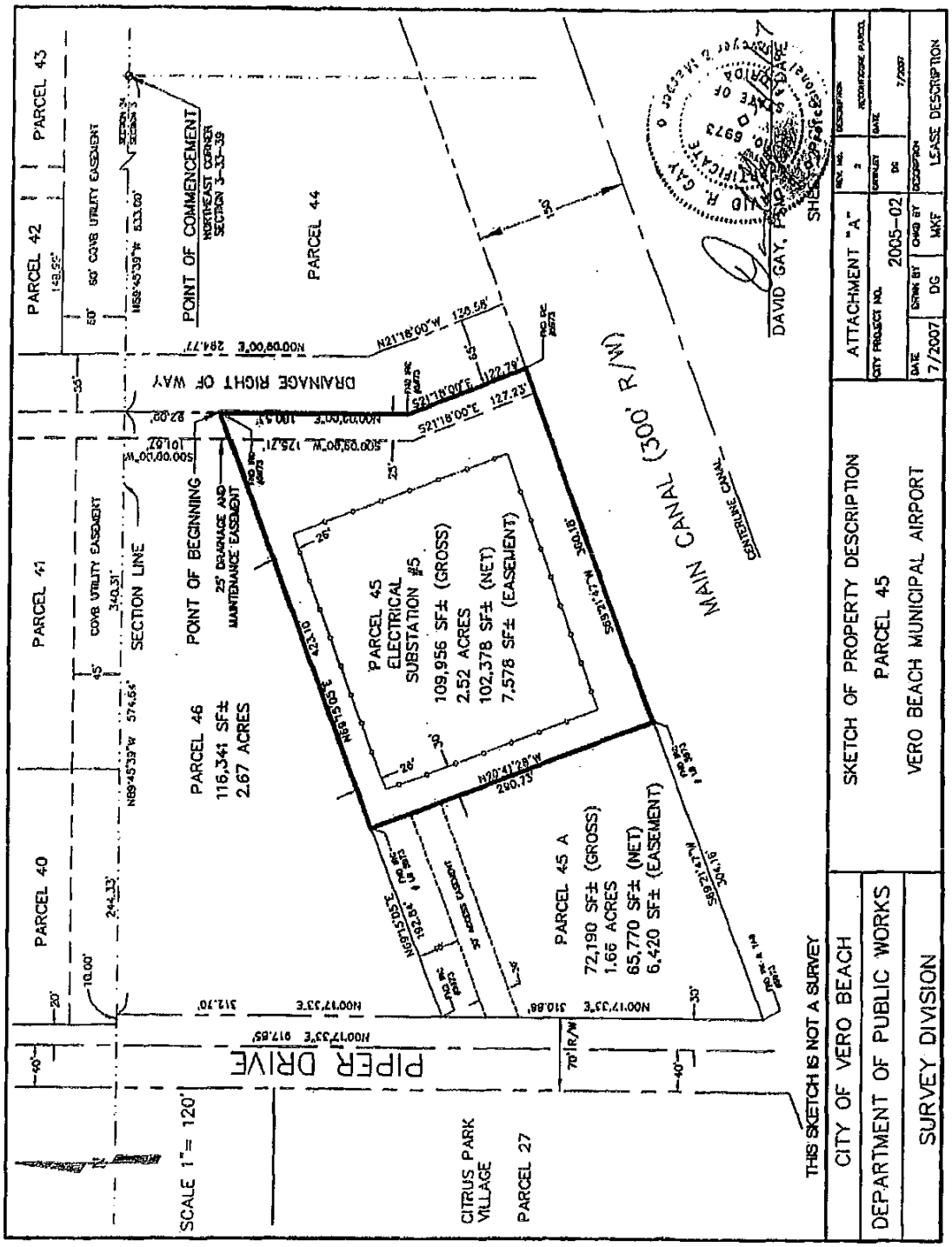

Exhibit "B"

Access Easement Legal Description and Map

SUBJECT TO REVISION

SUBJECT TO REVISION

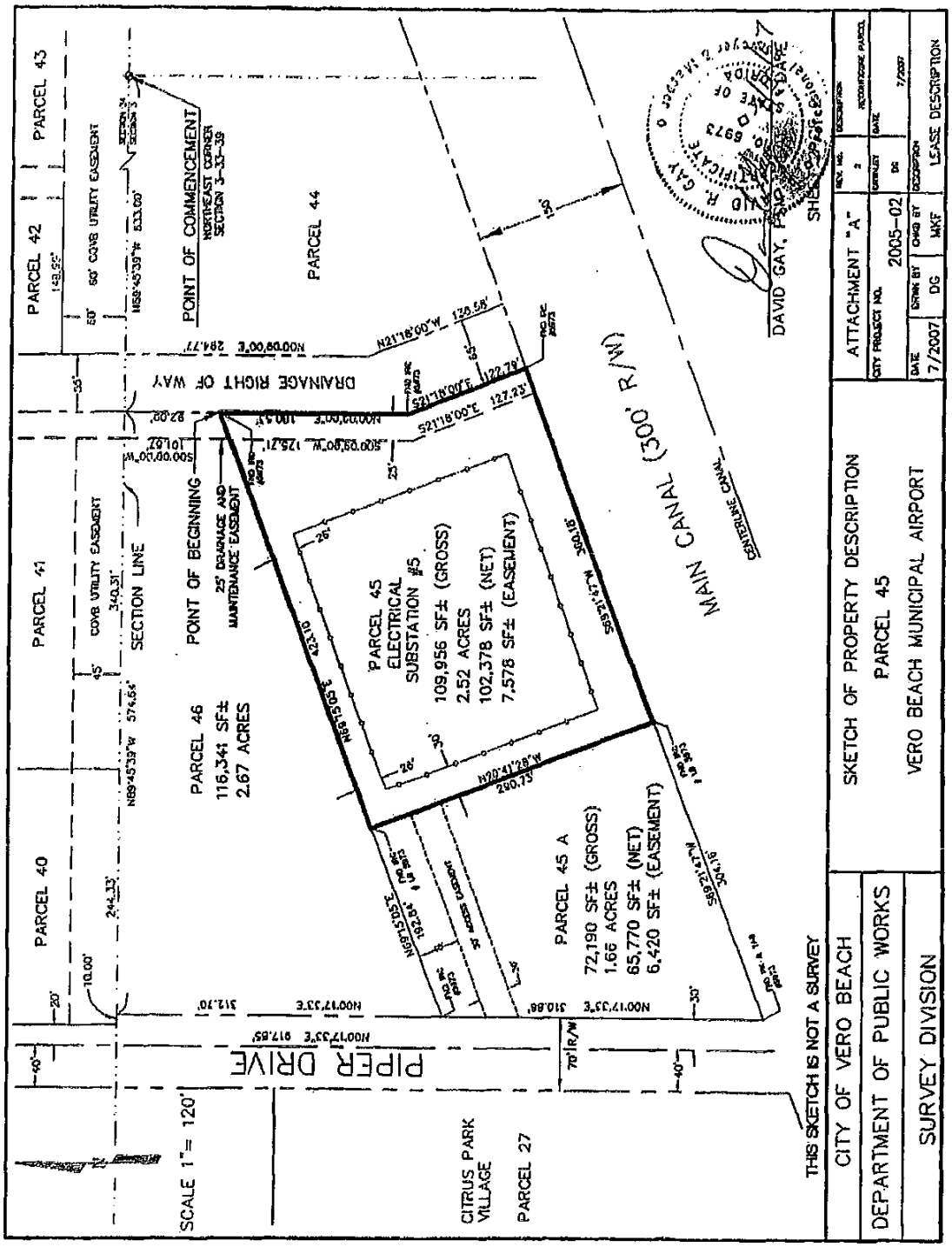

Exhibit I-1B

Form of Airport 6 Substation Lease Agreement and Memorandum of Lease

[*Exhibit begins on the following page.*]

Prepared by and return to:
Nathaniel L. Doliner
Carlton Fields
4221 W. Boy Scout Blvd., Ste. 1000
Tampa, Florida 33607-5780

AIRPORT SUBSTATION 6 LEASE AGREEMENT

THIS AIRPORT SUBSTATION 6 LEASE AGREEMENT (the "**Lease**"), made and entered into as of [_____ __], 201[__] (the "**Effective Date**") is between THE CITY OF VERO BEACH, FLORIDA, a Florida municipal corporation (herein called "**Landlord**"), with an address of 1053 20th Place, Vero Beach, FL 32960, and FLORIDA POWER & LIGHT COMPANY, a Florida corporation (herein called "**Tenant**"), with an address of 700 Universe Boulevard, Juno Beach, FL 33408. Landlord and Tenant are sometimes together referred to herein as the "**Parties**" and individually as a "**Party.**"

RECITALS

A. As of the Effective Date, Landlord has sold, assigned and conveyed certain electric utility assets of Landlord to Tenant, and Tenant has commenced providing retail electric service to the City of Vero Beach's electric utility customers as contemplated under that certain Asset Purchase and Sale Agreement, dated [_____], 201[__], by and between Landlord and Tenant (the "**Asset Purchase and Sale Agreement**"). As used in this Lease, the "**Vero Beach Electric Utility**" means the electric utility system of electricity transmission and distribution owned or operated by Tenant providing retail electric service to the City of Vero Beach's electric utility customers on and after the Effective Date.

B. In order to provide retail electric services to the electric utility customers as contemplated by the Asset Purchase and Sale Agreement, Tenant desires to lease from Landlord, and Landlord desires to lease to Tenant, for use exclusively as an electrical substation, the real property more commonly known as "**Substation #6**" (the "**Substation**") and more particularly described and depicted on attached **Exhibit "A"** made a part hereof, together with all improvements and fixtures located thereon, and all appurtenances pertaining thereto (collectively, the "**Premises**").

C. To provide ingress and egress for the Premises during the Term, as defined below, Landlord desires to provide a temporary non-exclusive access easement (the "**Access Easement**") in favor of Tenant and benefitting the Premises, across property adjacent to the Premises, as legally described and depicted on **Exhibit "B"** attached hereto and made a part hereof (the "**Access Parcel**").

D. It is intended that the Rent provided for in this Lease shall be absolutely net to Landlord throughout the Term, free of any taxes, costs, utilities, insurance expenses, liabilities,

charges or other deductions whatsoever with respect to the Premises and Access Parcel and the operation, maintenance, repair, rebuilding, use or occupation thereof all of which shall be Tenant's sole responsibility during the entire Term.

NOW THEREFORE, in consideration of and subject to the terms, covenants, agreements, provision and limitations set forth in this Lease, Landlord and Tenant agree as follows:

1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

2. Lease of Premises. Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord. Tenant will rely exclusively upon its own investigation into the title relating to the Premises and the Access Parcel and Landlord makes no warranty of title relating to the Premises or the Access Parcel. Tenant's leasehold and easement interest in the Premises and Access Parcel pursuant to this Lease is made subject to the Permitted Encumbrances (as defined in the Asset Purchase and Sale Agreement).

3. Access to Premises. Landlord grants and conveys to Tenant, its permitted successors and assigns under this Lease, for the duration of the Term, the Access Easement benefitting the Premises and providing ingress and egress to and from the Premises over and across the Access Parcel. This Lease also includes the right, during the Term, as defined below, to use all existing easements and appurtenances, if any, benefitting the Premises and necessary or now used to operate the Substation. Such existing easements benefitting the Premises and the Access Easement granted by this Lease are herein referred to collectively as the "**Easements**".

(a) **Nature of the Easements**. All Easements shall be non-exclusive, appurtenant to the Premises, shall run with the Premises, and shall continue in full force and effect for the Term and any extension or diminution thereof unless a shorter period is provided in any instrument creating any such Easement. Tenant's rights in or to the Easements shall terminate on the Expiration Date, defined below.

(b) **Non-Interference with Easements**. Landlord covenants and agrees not to use the Access Parcel in a way that interferes with Tenant's operation of the Substation.

4. Triple Net Lease. This is a triple net lease and the Rent required to be paid to Landlord pursuant to this Lease shall be completely net rent to Landlord. During the entire Term, Landlord shall have absolutely no cost, obligation, responsibility or liability whatsoever relating to the Premises or the Access Parcel. Without limiting the generality of the foregoing, Landlord shall have no obligations for repairing or maintaining any portion of the Premises or any systems with respect thereto. All Rent shall be paid by Tenant to Landlord without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction whatsoever and Tenant shall pay any and all applicable sales and use tax, local surtaxes, any and all ad valorem taxes on the Premises, and any documentary stamp tax or other taxes on the Rent or the grant of rights described in this Lease.

5. Use. The Premises may be used by Tenant for operation and maintenance of a functioning electrical substation for the distribution of electric power, with related amenities and facilities, in the business of the Vero Beach Electric Utility, and for no other use whatsoever. Tenant covenants that it shall comply with all applicable building, zoning, fire and other governmental laws, ordinances, regulations and rules in its use and operation of the Premises.

6. FAA and FDOT. Tenant acknowledges that the Premises and the Access Parcel are under the regulatory jurisdiction of the Federal Aviation Administration (the "**FAA**") and Florida Department of Transportation (the "**FDOT**"), and this Lease is made expressly subject to the regulatory authority, rules and regulations of the FAA and the FDOT as may be applicable.

7. Term. Unless otherwise provided by this Lease, the term of this Lease shall be for a period of thirty (30) years beginning on the Effective Date (the "**Initial Term**") and can be extended by Tenant at Tenant's sole option for up to two (2) additional terms of ten (10) years each (each, an "**Extended Term**") provided that Tenant shall deliver to Landlord notice of Tenant's intent to extend the Term of this Lease not less than thirty (30) days prior to the expiration the then-current Initial Term or Extended Term, as the case may be. The Initial Term and each Extended Term, if Tenant exercises its option, under the terms of this Lease, as to one or both of the Extended Terms, shall be collectively referred to herein as the "**Term**." For purposes of this Lease, the term "**Lease Year**" shall mean: (a) that period, during the Term, commencing upon the Effective Date and continuing until and including the last day of the month of the twelfth (12th) full month following the Effective Date; (b) each such successive twelve (12) month period during the Term; and (c) in the event that this Lease terminates prior to the end of a Lease Year, that period commencing on the first date of such Lease Year and ending on the date of termination of this Lease. The expiration date of the Term (the "**Expiration Date**") shall be the last day of the 30th Lease Year, the last day of the 40th Lease Year or the last day of the 50th Lease Year, whichever shall be applicable depending on whether Tenant shall exercise any option as to the first or both Extended Terms. Notwithstanding the foregoing, at any time during the Term, Tenant may terminate this Lease at its sole option provided that: (i) Tenant shall deliver to Landlord notice of Tenant's intent to terminate (the "**Termination Notice**") not less than thirty (30) days prior to the date of termination, and (ii) contemporaneously with the Termination Notice, Tenant shall deliver to Landlord a termination fee, together with all applicable taxes, in an amount equal to three (3) times the annual Rent then due pursuant to this Lease.

8. Rent. The rent (the **"Rent"**) to be paid under this Lease shall be paid in the amounts as set forth below, plus any and all applicable sales and use tax, local surtaxes, and any documentary stamp tax or other taxes on the Rent, or rights granted to Tenant by this Lease, and shall be paid to Landlord in advance without demand or offset:

(a) **Rent During Initial Term**. Rent during the Initial Term shall be in an amount approved by the FAA and equal to the fair market rental value of the Premises and Access Parcel as determined by an appraiser selected by Landlord, with the cost of such appraisal split equally by the Parties, and with such appraisal being performed no more than six (6) months prior to the Effective Date. The Rent shall be paid in thirty (30) equal annual installments of [_____ ($_____)] commencing on the Effective Date and continuing on each subsequent anniversary date of the Effective Date for each of the subsequent Lease Years of

the Initial Term thereafter. Beginning on October 1st of the second Lease Year, and annually on each October 1st thereafter, including any Extended Term pursuant to an option to renew or extend the Term, if any, exercised by Tenant under this Lease, the Rent shall be adjusted and increased in accordance with any increase in the annual percentage change for the prior year in the index known on the Effective Date as the "United States Bureau of Labor Statistics Consumer Price Index ("**CPI**") for All Urban Consumers," using the July to July report. If the CPI ceases to be published, Landlord shall select an alternative index measuring price increases in its reasonable discretion. In no event shall the Rent decline due to any change in the CPI, and in the event of a decline in the CPI for any applicable annual period, there will be no adjustment to the Rent for that Lease Year.

9. Representations and Warranties.

(a) Landlord represents and warrants to Tenant as follows:

(i) Landlord has full power and authority to enter into this Lease.

(ii) The person executing and delivering this Lease on Landlord's behalf is acting pursuant to proper authorization and this Lease is the valid, binding and enforceable obligation of Landlord enforceable against Landlord in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

(b) Tenant represents and warrants to Landlord as follows:

(i) Tenant is a corporation duly incorporated, validly existing and having active status under the laws of the State of Florida, with the necessary corporate power and authority to enter into this Lease.

(ii) The person executing and delivering this Lease on Tenant's behalf is acting pursuant to proper authorization, and this Lease is the valid, binding and enforceable obligation of Tenant enforceable against Tenant in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

10. Hazardous Materials and Pre-Existing Conditions.

(a) For purposes of this Lease:

(i) "***Environmental Claim***" means any and all communications, whether written or oral, alleging potential Liability, administrative or judicial actions,

suits, orders, liens, notices alleging Liability, notices of violation, investigations which have been disclosed to Landlord, complaints, requests for information relating to the Release or threatened Release into the Environment of Hazardous Substances, proceedings, or other communication, whether criminal or civil, pursuant to or relating to any applicable Environmental Law, by any person (including any governmental authority) based upon, alleging, asserting, or claiming any actual or potential (i) violation of, or Liability under any Environmental Law, (ii) violation of any Environmental Permit, or (iii) Liability for investigatory costs, cleanup costs, removal costs, remedial costs, response costs, monitoring costs, natural resource damages, property damage, personal injury, fines, or penalties arising out of, based on, resulting from, or related to the presence, Release, or threatened Release into the environment of any Hazardous Substances at the Premises or Access Parcel including any off-Site location to which Hazardous Substances, or materials containing Hazardous Substances, were sent.

(ii) "***Environmental Laws***" means all Laws regarding pollution or protection of the Environment, the conservation and management of land, natural resources and wildlife or human health and safety or the Occupational Safety and Health Act (only as it relates to Hazardous Substances), including Laws regarding Releases or threatened Releases of Hazardous Substances (including Releases to ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport, disposal or handling of Hazardous Substances, including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Oil Pollution Act (33 U.S.C. §§ 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §§ 11001 et seq.), and all other Laws analogous to any of the above.

(iii) "***Environmental Permit***" means any Permit under or in connection with any Environmental Law, including any and all orders, consent orders or binding agreements issued or entered into by a governmental authority under any applicable Environmental Law, that is used in, or necessary for, (i) the business of the Vero Beach Electric Utility, or (ii) the ownership, use or operation of the Premises, in each case under clause (i) or (ii), as conducted prior to the Effective Date.

(iv) "***Hazardous Substances***" means: (i) any petroleum, asbestos, asbestos-containing material, and urea formaldehyde foam insulation and transformers or other equipment that contains polychlorinated biphenyls; (ii) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous

substances," "toxic substances," "contaminants," "pollutants," "toxic pollutants," "hazardous air pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law; and (iii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

(v) "***Liability***" means any direct or indirect liability, commitment, indebtedness or obligation (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or un-accrued, whether liquidated or un-liquidated, and whether due or to become due) of any kind, character or nature, or any demand, claim or action asserted or brought against the relevant Party.

(vi) ***"Law"*** means any foreign, federal, state or local law, constitutional provision, statute, charter, ordinance or other law, rule, regulation, code (including any zoning code, fire code or health and safety code), or interpretation of any governmental authority or any order of or by any governmental authority, including all Environmental Laws, requirements and regulations, applicable to the Premises or the Vero Beach Electric Utility.

(vii) "***Loss***" or "***Losses***" means any and all damages, fines, fees, penalties, deficiencies, losses, Liabilities, interest, awards, judgments, actions and expenses (whether or not involving a third party claim), including all remediation costs, reasonable fees of attorneys, accountants and other experts, or other expenses of litigation or proceedings or of any claim, default or assessment relating to the foregoing.

(viii) "***Release***" means any actual, threatened or alleged spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping or disposing of a Hazardous Substance into the environment or within any building, structure, facility or fixture.

(ix) "***Remediation***" means any action of any kind required by applicable Law to address the presence or Release of Hazardous Substances, including: (i) monitoring, investigation, assessment, treatment, cleanup containment, removal, mitigation, response or restoration work, as well as obtaining any permits necessary to conduct any such activity; (ii) preparing and implementing any plans or studies for any such activity; and (iii) obtaining a written notice from a governmental authority with competent jurisdiction under Environmental Laws, that no material additional work is required.

(b) As may be more fully described in the Asset Purchase and Sale Agreement and this Lease, except to the extent exacerbated or contributed to by Tenant, Landlord agrees to be responsible for any and all Losses of Tenant, and pay and perform when due any and all Liabilities of Tenant:

(i) under Environmental Laws, Environmental Permits or Environmental Claims with respect to the Premises arising from any event, condition, circumstance, act or omission that occurred prior to the Effective Date; or

(ii) arising from the presence of Hazardous Substances that originated on the Premises prior to the Effective Date or the Release of Hazardous Substances at, on, in, under, or migrating from the Premises prior to the Effective Date (such Losses or Liabilities under this Section 10(b)(i) or Section 10(b)(ii) hereof, the "**Environmental Liabilities**");

Provided, however, that as an absolute condition to such responsibility, Tenant must give to Landlord notice (the "**Environmental Notice**") of any claim of Environmental Liabilities no later than thirty (30) days prior to the anticipated Effective Date and, solely with respect to any Environmental Liability which Tenant demonstrates occurred subsequent to Tenant's Phase II environmental testing described below, Tenant must give the Environmental Notice prior to the Effective Date, which Environmental Notice, in either case, must contain the estimated total amount of the Environmental Liabilities and a summary of facts then known to Tenant that support such claim; and provided, further, that in no event shall Landlord be liable or responsible for any Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate, from all sources as described in the Asset Purchase and Sale Agreement, (the "**Aggregate Environmental Cap**"). Tenant hereby releases Landlord from, and Landlord shall not be liable or responsible for, any and all Environmental Liabilities as to which Tenant does not give Landlord the Environmental Notice or Environmental Notices prior to the time required in the immediately preceding sentence. Tenant also hereby releases Landlord from, and Landlord shall not be responsible for, any and all Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate from all sources as described in the Asset Purchase and Sale Agreement. The limitations on Landlord's liability or responsibility for Environmental Liabilities under this Section 10 are absolute limitations and will control over any other provisions in this Lease or other agreements between the Parties that are or may be to the contrary.

(c) In order to make a claim against Landlord pursuant to Section 10 (b) above, Tenant must have completed its environmental testing, including Phase II environmental testing, on the Premises and, if so performed, must have submitted the results of such testing to Landlord at least thirty (30) days prior to the Effective Date (collectively, "Tenant's Phase II Environmental Testing"). If Tenant has not performed such actions by the within the time periods specified, Tenant shall be deemed to have waived its right to make a claim against Landlord under Section 10 (b) above with respect to the Premises.

(d) Tenant shall not cause or permit the Release in any manner of any Hazardous Substances upon the Premises, the Access Parcel or upon adjacent lands, which violates any Environmental Laws. Tenant shall give prompt notice to Landlord of any Release of a Hazardous Substance in violation of Environmental Laws, whether caused by Tenant or, to the knowledge of Tenant, any third party.

(e) To evidence any changes to the environmental condition of the Premises at the expiration or termination of this Lease, Tenant shall perform an environmental assessment, including soils and groundwater sampling, of the Premises (the **"Closure Environmental Assessment")** as close in time as practical to the Expiration Date or the earlier termination of this Lease, at its expense and provide a copy thereof to Landlord as soon as practical. Tenant's obligation to provide the Closure Environmental Assessment shall survive the expiration or termination of this Lease.

(f) Except to the extent of Landlord's responsibility as described in Section 10 (b) above, Tenant shall be responsible, at Tenant's sole cost and expense, for commencing and thereafter performing, or causing to be performed, any and all assessments, Remediation, cleanup and monitoring of all Hazardous Substances existing or Released on, in, under, from or related to the Premises during the Term in violation of Environmental Laws; provided, however, that the foregoing shall not in any way limit or expand any liability, obligations or rights of Tenant or Landlord, to the extent expressly provided in the Agreement for Sale and Purchase. In the event any Remediation is required in the previous sentence, Tenant shall furnish to Landlord, within a reasonable period of time, written proof from the appropriate local, state or federal agency with jurisdiction over the Remediation that the Remediation has been satisfactorily completed in full compliance with all Environmental Laws. Tenant's obligation to provide Remediation as required by this Section 10 shall survive the expiration or termination of this Lease.

(g) Tenant shall indemnify, defend and hold harmless Landlord from and against, and pay, reimburse and fully compensate as the primary obligor Landlord for, any and all claims, suits, judgments, loss, damage, and liability which may be incurred by Landlord including, without limitation, Landlord's reasonable attorney's fees and costs, arising in any way from Hazardous Substances existing or Released on, in, under, from the Premises by Tenant, its employees, agents or contractors, or related to Tenant's use of the Premises or the Access Parcel during the Term in violation of Environmental Laws, or any violation of the Environmental Laws, by Tenant, its agents, licensees, invitees, subcontractors or employees on, in, under or related to the Premises or the Access Parcel during the Term. This responsibility shall continue to be in effect for any such Release or presence of Hazardous Substances as to which Landlord gives notice to Tenant on or before the fifth (5^{th}) anniversary of the Expiration Date. Tenant's obligation to provide the indemnity, defense and hold harmless required by this Lease shall survive the expiration or termination of this Lease.

(h) With respect to Remediation of any Releases at the Premises or migrating from the Premises, Tenant will remediate such Release, including any Baseline Recognized Environmental Conditions or Hazardous Substances migrating from the Premises (such Baseline Recognized Environmental Conditions and Hazardous Substances migrating from onto the Premises (but excluding any impacts to extent of any contribution or exacerbation by Tenant), the **"Landlord Responsible Environmental Conditions"**) as required by the Florida Department of Environmental Protection or Environmental Protection Agency, subject the following conditions:

(i) Unless otherwise agreed by the Parties, Tenant will remediate a Release to the least stringent standard permitted by the Florida Department of

Environmental Protection and Environmental Protection Agency, as applicable, and obtain a final non-appealable agency action approving such remediation, if applicable (such remediation standard, the **"Minimum Required Standard"**). The Landlord may direct Tenant to remediate to a higher (cleaner) standard in which case the incremental cost (the **"Incremental Cost"**) will be the Landlord's responsibility.

(ii) If the cost of remediating any Landlord Responsible Environmental Conditions to the Minimum Required Standard, or such higher standard as may be requested or required by the Landlord, will exceed $50,000 as reasonably estimated by Tenant based on reasonable bids from a third party contractor in accordance with Tenant's standard procurement practices, the total cost of remediating the Landlord Responsible Environmental Condition will be the responsibility of Landlord; subject to the limitation set forth in Section 10 (b) above.

(iii) If the Florida Department of Environmental Protection or Environmental Protection Agency requires remediation or other actions (e.g., monitoring), Tenant has the sole right to direct such Remediation activities regardless of the estimated cost and the Landlord shall be responsible for the costs associated with Remediating the Landlord Responsible Environmental Conditions, subject to the limitation set forth in Section 10 (b) above.

(iv) With respect to the Landlord's payment obligations set forth in Section 8 (h)(ii)-(iii), the Landlord shall reimburse Tenant within fifteen (15) calendar days of Tenant's providing to the Landlord an invoice for the costs incurred by Tenant along with copies of the underlying invoices from the contractors who performed the work. Notwithstanding anything herein to the contrary, in no event shall the Landlord shall be responsible for the costs to remediate Landlord Responsible Environmental Conditions in excess of the Aggregate Environmental Cap as defined in Section 6.22 of the Asset Purchase and Sale Agreement and Section 8 (b) above except for Incremental Costs that exceed the Aggregate Environmental Cap.

11. Non-interference. Landlord covenants and agrees not to use or construct any improvements on, under or over the Premises.

12. Assumption of Risk; Indemnification. Tenant agrees as follows:

(a) Tenant will rely exclusively upon its own investigation into the title relating to the Premises and the Access Parcel and Landlord makes no warranty of title relating to the Premises or the Access Parcel. Tenant's leasehold and easement interest in the Premises and Access Parcel pursuant to this Lease is made subject to the Permitted Encumbrances (as defined in the Asset Purchase and Sale Agreement).

(b) Except as specifically provided in this Lease, Tenant acknowledges and agrees that Landlord has not made, does not make and specifically negates and disclaims any

representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to the Premises and Access Parcel and that the rights granted with respect to the Premises provided for in this Lease are made on an "as is" condition and basis and with all faults. Without in any way limiting the generality of the foregoing, the grant of easement rights contemplated hereby is without any warranty other than Landlord's express representations and warranties in this Lease; and Landlord and Landlord's elected and appointed officials, officers, directors, employees, and affiliates (collectively the "**Landlord's Related Parties**") have made no, and expressly and specifically disclaim, and Tenant accepts that Landlord and the Landlord's Related Parties have disclaimed, any and all representations, guaranties or warranties, express or implied, or arising by operation of law (except for the representations and warranties, if any, expressly made by Landlord in this Lease), of or relating to: (i) the use, expenses, operation, characteristics or condition of the Premises and Access Parcel, or any portion thereof, including, without limitation, warranties of suitability, habitability, merchantability, design or fitness for any specific or particular purpose, or good and workmanlike construction; (ii) the environmental condition of the Premises or Access Parcel, or contamination by hazardous materials, or the compliance of any portion of the Premises or Access Parcel with any or all Environmental Laws; or (iii) the soil conditions, drainage, flooding characteristics, accessibility or other conditions existing in, on or under any portion of the Premises or Access Parcel. Tenant acknowledges and agrees that it is not relying on any representations or statements (oral or written) which may have been made or may be made by Landlord or any of the Landlord's Related Parties (except for Landlord's representations and warranties expressly set forth in this Lease), and is relying solely upon Tenant's or Tenant's representatives' own physical inspection of the Premises and Access Parcel and other investigations by Tenant or Tenant's representatives. Tenant acknowledges that any condition of the Premises or Access Parcel, whether apparent or latent, which Tenant discovers or desires to correct or improve on or after the Effective Date shall be subject to Landlord's review and approval rights, as set forth in this Lease, and shall be at Tenant's sole expense.

(c) Tenant recognizes and hereby expressly and fully assumes all risks, known and unknown, that arise or might arise incidental to or in any way connected with the condition or use of the Premises or access to the Premises. This assumption of risk by Tenant is made for and on behalf of Tenant and Tenant's successors, and permitted assigns.

(d) Tenant agrees to indemnify, defend and hold harmless Landlord and Landlord's Related Parties against any and all claims, including costs and expenses, of any kind or nature, including, without limitation, costs of investigation, attorneys' fees, paralegal fees, experts' fees and costs through regulatory proceedings, trial and review or appeal, including but not limited to claims for personal injury, death of persons and property damage, or other liability to the extent arising from Tenant's use, improvement, operation, condition or maintenance of the Substation or the Premises, provided however that this indemnity shall not apply to the negligence or willful misconduct of the Landlord and/or the Landlord's Related Parties as determined by a court of competent jurisdiction.

(e) Tenant's obligations under this Section 12 shall survive the termination of this Lease.

13. Construction, Mechanics and Materialmen's Liens; Notice of Work. Tenant will make no alteration, change, improvement or addition to the landscaping or exterior of the Premises without the prior written consent of Landlord which will not be unreasonably withheld, conditioned or delayed. Tenant will be responsible for payment of any and all work performed on Tenant's behalf on the Premises and Access Parcel. In no event will Landlord be responsible for payment of any work relating to the Premises nor will the Premises or Access Parcel, or any interest therein, be subject to any lien for payment of any construction or similar work performed by or for Tenant on or for the Premises or Access Parcel. Further, Tenant shall promptly notify the contractor performing any such work or alterations on the Premises or Access Parcel at Tenant's request or making such improvements to the Premises or Access Parcel at Tenant's request of this provision exculpating Landlord of responsibility for payment and liens. Notwithstanding the foregoing, if any mechanic's lien or other lien, attachment, judgment, execution, writ, charge or encumbrance is filed or recorded against any portion of the Premises or Access Parcel as a result of any work performed on or materials delivered to the Premises or Access Parcel at Tenant's direction, Tenant shall, within sixty (60) days following written notice of any such lien, cause same to be paid, discharged or otherwise removed of record. In the event that Tenant fails to remove any such mechanics or materialmen's lien relating to Tenant's work at the Premises or Access Parcel, the Landlord may cause such lien to be removed and Tenant shall reimburse Landlord for all reasonable costs and expenses, including attorney's or paralegal fees incurred by Landlord within forty-five (45) days following receipt of Landlord's written invoice and supporting documentation.

14. Insurance. Landlord understands that Tenant self-insures, and that prior to accessing the Premises or Access Parcel, Tenant will provide Landlord with a letter of such self-insurance. In the event that Tenant ceases to self-insure, then, during the Term of this Lease, and thereafter so long as Tenant operates, uses or maintains any portion of the Substation:

(a) Tenant shall procure and maintain, at Tenant's sole cost and expense, commercial general liability insurance providing coverage which protects Tenant and Landlord and the Landlord's Related Parties from and against any and all claims and liabilities for bodily injury, death and property damage arising from operations, premises liability, fire with respect to the Substation. Such insurance shall provide minimum coverage of $1,000,000.00 per occurrence and $2,000,000.00 aggregate. Tenant shall be and remain liable for and pay all deductibles and other amounts not covered, paid or reimbursed under the insurance policies.

(b) Tenant shall procure and maintain, at Tenant's sole cost and expense, workers' compensation insurance as required by applicable law, and employers' liability insurance, with coverage amounts with a limit of (i) One Million Dollars ($1,000,000) for bodily injury per accident, (ii) One Million Dollars ($1,000,000) for bodily injury by disease per policy and (iii) One Million Dollars ($1,000,000) for bodily injury by disease per employee.

(c) The certificate of insurance required herein for commercial general liability insurance, including, without limitation, all renewals, shall include a blanket additional insured endorsement and provide for at least thirty (30) days advance notice to Landlord of any non-renewal or cancellation. Tenant shall provide Landlord with a copy of certificates of insurance stating that the coverage as required herein is in full force and effect no later than the Effective

Date. Tenant shall cause certificates of insurance or a self-insured letter in conformance with the requirements hereof to be promptly provided to Landlord for each subsequent policy renewal.

(d) Tenant's insurance in all instances shall be primary and any insurance that may be maintained by Landlord shall be in excess of and shall not contribute with Tenant's insurance. All insurance policies shall be issued by a company or companies licensed to do business in the State of Florida.

(e) Landlord shall have the right to periodically review the adequacy of the required insurance, its forms and types, the amounts of coverage and, notwithstanding any other provision of this Lease, unilaterally modify the insurance requirements of this Section 12 by giving notice of such modification to Tenant. Such modification shall be as found reasonably necessary in the sole discretion of Landlord. Factors which may be considered by Landlord include, without limitation, changes in generally accepted insurance industry standards and practices, changes in use of the Premises, changes in risk exposure, measurable changes in local and national economic indicators and changes in Landlord's policies and procedures.

(f) Tenant understands and acknowledges that the responsibility and obligation to provide and maintain insurance in the forms, types and coverages required herein are solely Tenant's responsibilities and obligations which continue for the entire Term of this Lease, and until such time as Tenant no longer operates the Substation or enters the Premises, whichever date is later.

(g) In the event that Tenant fails for any reason to procure or maintain insurance in the forms, types or coverages required and to name Landlord as an additional insured on the certificates of insurance, Tenant shall cure such material breach within fifteen (15) calendar days after Tenant is given notice of such breach. Should Tenant fail to cure the breach within such period or such other time as may be agreed to by the Parties in writing, Landlord in Landlord's sole discretion may, but is not obligated to, secure replacement insurance coverage at Tenant's sole expense. Should Landlord elect to secure replacement insurance, Tenant shall thereafter reimburse Landlord within fifteen (15) calendar days of Landlord's providing to Tenant an invoice for the costs and premiums incurred by Landlord for the replacement insurance coverage, plus an administrative charge of ten percent (10%) or $250.00, whichever is greater. Tenant shall continue to be responsible for the payment of all deductibles applicable to the insurance policies and all losses incurred with respect to any lapse in coverage. Should Tenant subsequently obtain the required insurance, Tenant shall remain responsible for and reimburse Landlord for all costs and expenses to Landlord for the insurance premiums incurred by Landlord and the administrative charges set forth in this Section 14(g).

(h) Tenant's obligations under this Section 14 shall survive the termination or expiration of this Lease.

15. No Consequential Damages. Notwithstanding any other provisions in this Lease to the contrary, neither Party nor any of its elected officials, directors, officers, employees, lenders, shall be liable to the other Party for consequential, incidental, exemplary, punitive, anticipatory profits or indirect loss or damage of any nature, including, without limitation, loss of profit, loss

of use, loss of operating time, loss of revenue, increased costs of producing revenues, cost of capital or loss of goodwill whether arising in tort, contract, warranty, strict liability, by operation of law or otherwise, even if by such Party's, its representatives', agents', contractors', subcontractors', invitees' or licensees' negligence or fault, in connection with this Lease, except to the extent claimed by third parties. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, sole remedy provisions and limitations on liability expressed in this Lease shall survive termination or expiration of this Lease and shall extend to the parent, affiliates, and subsidiaries of each Party and their respective, partners, directors, officers, and employees and elected officials.

16. Taxes. Tenant shall pay any and all real property taxes for the Premises for the entire Term. As used herein, the term "**real property tax**" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Premises or any portion thereof by any authority having the direct or indirect power to tax, including, without limitation, any city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, as against any legal or equitable interest of Landlord or Tenant in the Premises or in any portion thereof. Tenant shall pay the real property taxes and shall deliver to Landlord official receipts evidencing such payment, which payment of real property taxes shall be made and the receipts delivered at least thirty (30) days before the real property taxes would become delinquent in accordance with the law then in force governing the payment of such real property taxes. If, however, Tenant desires to contest the validity of any real property taxes, Tenant may do so without being in default hereunder, provided Tenant gives Landlord notice of Tenant's intention to do so and provided the real property taxes are paid before any such real property taxes become delinquent after any applicable contest or appeal period.

17. Utilities. Tenant shall pay for all water, gas, heat, light, power, telephone and other utilities and services supplied to the Premises, together with any taxes thereon.

18. Compliance with Laws. During the Term, Tenant shall, at its expense, comply with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Premises. Further, during the Term, Tenant shall, at its expense, cause the Premises to attain compliance or remain in compliance with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Premises.

19. Assignment and Subletting. Landlord acknowledges that this Lease and Tenant's interests hereunder shall be subject to the encumbrance of Tenant's pre-existing mortgage with Deutsche Bank Trust Company Americas. Tenant shall not otherwise mortgage or assign its interest in this Lease without the prior written consent of Landlord, and such consent may be withheld in Landlord's unfettered discretion unless such proposed assignment is to the purchaser of all or substantially all of the assets of Florida Power & Light Company, as a part of a bona fide sale by Florida Power & Light Company to a third party purchaser for value and in such event Landlord's consent will not be unreasonably withheld or delayed. Notwithstanding any assignment of this Lease, Tenant will not be released from any of its obligations hereunder

unless such assignee executes an assignment and assumption agreement in form reasonably acceptable to Landlord agreeing to be bound by the terms of this Lease and Landlord determines in its reasonable discretion that such assignee is creditworthy. Further, any assignment in violation of this Section 17 shall be deemed void and a breach of this Lease by Tenant.

20. Relocation of Premises or Access Parcel. Landlord may elect to relocate the Premises or the Access Parcel as follows:

(a) Tenant agrees that at any time before or during the Term, and upon at least two (2) years prior written notice (the "**Relocation Notice**"), Landlord shall have the right to relocate the Premises described herein (the "**Existing Premises**") to another area (the "**New Premises**"), as determined by Landlord in its commercially reasonable discretion using prudent electric utility industry practice after consultation with Tenant. The New Premises shall include reasonable vehicular access, be suitable for placement of an electric substation and of sufficient size to accommodate the substation equipment then placed on the Premises. Landlord shall bear any and all direct costs and expenses of such relocation, including (i) providing the New Premises, (ii) moving all Tenant's equipment from the Existing Premises to the New Premises, and (iii) the installation of such substation equipment together with any and all lines or other equipment necessary for the use and operation of an electric substation on the New Premises. In no event shall Landlord be liable to Tenant for any consequential damages as a result of any such relocation, including, but not limited to, loss of business income or opportunity. Landlord and Tenant shall promptly execute an amendment to this Lease reciting the relocation of the Premises which shall be recorded in the Public Records.

(b) Tenant agrees that at any time before or during the Term, and upon at least two (2) years prior written notice (the "**Access Relocation Notice**"), Landlord shall have the right to relocate the Access Easement and Access Parcel described herein (the "**Existing Access Parcel**") to another area (the "**New Access Parcel**"), as determined by Landlord in its commercially reasonable discretion using prudent electric utility industry practice after consultation with Tenant. The New Access Parcel shall include reasonable vehicular access to the Premises. Landlord shall bear any and all direct costs and expenses of such relocation, including (i) providing the New Access Parcel, (ii) moving all Tenant's equipment, if any, in the Existing Access Parcel to the New Access Parcel as is necessary for the use and operation of the Substation. In no event shall Landlord be liable to Tenant for any consequential damages as a result of any such relocation, including, without limitation, loss of business income or opportunity. Landlord and Tenant shall promptly execute an amendment to this Lease reciting the relocation of the Access Parcel which shall be recorded in the Public Records.

21. Default and Remedies.

(a) **Tenant Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by Tenant**" under this Lease by Tenant:

(i) The failure by Tenant to make any payment of Rent or any other payment required to be made by Tenant hereunder, as and when due, which failure continues for a period of ten (10) days following notice given by Landlord to Tenant.

(ii) Failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, where such failure shall continue for a period of forty-five (45) days after notice thereof given by Landlord to Tenant. In the event the default cannot reasonably be cured within such forty-five (45) day period, Tenant shall not be in default if Tenant commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(iii) (A) The making by Tenant of any general arrangement or general assignment for the benefit of creditors; (B) Tenant becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within sixty (60) days.

(b) **Landlord Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by Landlord**" under this Lease by Landlord:

(i) Failure by Landlord to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Landlord, where such failure shall continue for a period of forty-five (45) days after notice thereof is given by Tenant to Landlord. In the event the default cannot reasonably be cured within such forty-five (45) day period, Landlord shall not be in default if Landlord commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(ii) (A) The making by Landlord of any general arrangement or general assignment for the benefit of creditors; (B) Landlord becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against Landlord, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of Landlord 's assets, where possession is not restored to Landlord within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of Landlord's assets, where such seizure is not discharged within sixty (60) days.

(c) **Remedies.** If an Event of Default by Tenant or an Event of Default by Landlord occurs hereunder, the non-defaulting Party shall have the right at its option and without further notice, but subject to the limitations set forth in the last sentence of this subsection, to exercise any remedy available at law or in equity, including, without limitation, a suit for specific performance of any obligations set forth in this Lease or any appropriate injunctive or other equitable relief, or for damages resulting from such event of default. The Parties agree that remedies at law may be inadequate to protect against any actual or threatened breach of this

Lease. In the event of any breach or threatened breach, either Party shall have the right to apply for the entry of an immediate order to restrain or enjoin the breach and otherwise specifically enforce the provisions of this Lease. If an Event of Default by Tenant occurs, Landlord may, in addition to any other remedies set forth in this Lease or available under applicable law, accelerate the Rent due under this Lease for the period of three (3) years after the date of the Default by Tenant, which amount shall be due and payable immediately.

Notwithstanding the foregoing or anything to the contrary contained in this Lease, in no event shall any Event of Default by Tenant or Event of Default by Landlord, terminate, or entitle any Party to terminate, rescind or cancel this Lease or the rights granted hereunder. In the event that Tenant, by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed, shall be in default under this Lease, then Landlord may, but shall not be required to, do or perform or cause to be done or performed such act or thing, and Tenant shall repay to Landlord on demand the entire expense incurred within forty-five (45) days following receipt of Landlord's invoice and supporting documentation. Any act or thing done by Landlord pursuant to the provisions of this subsection shall not be or be construed as a waiver of any such Event of Default by Tenant, or as a waiver of any covenant, term or condition herein contained or the performance thereof, or of any other right or remedy of Landlord, hereunder or otherwise. Except for Landlord's obligations set forth in Section 10 of this Lease, Landlord's liability under this Lease shall be at all times limited to the fair market value of Landlord's interest in the Premises. All amounts payable by Tenant to Landlord under this Lease, if not paid when the amounts become due under this Lease, shall bear interest from the date they become due until paid at the highest rate allowed by law.

22. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain, or sold under the threat of the exercise of such power (all of which are herein called "**condemnation**"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If so much of the Premises is taken under the power of eminent domain such that the Premises is no longer suitable for its intended use or suitable access cannot be provided to the Premises, Tenant may, at Tenant's option, to be exercised in writing only within ten (10) days after Landlord shall have given Tenant notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord; provided, however, that Tenant shall be entitled to any award for loss of Tenant's leasehold interest.

23. Severability. If any provision or portion of this Lease shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (a) such portion or provision shall be deemed separate and independent, (b) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling or adjudication, and (c) the remainder of this Lease shall remain in full force and effect.

24. Repair Obligations. Landlord shall have absolutely no obligations of any kind for the repair or maintenance of any part of the Premises or Access Parcel or any improvement or equipment thereon. During the Term, Tenant shall maintain the Premises, and the improvements and equipment thereon, in a neat, clean, safe and sanitary condition. Tenant shall be solely responsible at its own expense for regular removal and disposal of all refuse, garbage, debris, trash and other discarded materials and shall not allow an accumulation thereof on, in or adjacent to the Premises.

25. Termination. On the Expiration Date, or earlier termination of this Lease, Tenant shall peaceably and quietly deliver possession of the Premises to Landlord. At Landlord's request, Tenant shall remove any and all improvements, fixtures and equipment from the Premises and deliver the Premises to Landlord free of any improvements or equipment of any kind. Tenant agrees that, upon expiration or termination of this Lease, Tenant will, within thirty (30) days of request by Landlord, execute and deliver to Landlord a release of this Lease in recordable form. The foregoing provisions shall survive expiration or earlier termination of this Lease.

26. Waivers. Any waiver by either Party with respect to this Lease must be in writing, signed by the Party granting the waiver, and shall be limited to the express terms set forth in the waiver.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity. Any and all sums due from Tenant to Landlord under this Lease shall be considered rent.

28. Binding Effect. This Lease shall bind the Parties, and their respective successors and permitted assigns.

29. Signs. Subject to applicable rules and regulations, Tenant will be permitted, without Landlord's consent, to have one or more signs on the Premises which identify the Premises as a Florida Power & Light Company Substation.

30. Quiet Possession. Upon Tenant paying the Rent for the Premises and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises and use of the Premises from any interference from Landlord for the entire Term.

31. Right of Entry. Subject to Landlord's duties, if any, relating to police, fire and other municipal services for which no advance notice is required, Landlord, or any of its agents, shall have the right to enter the Premises during reasonable hours to examine the same but only when accompanied by a qualified or designated employee of Tenant.

32. Force Majeure. In the event that either Party is unable to fulfill, or shall be delayed or restricted in the fulfillment of any obligation, or the curing of a default, under any provision of this Lease due to reasons outside of its reasonable control, or not wholly or mainly within such Party's reasonable control, including strike, lock-out, war, acts of military authority, acts of terrorism, sabotage, rebellion or civil commotion, fire or explosion, flood, wind, storm, hurricane, water, earthquake, acts of God or other casualty or by reason of any statute or law or

any regulation or order passed or made, or by reason of any order or direction of any administrator, controller, board or any governmental department or officer or other authority (other than, in the case of Landlord claiming relief under this Section 32, any statute or law or any regulation or order passed or made, or by reason of any order or direction of, any administrator, controller, board or any governmental department or officer or other authority of Landlord), and whether of the foregoing character or not, such Party shall, so long as any such impediment exists, be relieved from the fulfillment of such obligation and the other Party shall not be entitled to compensation for any damage, inconvenience, nuisance or discomfort thereby occasioned or to terminate this Lease.

33. Counterparts. This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument.

34. Brokerage. Landlord and Tenant each represent and warrant one to the other that neither of them has employed any broker in connection with the negotiations of the terms of this Lease or the execution thereof. Landlord and Tenant hereby agree to indemnify and to hold each other harmless against any loss, expense or liability with respect to any claims for commissions or brokerage fees arising from or out of any breach of the foregoing representation and warranty. This provision shall survive the expiration or earlier termination of this Lease.

35. Attorneys' Fees. In the event Tenant or Landlord defaults in the performance of any of the terms, covenants, conditions, agreements, or provisions contained in this Lease and Landlord or Tenant employs attorneys and brings suit in connection with the enforcement of this Lease or any provision hereof or the exercise of any of its remedies hereunder, then the prevailing Party in any suit so instituted shall be promptly reimbursed by the other Party for all reasonable attorneys' fees and expenses so incurred, including, without limitation, any such fees and expenses incurred in appellate, bankruptcy and post-judgment proceedings. Any monetary judgment rendered in any litigation concerning this Lease shall bear interest at the highest rate allowed by applicable law. The foregoing provisions shall survive expiration or earlier termination of this Lease.

36. Estoppel Certificate. Landlord and Tenant shall, from time to time and without additional consideration, execute and deliver to each other or to any person whom the requesting Party may designate, within twenty (20) days after the request therefor: (a) an estoppel certificate consisting of statements, if true, that (i) this Lease is in full force and effect, with Rent current through the date of the certificate; (ii) this Lease has not been modified or amended (or setting forth all modifications and amendments); and (iii) to the best of such Party's knowledge and belief, the other Party is not then in default (or if in default, specifying such default), and Tenant and Landlord have fully performed all of Tenant's and Landlord's obligations, respectively, required to have been performed under this Lease as of the date of the certificate; and (b) such further consents and instruments of a similar nature evidencing the agreement (subject to the provisions of this Lease) of Landlord or Tenant to the mortgage or other hypothecation by Tenant of the leasehold estate created hereby, as may be reasonably requested by Tenant or any approved leasehold mortgagee, or authorized assignee or transferee of the interest of Landlord or Tenant, as applicable. Notwithstanding the foregoing, neither Party may make excessive requests for estoppel certificates, and neither Party shall be obligated to provide more than two (2) estoppel certificates in any Lease Year.

37. Notices. Every notice, approval, consent or other communication required or permitted under this Lease shall be in writing, shall be deemed to have been duly given on the date of receipt, and shall be deemed delivered if either served personally on the Party to whom notice is to be given, or sent to the Party to whom notice is to be given, by overnight courier or by first class registered or certified mail (return receipt requested), postage prepaid, and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by notice given to the other Party in the manner provided in this Section.

To Landlord:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Manager
With a required copy to:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Attorney
To Tenant:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Corporate Real Estate
With a required copy to:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Law Department

38. Recording. This Lease shall be recorded in the Public Records of Indian River County, Florida at Tenant's expense.

39. No Personal Liability. Excluding any successor-in-interest to Tenant or Landlord under this Lease, notwithstanding anything to the contrary in this Lease, no present or future parent, subsidiary, affiliate, member, principal, shareholder, manager, officer, official, director, or employee of Tenant or Landlord will be personally liable, directly or indirectly, under or in connection with this Lease, or any document, instrument or certificate securing or otherwise executed in connection with this Lease, or any amendments or modifications to any of the foregoing made at any time or times, or with respect to any matter, condition, injury or loss related to this Lease, and each of the Parties, on behalf of itself and each of its successors and assignees, waives and does hereby waive any such personal liability.

40. Entire Agreement. This Lease and any exhibits, schedules or addenda attached hereto and forming a part hereof, contains the entire agreement between the Parties hereto with respect to the subject matter of this Lease, and supersedes all previous negotiations leading thereto, and it may be modified only by an agreement in writing executed and delivered by Landlord and Tenant. All exhibits, schedules or addenda attached to this Agreement are expressly incorporated herein by this reference.

41. Governing Law; Forum. This Lease shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES OR THE ACCESS PARCEL, OR ANY CLAIM FOR INJURY OR DAMAGE, SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

42. WAIVER OF JURY TRIAL. THE PARTIES HERETO SHALL, AND THEY HEREBY DO, IRREVOCABLY WAIVE TRIAL BY JURY IN ANY AND EVERY ACTION OR PROCEEDING BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES OR THE ACCESS PARCEL, AND ANY CLAIM FOR INJURY OR DAMAGE. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

43. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present a health risk to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

44. Holding Over. If Tenant remains in possession of the Premises after this Lease expires or terminates for any reason:

(a) Tenant shall be deemed to be occupying the Premises as a tenant from month-to-month at the sufferance of Landlord. Tenant will continue to be subject to and comply with all of the provisions of this Lease, except that, at Landlord's discretion, the rent will be at a monthly rate up to an amount equal to 1/12th of the fair market annual rental value of the Premises, including all improvements and fixtures, calculated at the time of the expiration or termination, and paid by Tenant on the first day of each month subsequent to the expiration or termination.

(b) Tenant shall reimburse Landlord and indemnify and hold Landlord harmless for any and all additional losses and damages which Landlord suffers by reason of Tenant's continued occupancy.

(c) Tenant shall indemnify Landlord from and against all claims made by any

successor tenant insofar as such delay is occasioned by Tenant's failure to surrender possession of the Premises.

45. Landlord/Tenant Relationship; and Third Party Beneficiaries. This Lease creates a landlord/tenant relationship, and no other relationship, between the Parties. This Lease is for the sole benefit of the Parties hereto and, except for assignments permitted hereunder, no other person or entity shall be a third party beneficiary hereunder.

46. No Waiver of Regulatory Authority. Nothing in this Lease constitutes a waiver of Landlord's regulatory, public safety or other municipal authority with respect to the Premises, the Access Parcel or any other matter. Further, nothing in this Lease shall be deemed to waive Landlord's or Tenant's right of eminent domain.

47. Sovereign Immunity. Landlord is a Florida municipal corporation whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of Landlord beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of Landlord's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything that might allow claims otherwise barred by sovereign immunity or operation of law.

48. Time, Interpretation. In computing any period of time pursuant to this Lease, the day of the act, event, or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. A legal holiday as used in this Lease includes days on which banks in Vero Beach, Florida are not open for regular business. Time is of the essence. The captions in this Lease are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Lease or any of the provisions hereof. This Lease shall not be construed more strongly against or for either Party regardless of the drafter. Unless the context otherwise requires, (a) all references to Sections or Exhibits are to Sections or Exhibits in or to this Lease, and (b) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter and the term "including" shall mean by way of example and not by way of limitation.

[Remainder of page intentionally blank; Signature pages follows]

City of Vero Beach Execution Pages

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Lease to be executed as of the Effective Date.

ATTEST: **CITY OF VERO BEACH**

_____ By:_____
Tammy K. Bursick Laura Moss
City Clerk Mayor

[SEAL]

WITNESSES:

_____
Print
name:_____

_____
Print
name:_____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing Lease Agreement was acknowledged before me this _____ day of _____ 2016 by **Laura Moss, as Mayor**, and attested by **Tammy K. Bursick, as City Clerk**, of the City of Vero Beach, Florida. They are both known to me.

_____
NOTARY PUBLIC
Print name:
Commission No. [SEAL]
My Commission Expires:

ADMINISTRATIVE REVIEW

(For Internal Use Only–Sec. 2-77 COVB Code)

Approved as to form and legal sufficiency:

Wayne R. Coment
City Attorney

Approved as conforming to municipal policy:

James R. O'Connor
City Manager

Approved as to technical requirements:

Ted Fletcher
Director of Electric Utility Operations

Approved as to technical requirements:

Cynthia D. Lawson
Director of Finance

Approved as to technical requirements:

Timothy J. McGarry
Director of Planning and Development

Florida Power & Light Company Execution Page

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Lease to be executed as of the Effective Date specified in this Lease.

WITNESSES:

TENANT:

FLORIDA POWER & LIGHT COMPANY, a Florida corporation

_____
Print
name:_____

_____
Print
name:_____

By:_____
Name:_____
Title:_____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____, 20__, by , the of **FLORIDA POWER & LIGHT COMPANY**, a Florida corporation, who [ ] is personally known to me or [ ] has produced as identification.

Seal:

_____
Notary Public, State of Florida at Large
Print Name: _____
Notary Commission No.: _____
My Commission Expires: _____

Lease by and between the City of Vero Beach, Florida and Florida Power & Light Company

Exhibit "A"

Premises Legal Description and Map

SUBJECT TO REVISION

Indian River County GIS

East 225.0' of the North 350.0' of the West 260.0' of the NE 1/4 of the SE 1/4 of section 27 township 32 South range 39 East Indian River County, Florida, less right of way.

Exhibit "B"

Access Easement Legal Description and Map

Subject to Revision to Provide for Separate Access Parcel

Exhibit I-2

Form of Airport Warehouse Lease Agreement and Memorandum of Lease

[*Exhibit begins on the following page.*]

Prepared by and return to:
Nathaniel L. Doliner
Carlton Fields
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AIRPORT WAREHOUSE LEASE AGREEMENT

THIS AIRPORT WAREHOUSE LEASE AGREEMENT (the "**Lease**"), made and entered into as of [_____ __], 201[__] (the "**Effective Date**") is between THE CITY OF VERO BEACH, FLORIDA, a Florida municipal corporation (herein called "**Landlord**"), with an address of 1053 20th Place, Vero Beach, FL 32960, and FLORIDA POWER & LIGHT COMPANY, a Florida corporation (herein called "**Tenant**"), with an address of 700 Universe Boulevard, Juno Beach, FL 33408. Landlord and Tenant are sometimes together referred to herein as the "**Parties**" and individually as a "**Party.**"

RECITALS

A. As of the Effective Date, Landlord has sold, assigned and conveyed certain electric utility assets of Landlord to Tenant, and Tenant has commenced providing retail electric service to the City of Vero Beach's electric utility customers as contemplated under that certain Asset Purchase and Sale Agreement, dated [_____], 201[__], by and between Landlord and Tenant (the "**Asset Purchase and Sale Agreement**"). As used in this Lease, the "**Vero Beach Electric Utility**" means the electric utility system of electricity transmission and distribution owned or operated by Tenant providing retail electric service to the City of Vero Beach's electric utility customers on and after the Effective Date.

B. In order to provide retail electric services to the electric utility customers as contemplated by the Asset Purchase and Sale Agreement, Tenant desires to lease from Landlord, and Landlord desires to lease to Tenant, for use exclusively as a warehouse supporting Tenant's electrical utility assets, the real property more commonly known as the "**Airport Warehouse Property**" (the "**Warehouse**") and more particularly described and depicted on attached **Exhibit "A"** made a part hereof, together with all improvements and fixtures located thereon, and all appurtenances pertaining thereto (collectively, the "**Premises**").

C. It is intended that the Rent provided for in this Lease shall be absolutely net to Landlord throughout the Term, free of any taxes, costs, utilities, insurance expenses, liabilities, charges or other deductions whatsoever with respect to the Premises and the operation, maintenance, repair, rebuilding, use or occupation thereof all of which shall be Tenant's sole responsibility during the entire Term.

NOW THEREFORE, in consideration of and subject to the terms, covenants, agreements, provision and limitations set forth in this Lease, Landlord and Tenant agree as follows:

1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

2. Lease of Premises. Landlord hereby leases the Premises to Tenant, and Tenant hereby leases the Premises from Landlord. Tenant will rely exclusively upon its own investigation into the title relating to the Premises and the Access Parcel and Landlord makes no warranty of title relating to the Premises or the Access Parcel. Tenant's leasehold and easement interest in the Premises and Access Parcel pursuant to this Lease is made subject to the Permitted Encumbrances (as defined in the Asset Purchase and Sale Agreement). This Lease also includes the right, during the Term, as defined below, to use all existing easements and appurtenances, if any, benefitting the Premises and necessary or now used to operate the Premises.

3. Intentionally Deleted.

4. Triple Net Lease. This is a triple net lease and the Rent required to be paid to Landlord pursuant to this Lease shall be completely net rent to Landlord. During the entire Term, Landlord shall have absolutely no cost, obligation, responsibility or liability whatsoever relating to the Premises. Without limiting the generality of the foregoing, Landlord shall have no obligations for repairing or maintaining any portion of the Premises or any systems with respect thereto. All Rent shall be paid by Tenant to Landlord without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction whatsoever and Tenant shall pay any and all applicable sales and use tax, local surtaxes, any and all ad valorem taxes on the Premises, and any documentary stamp tax or other taxes on the Rent or the grant of rights described in this Lease.

5. Use. The Premises may be used by Tenant as a warehouse to support Tenant's electrical utility assets in the business of the Vero Beach Electric Utility, and for no other use whatsoever. Tenant covenants that it shall comply with all applicable building, zoning, fire and other governmental laws, ordinances, regulations and rules in its use and operation of the Premises.

6. FAA and FDOT. Tenant acknowledges that the Premises and the Access Parcel are under the regulatory jurisdiction of the Federal Aviation Administration (the "**FAA**") and Florida Department of Transportation (the "**FDOT**"), and this Lease is made expressly subject to the regulatory authority, rules and regulations of the FAA and the FDOT as may be applicable.

7. Term. Unless otherwise provided by this Lease, the term of this Lease shall be for a period of one (1) calendar year beginning on the Effective Date (the "**Initial Term**"),and can be extended by Tenant at Tenant's sole option for up to nine (9) additional terms of one (1) year each (each, an "**Extended Term**") provided that Tenant shall deliver to Landlord notice of Tenant's intent to extend the Term of this Lease not less than thirty (30) days prior to the expiration the then-current Initial Term or Extended Term, as the case may be. The Initial Term and each Extended Term, if Tenant exercises its option, under the terms of this Lease, as to any of the Extended Terms, shall be collectively referred to herein as the "**Term**." For purposes of

this Lease, the term "**Lease Year**" shall mean: (a) that period, during the Term, commencing upon the Effective Date and continuing until and including the last day of the month of the twelfth (12th) full month following the Effective Date; (b) each such successive twelve (12) month period of the Term in the event the Initial Term is extended under this Section; and (c) in the event that this Lease terminates prior to the end of a Lease Year, that period commencing on the first date of such Lease Year and ending on the date of termination of this Lease. The expiration date of the Term (the "**Expiration Date**") shall be the last day of the Initial Term, or the last day of the last Extended Term, whichever shall be applicable depending on whether Tenant shall exercise any option as to any Extended Terms.

8. Rent. The rent (the **"Rent"**) to be paid under this Lease shall be paid in the amounts as set forth below, plus any and all applicable sales and use tax, local surtaxes, and any documentary stamp tax or other taxes on the Rent, or rights granted to Tenant by this Lease, and shall be paid to Landlord in advance without demand or offset:

(a) **Rent During Initial Term**. Rent during the Initial Term shall be an amount approved by the FAA and equal to the fair market rental value as determined by an appraiser selected by Landlord, with the cost of that appraisal split equally between the Parties, and with such appraisal being performed no more than six (6) months prior to the Effective Date] and shall be paid in equal monthly installments of [_____ ($_____)] commencing on the Effective Date and continuing on each subsequent month. Beginning annually on the first day of each Extended Term pursuant to an option to renew or extend the Term, if any, exercised by Tenant under this Lease, the Rent shall be adjusted and increased in accordance with any increase in the annual percentage change for the prior year in the index known on the Effective Date as the "United States Bureau of Labor Statistics Consumer Price Index ("**CPI**") for All Urban Consumers," using the July to July report. If the CPI ceases to be published, Landlord shall select an alternative index measuring price increases in its reasonable discretion. In no event shall the Rent decline due to any change in the CPI, and in the event of a decline in the CPI for any applicable annual period, there will be no adjustment to the Rent for that Lease Year.

9. Representations and Warranties.

(a) Landlord represents and warrants to Tenant as follows:

(i) Landlord has full power and authority to enter into this Lease.

(ii) The person executing and delivering this Lease on Landlord's behalf is acting pursuant to proper authorization and this Lease is the valid, binding and enforceable obligation of Landlord enforceable against Landlord in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

(b) Tenant represents and warrants to Landlord as follows:

(i) Tenant is a corporation duly incorporated, validly existing and having active status under the laws of the State of Florida, with the necessary corporate power and authority to enter into this Lease.

(ii) The person executing and delivering this Lease on Tenant's behalf is acting pursuant to proper authorization, and this Lease is the valid, binding and enforceable obligation of Tenant enforceable against Tenant in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

10. Hazardous Materials and Pre-Existing Conditions.

(a) For purposes of this Lease:

(i) "***Environmental Claim***" means any and all communications, whether written or oral, alleging potential Liability, administrative or judicial actions, suits, orders, liens, notices alleging Liability, notices of violation, investigations which have been disclosed to Landlord, complaints, requests for information relating to the Release or threatened Release into the Environment of Hazardous Substances, proceedings, or other communication, whether criminal or civil, pursuant to or relating to any applicable Environmental Law, by any person (including any governmental authority) based upon, alleging, asserting, or claiming any actual or potential (i) violation of, or Liability under any Environmental Law, (ii) violation of any Environmental Permit, or (iii) Liability for investigatory costs, cleanup costs, removal costs, remedial costs, response costs, monitoring costs, natural resource damages, property damage, personal injury, fines, or penalties arising out of, based on, resulting from, or related to the presence, Release, or threatened Release into the environment of any Hazardous Substances at the Premises including any off-Site location to which Hazardous Substances, or materials containing Hazardous Substances, were sent.

(ii) "***Environmental Laws***" means all Laws regarding pollution or protection of the Environment, the conservation and management of land, natural resources and wildlife or human health and safety or the Occupational Safety and Health Act (only as it relates to Hazardous Substances), including Laws regarding Releases or threatened Releases of Hazardous Substances (including Releases to ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport, disposal or handling of Hazardous Substances, including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances

Control Act (15 U.S.C. §§ 2601 et seq.), the Oil Pollution Act (33 U.S.C. §§ 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §§ 11001 et seq.), and all other Laws analogous to any of the above.

(iii) "***Environmental Permit***" means any Permit under or in connection with any Environmental Law, including any and all orders, consent orders or binding agreements issued or entered into by a governmental authority under any applicable Environmental Law, that is used in, or necessary for, (i) the business of the Vero Beach Electric Utility, or (ii) the ownership, use or operation of the Premises, in each case under clause (i) or (ii), as conducted prior to the Effective Date.

(iv) "***Hazardous Substances***" means: (i) any petroleum, asbestos, asbestos-containing material, and urea formaldehyde foam insulation and transformers or other equipment that contains polychlorinated biphenyls; (ii) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "contaminants," "pollutants," "toxic pollutants," "hazardous air pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law; and (iii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

(v) ***"Law"*** means any foreign, federal, state or local law, constitutional provision, statute, charter, ordinance or other law, rule, regulation, code (including any zoning code, fire code or health and safety code), or interpretation of any governmental authority or any order of or by any governmental authority, including all Environmental Laws, requirements and regulations, applicable to the Premises or the Vero Beach Electric Utility.

(vi) "***Liability***" means any direct or indirect liability, commitment, indebtedness or obligation (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or un-accrued, whether liquidated or un-liquidated, and whether due or to become due) of any kind, character or nature, or any demand, claim or action asserted or brought against the relevant Party.

(vii) "***Loss***" or "***Losses***" means any and all damages, fines, fees, penalties, deficiencies, losses, Liabilities, interest, awards, judgments, actions and expenses (whether or not involving a third party claim), including all remediation costs, reasonable fees of attorneys, accountants and other experts, or other expenses of litigation or proceedings or of any claim, default or assessment relating to the foregoing.

(viii) "***Release***" means any actual, threatened or alleged spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching,

migrating, dumping or disposing of a Hazardous Substance into the environment or within any building, structure, facility or fixture.

(ix) "***Remediation***" means any action of any kind required by applicable Law to address the presence or Release of Hazardous Substances, including: (i) monitoring, investigation, assessment, treatment, cleanup containment, removal, mitigation, response or restoration work, as well as obtaining any permits necessary to conduct any such activity; (ii) preparing and implementing any plans or studies for any such activity; and (iii) obtaining a written notice from a governmental authority with competent jurisdiction under Environmental Laws, that no material additional work is required.

(b) As may be more fully described in the Asset Purchase and Sale Agreement and this Lease, except to the extent exacerbated or contributed to by Tenant, Landlord agrees to be responsible for any and all Losses of Tenant, and pay and perform when due any and all Liabilities of Tenant:

(i) under Environmental Laws, Environmental Permits or Environmental Claims with respect to the Premises arising from any event, condition, circumstance, act or omission that occurred prior to the Effective Date; or

(ii) arising from the presence of Hazardous Substances that originated on the Premises prior to the Effective Date or the Release of Hazardous Substances at, on, in, under, or migrating from the Premises prior to the Effective Date (such Losses or Liabilities under this Section 10(b)(i) or Section 10(b)(ii) hereof, the "**Environmental Liabilities**");

Provided, however, that as an absolute condition to such responsibility, Tenant must give to Landlord notice (the "**Environmental Notice**") of any claim of Environmental Liabilities no later than thirty (30) days prior to the anticipated Effective Date and, solely with respect to any Environmental Liability which Tenant demonstrates occurred subsequent to Tenant's Phase II environmental testing described below, Tenant must give the Environmental Notice prior to the Effective Date, which Environmental Notice, in either case, must contain the estimated total amount of the Environmental Liabilities and a summary of facts then known to Tenant that support such claim; and provided, further, that in no event shall Landlord be liable or responsible for any Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate, from all sources as described in the Asset Purchase and Sale Agreement, (the "**Aggregate Environmental Cap**"). Tenant hereby releases Landlord from, and Landlord shall not be liable or responsible for, any and all Environmental Liabilities as to which Tenant does not give Landlord the Environmental Notice or Environmental Notices prior to the time required in the immediately preceding sentence. Tenant also hereby releases Landlord from, and Landlord shall not be responsible for, any and all Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate from all sources as described in the Asset Purchase and Sale Agreement. The limitations on Landlord's liability or responsibility for Environmental Liabilities under this Section 10 are absolute limitations and will control over any

other provisions in this Lease or other agreements between the Parties that are or may be to the contrary

(c) In order to make a claim against Landlord pursuant to Section 10 (b) above, Tenant must have completed its environmental testing, including Phase II environmental testing, on the Premises and, if so performed, must have submitted the results of such testing to Landlord at least thirty (30) days prior to the Effective Date (collectively, "**Tenant's Phase II Environmental Testing**"). If Tenant has not performed such actions by the within the time periods specified, Tenant shall be deemed to have waived its right to make a claim against Landlord under Section 10 (b) above with respect to the Premises.

(d) Tenant shall not cause or permit the Release in any manner of any Hazardous Substances upon the Premises or upon adjacent lands, which violates any Environmental Laws. Tenant shall give prompt notice to Landlord of any Release of a Hazardous Substance in violation of Environmental Laws, whether caused by Tenant or, to the knowledge of Tenant, any third party.

(e) To evidence any changes to the environmental condition of the Premises at the expiration or termination of this Lease, Tenant shall perform an environmental assessment, including soils and groundwater sampling, of the Premises (the **"Closure Environmental Assessment")** as close in time as practical to the Expiration Date or the earlier termination of this Lease, at its expense and provide a copy thereof to Landlord as soon as practical. Tenant's obligation to provide the Closure Environmental Assessment shall survive the expiration or termination of this Lease.

(f) Except to the extent of Landlord's responsibility as described in Section 10 (b) above, Tenant shall be responsible, at Tenant's sole cost and expense, for commencing and thereafter performing, or causing to be performed, any and all assessments, Remediation, cleanup and monitoring of all Hazardous Substances existing or Released on, in, under, from or related to the Premises during the Term in violation of Environmental Laws; provided, however, that the foregoing shall not in any way limit or expand any liability, obligations or rights of Tenant or Landlord, to the extent expressly provided in the Agreement for Sale and Purchase. In the event any Remediation is required in the previous sentence, Tenant shall furnish to Landlord, within a reasonable period of time, written proof from the appropriate local, state or federal agency with jurisdiction over the Remediation that the Remediation has been satisfactorily completed in full compliance with all Environmental Laws. Tenant's obligation to provide Remediation as required by this Section 10 shall survive the expiration or termination of this Lease.

(g) Tenant shall indemnify, defend and hold harmless Landlord from and against, and pay, reimburse and fully compensate as the primary obligor Landlord for, any and all claims, suits, judgments, loss, damage, and liability which may be incurred by Landlord including, without limitation, Landlord's reasonable attorney's fees and costs, arising in any way from Hazardous Substances existing or Released on, in, under, from the Premises by Tenant, its employees agents or contractors, or related to Tenant's use of the Premises during the Term in violation of Environmental Laws, or any violation of the Environmental Laws, by Tenant, its agents, licensees, invitees, subcontractors or employees on, in, under or related to the Premises

during the Term. This responsibility shall continue to be in effect for any such Release or presence of Hazardous Substances as to which Landlord gives notice to Tenant on or before the fifth (5th) anniversary of the Expiration Date. Tenant's obligation to provide the indemnity, defense and hold harmless required by this Lease shall survive the expiration or termination of this Lease.

(h) With respect to Remediation of any Releases at the Premises or migrating from the Premises, Tenant will remediate such Release, including any recognized environmental conditions identified in Tenant's Phase II Environmental Testing (the "**Baseline Recognized Environmental Conditions**") or Hazardous Substances migrating from the Premises (such Baseline Recognized Environmental Conditions and Hazardous Substances migrating from onto the Premises (but excluding any impacts to extent of any contribution or exacerbation by Tenant), the **"Landlord Responsible Environmental Conditions"**) as required by the Florida Department of Environmental Protection or Environmental Protection Agency, subject the following conditions:

(i) Unless otherwise agreed by the Parties, Tenant will remediate a Release to the least stringent standard permitted by the Florida Department of Environmental Protection and Environmental Protection Agency, as applicable, and obtain a final non-appealable agency action approving such remediation, if applicable (such remediation standard, the **"Minimum Required Standard"**). The Landlord may direct Tenant to remediate to a higher (cleaner) standard in which case the incremental cost (the **"Incremental Cost"**) will be the Landlord's responsibility.

(ii) If the cost of remediating any Landlord Responsible Environmental Conditions to the Minimum Required Standard, or such higher standard as may be requested or required by the Landlord, will exceed $50,000 as reasonably estimated by Tenant based on reasonable bids from a third party contractor in accordance with Tenant's standard procurement practices, the total cost of remediating the Landlord Responsible Environmental Condition will be the responsibility of Landlord; subject to the limitation set forth in Section 10 (b) above.

(iii) If the Florida Department of Environmental Protection or Environmental Protection Agency requires remediation or other actions (e.g., monitoring), Tenant has the sole right to direct such Remediation activities regardless of the estimated cost and the Landlord shall be responsible for the costs associated with Remediating the Landlord Responsible Environmental Conditions, subject to the limitation set forth in Section 10 (b) above.

(i) (iv) With respect to the Landlord's payment obligations set forth in Section 10 (h)(ii)-(iii), the Landlord shall reimburse Tenant within fifteen (15) calendar days of Tenant's providing to the Landlord an invoice for the costs incurred by Tenant along with copies of the underlying invoices from the contractors who performed the work. Notwithstanding anything herein to the contrary, in no event shall the Landlord shall be responsible for the costs to remediate Landlord Responsible Environmental Conditions in excess of the Aggregate

Environmental Cap as defined in Section 6.22 of the Asset Purchase and Sale Agreement and Section 10 (b) above except for Incremental Costs that exceed the Aggregate Environmental Cap.

11. Non-interference. Landlord covenants and agrees not to use or construct any improvements on, under or over the Premises.

12. Acceptance of Premises, Assumption of Risk; and Indemnification. Tenant agrees as follows:

(a) Except as specifically provided in this Lease, Tenant acknowledges and agrees that Landlord has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to the Premises and that the rights granted with respect to the Premises provided for in this Lease are made on an "as is" condition and basis and with all faults. Without in any way limiting the generality of the foregoing, the grant of leasehold rights contemplated hereby is without any warranty other than Landlord's express representations and warranties in this Lease; and Landlord and Landlord's elected and appointed officials, officers, directors, employees, and affiliates (collectively the "**Landlord's Related Parties**") have made no, and expressly and specifically disclaim, and Tenant accepts that Landlord and the Landlord's Related Parties have disclaimed, any and all representations, guaranties or warranties, express or implied, or arising by operation of law (except for the representations and warranties, if any, expressly made by Landlord in this Lease), of or relating to: (i) the use, expenses, operation, characteristics or condition of the Premises, or any portion thereof, including, without limitation, warranties of suitability, habitability, merchantability, design or fitness for any specific or particular purpose, or good and workmanlike construction; (ii) the environmental condition of the Premises, or contamination by hazardous materials, or the compliance of any portion of the Premises with any or all Environmental Laws; or (iii) the soil conditions, drainage, flooding characteristics, accessibility or other conditions existing in, on or under any portion of the Premises. Tenant acknowledges and agrees that it is not relying on any representations or statements (oral or written) which may have been made or may be made by Landlord or any of the Landlord's Related Parties (except for Landlord's representations and warranties expressly set forth in this Lease), and is relying solely upon Tenant's or Tenant's representatives' own physical inspection of the Premises and other investigations by Tenant or Tenant's representatives. Tenant acknowledges that any condition of the Premises, whether apparent or latent, which Tenant discovers or desires to correct or improve on or after the Effective Date shall be subject to Landlord's review and approval rights, as set forth in this Lease, and shall be at Tenant's sole expense.

(b) Tenant recognizes and hereby expressly and fully assumes all risks, known and unknown, that arise or might arise incidental to or in any way connected with the condition or use of the Premises or access to the Premises. This assumption of risk by Tenant is made for and on behalf of Tenant and Tenant's successors, and permitted assigns.

(c) Tenant agrees to indemnify, defend and hold harmless Landlord and Landlord's Related Parties against any and all claims, including costs and expenses, of any kind or nature,

including, without limitation, costs of investigation, attorneys' fees, paralegal fees, experts' fees and costs through regulatory proceedings, trial and review or appeal, including but not limited to claims for personal injury, death of persons and property damage, or other liability to the extent arising from Tenant's use, improvement, operation, condition or maintenance of the Premises, provided however that this indemnity shall not apply to the negligence or willful misconduct of the Landlord and/or the Landlord's Related Parties as determined by a court of competent jurisdiction.

(d) Tenant's obligations under this Section 12 shall survive the termination of this Lease.

13. Construction, Mechanics and Materialmen's Liens; Notice of Work. Tenant will make no alteration, change, improvement or addition to the Premises without the prior written consent of Landlord which will not be unreasonably withheld, conditioned or delayed. Tenant will be responsible for payment of any and all work performed on Tenant's behalf on the Premises. In no event will Landlord be responsible for payment of any work relating to the Premises, or any interest therein, be subject to any lien for payment of any construction or similar work performed by or for Tenant on or for the Premises. Further, Tenant shall promptly notify the contractor performing any such work or alterations on the Premises at Tenant's request or making such improvements to the Premises at Tenant's request of this provision exculpating Landlord of responsibility for payment and liens. Notwithstanding the foregoing, if any mechanic's lien or other lien, attachment, judgment, execution, writ, charge or encumbrance is filed or recorded against any portion of the Premises as a result of any work performed on or materials delivered to the Premises at Tenant's direction, Tenant shall, within sixty (60) days following written notice of any such lien, cause same to be paid, discharged or otherwise removed of record. In the event that Tenant fails to remove any such mechanics or materialmen's lien relating to Tenant's work at the Premises, the Landlord may cause such lien to be removed and Tenant shall reimburse Landlord for all reasonable costs and expenses, including attorney's or paralegal fees incurred by Landlord within forty-five (45) days following receipt of Landlord's written invoice and supporting documentation.

14. Insurance. Landlord understands that Tenant self-insures, and that prior to accessing the Premises, Tenant will provide Landlord with a letter of such self-insurance. In the event that Tenant ceases to self-insure, then, during the Term of this Lease, and thereafter so long as Tenant operates, uses or maintains any portion of the Premises:

(a) Tenant shall procure and maintain, at Tenant's sole cost and expense, commercial general liability insurance providing coverage which protects Tenant and Landlord and the Landlord's Related Parties from and against any and all claims and liabilities for bodily injury, death and property damage arising from operations, premises liability, and fire with respect to the Premises. Such insurance shall provide minimum coverage of $1,000,000.00 per occurrence and $2,000,000.00 aggregate. Tenant shall be and remain liable for and pay all deductibles and other amounts not covered, paid or reimbursed under the insurance policies.

(b) Tenant shall procure and maintain, at Tenant's sole cost and expense, workers' compensation insurance, as required by applicable law, and employers' liability insurance, with coverage amounts with a limit of (i) One Million Dollars ($1,000,000) for bodily injury per

accident, (ii) One Million Dollars ($1,000,000) for bodily injury by disease per policy and (iii) One Million Dollars ($1,000,000) for bodily injury by disease per employee.

(c) Tenant shall procure and maintain, at Tenant's sole cost and expense, insurance with respect to all buildings, improvements, equipment and machinery constituting a part of the Premises against loss or damage by perils customarily included under standard "all risk" (including windstorm) policies, in an amount equal to one hundred percent (100%) of the then full replacement value (without deducting depreciation) of such buildings, improvements, equipment and machinery, including the cost of removal of debris and Landlord shall be named as additional insured. Tenant has the right to self-insure this exposure.

(d) The certificate of insurance required herein for commercial general liability insurance, including, without limitation, all renewals, shall include a blanket additional insured endorsement and provide for at least thirty (30) days advance notice to Landlord of any non-renewal or cancellation. Tenant shall provide Landlord with a copy of certificates of insurance stating that the coverage as required herein is in full force and effect no later than the Effective Date. Tenant shall cause certificates of insurance or a self-insured letter in conformance with the requirements hereof to be promptly provided to Landlord for each subsequent policy renewal.

(e) Tenant's insurance in all instances shall be primary and any insurance that may be maintained by Landlord shall be in excess of and shall not contribute with Tenant's insurance. All insurance policies shall be issued by a company or companies licensed to do business in the State of Florida.

(f) Landlord shall have the right to periodically review the adequacy of the required insurance, its forms and types, the amounts of coverage and, notwithstanding any other provision of this Lease, unilaterally modify the insurance requirements of this Section 14 by giving notice of such modification to Tenant. Such modification shall be as found reasonably necessary in the sole discretion of Landlord. Factors which may be considered by Landlord include, without limitation, changes in generally accepted insurance industry standards and practices, changes in use of the Premises, changes in risk exposure, measurable changes in local and national economic indicators and changes in Landlord's policies and procedures.

(g) Tenant understands and acknowledges that the responsibility and obligation to provide and maintain insurance in the forms, types and coverages required herein are solely Tenant's responsibilities and obligations which continue for the entire Term of this Lease, and until such time as Tenant no longer operates or enters the Premises, whichever date is later.

(h) In the event that Tenant fails for any reason to procure or maintain insurance in the forms, types or coverages required and to name Landlord as an additional insured on the certificates of insurance, Tenant shall cure such material breach within fifteen (15) calendar days after Tenant is given notice of such breach. Should Tenant fail to cure the breach within such period or such other time as may be agreed to by the Parties in writing, Landlord in Landlord's sole discretion may, but is not obligated to, secure replacement insurance coverage at Tenant's sole expense. Should Landlord elect to secure replacement insurance, Tenant shall thereafter reimburse Landlord within fifteen (15) calendar days of Landlord's providing to Tenant an

invoice for the costs and premiums incurred by Landlord for the replacement insurance coverage, plus an administrative charge of ten percent (10%) or $250.00, whichever is greater. Tenant shall continue to be responsible for the payment of all deductibles applicable to the insurance policies and all losses incurred with respect to any lapse in coverage. Should Tenant subsequently obtain the required insurance, Tenant shall remain responsible for and reimburse Landlord for all costs and expenses to Landlord for the insurance premiums incurred by Landlord and the administrative charges set forth in this Section 14(h).

(i) Tenant's obligations under this Section 14 shall survive the termination or expiration of this Lease.

15. No Consequential Damages. Notwithstanding any other provisions in this Lease to the contrary, neither Party nor any of its elected officials, directors, officers, employees, lenders, shall be liable to the other Party for consequential, incidental, exemplary, punitive, anticipatory profits or indirect loss or damage of any nature, including, without limitation, loss of profit, loss of use, loss of operating time, loss of revenue, increased costs of producing revenues, cost of capital or loss of goodwill whether arising in tort, contract, warranty, strict liability, by operation of law or otherwise, even if by such Party's, its representatives', agents', contractors', subcontractors', invitees' or licensees' negligence or fault, in connection with this Lease, except to the extent claimed by third parties. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, sole remedy provisions and limitations on liability expressed in this Lease shall survive termination or expiration of this Lease and shall extend to the parent, affiliates, and subsidiaries of each Party and their respective, partners, directors, officers, and employees and elected officials.

16. Taxes. Tenant shall pay any and all real property taxes for the Premises for the entire Term. As used herein, the term "**real property tax**" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Premises or any portion thereof by any authority having the direct or indirect power to tax, including, without limitation, any city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, as against any legal or equitable interest of Landlord or Tenant in the Premises or in any portion thereof. Tenant shall pay the real property taxes and shall deliver to Landlord official receipts evidencing such payment, which payment of real property taxes shall be made and the receipts delivered at least thirty (30) days before the real property taxes would become delinquent in accordance with the law then in force governing the payment of such real property taxes. If, however, Tenant desires to contest the validity of any real property taxes, Tenant may do so without being in default hereunder, provided Tenant gives Landlord notice of Tenant's intention to do so and provided the real property taxes are paid before any such real property taxes become delinquent after any applicable contest or appeal period.

17. Utilities. Tenant shall pay for all water, gas, heat, light, power, telephone and other utilities and services supplied to the Premises, together with any taxes thereon.

18. Compliance with Laws. During the Term, Tenant shall, at its expense, comply with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning,

fire and other governmental laws, ordinances, regulations and rules applicable to the Substation. Further, during the Term, Tenant shall, at its expense, cause the Premises to attain compliance or remain in compliance with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Premises.

19. Assignment and Subletting. Landlord acknowledges that this Lease and Tenant's interests hereunder shall be subject to the encumbrance of Tenant's pre-existing mortgage with Deutsche Bank Trust Company Americas. Tenant shall not otherwise mortgage or assign its interest in this Lease without the prior written consent of Landlord, and such consent may be withheld in Landlord's unfettered discretion unless such proposed assignment is to the purchaser of all or substantially all of the assets of Florida Power & Light Company, as a part of a bona fide sale by Florida Power & Light Company to a third party purchaser for value and in such event Landlord's consent will not be unreasonably withheld or delayed. Notwithstanding any assignment of this Lease, Tenant will not be released from any of its obligations hereunder unless such assignee executes an assignment and assumption agreement in form reasonably acceptable to Landlord agreeing to be bound by the terms of this Lease and Landlord determines in its reasonable discretion that such assignee is creditworthy. Further, any assignment in violation of this Section 18 shall be deemed void and a breach of this Lease by Tenant.

20. Intentionally deleted.

21. Default and Remedies.

(a) **Tenant Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by Tenant**" under this Lease by Tenant:

(i) The failure by Tenant to make any payment of Rent or any other payment required to be made by Tenant hereunder, as and when due, which failure continues for a period of ten (10) days following notice given by Landlord to Tenant.

(ii) Failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, where such failure shall continue for a period of forty-five (45) days after notice thereof given by Landlord to Tenant. In the event the default cannot reasonably be cured within such forty-five (45) day period, Tenant shall not be in default if Tenant commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(iii) (A) The making by Tenant of any general arrangement or general assignment for the benefit of creditors; (B) Tenant becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within sixty (60) days; or (D) the attachment,

execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within sixty (60) days.

(b) **Landlord Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by Landlord**" under this Lease by Landlord:

(i) Failure by Landlord to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Landlord, where such failure shall continue for a period of forty-five (45) days after notice thereof is given by Tenant to Landlord. In the event the default cannot reasonably be cured within such forty-five (45) day period, Landlord shall not be in default if Landlord commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(ii) (A) The making by Landlord of any general arrangement or general assignment for the benefit of creditors; (B) Landlord becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against Landlord, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of Landlord 's assets, where possession is not restored to Landlord within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of Landlord's assets, where such seizure is not discharged within sixty (60) days.

(c) **Remedies.** If an Event of Default by Tenant or an Event of Default by Landlord occurs hereunder, the non-defaulting Party shall have the right at its option and without further notice, but subject to the limitations set forth in the last sentence of this subsection, to exercise any remedy available at law or in equity, including, without limitation, a suit for specific performance of any obligations set forth in this Lease or any appropriate injunctive or other equitable relief, or for damages resulting from such event of default. The Parties agree that remedies at law may be inadequate to protect against any actual or threatened breach of this Lease. In the event of any breach or threatened breach, either Party shall have the right to apply for the entry of an immediate order to restrain or enjoin the breach and otherwise specifically enforce the provisions of this Lease. If an Event of Default by Tenant occurs, Landlord may, in addition to any other remedies set forth in this Lease or available under applicable law, accelerate the Rent due under this Lease for the entire remaining Term, which amount shall be due and payable immediately. Notwithstanding the foregoing or anything to the contrary contained in this Lease, in no event shall any Event of Default by Tenant or Event of Default by Landlord, terminate, or entitle any Party to terminate, rescind or cancel this Lease or the rights granted hereunder. In the event that Tenant, by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed, shall be in default under this Lease, then Landlord may, but shall not be required to, do or perform or cause to be done or performed such act or thing, and Tenant shall repay to Landlord on demand the entire expense incurred within forty-five (45) days following receipt of Landlord's invoice and supporting documentation thereof. Any act or thing done by Landlord pursuant to the provisions of this subsection shall not be or be construed as a waiver of any such Event of Default by Tenant, or as a waiver of any

covenant, term or condition herein contained or the performance thereof, or of any other right or remedy of Landlord, hereunder or otherwise. Except for Landlord's obligations set forth in Section 10 of this Lease, Landlord's liability under this Lease shall be at all times limited to the fair market value of Landlord's interest in the Premises. All amounts payable by Tenant to Landlord under this Lease, if not paid when the amounts become due under this Lease, shall bear interest from the date they become due until paid at the highest rate allowed by law.

22. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain, or sold under the threat of the exercise of such power (all of which are herein called "**condemnation**"), this Lease shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If so much of the Premises is taken under the power of eminent domain such that the Premises is no longer suitable for its intended use or suitable access cannot be provided to the Premises, Tenant may, at Tenant's option, to be exercised in writing only within ten (10) days after Landlord shall have given Tenant notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Tenant does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining. Any award for the taking of all or any part of the Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Landlord; provided, however, that Tenant shall be entitled to any award for loss of Tenant's leasehold interest.

23. Severability. If any provision or portion of this Lease shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (a) such portion or provision shall be deemed separate and independent, (b) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling or adjudication, and (c) the remainder of this Lease shall remain in full force and effect.

24. Repair Obligations. Landlord shall have absolutely no obligations of any kind for the repair or maintenance of any part of the Premises or any improvement or equipment thereon. During the Term, Tenant shall repair any damage or casualty to and maintain the Premises, and the improvements and equipment thereon. Tenant shall be solely responsible at its own expense for regular removal and disposal of all refuse, garbage, debris, trash and other discarded materials and shall not allow an accumulation thereof on, in or adjacent to the Premises.

25. Termination. On the Expiration Date, or earlier termination of this Lease, Tenant shall peaceably and quietly deliver possession of the Premises to Landlord and the Premises shall be in substantially the same condition as on the Effective Date, reasonable wear and tear accepted. At Landlord's request, Tenant shall remove any and all improvements, fixtures and equipment from the Premises and deliver the Premises to Landlord free of any improvements or equipment of any kind. Tenant agrees that, upon expiration or termination of this Lease, Tenant will, within thirty (30) business days of request by Landlord, execute and deliver to Landlord a release of this Lease in recordable form. The foregoing provisions shall survive expiration or earlier termination of this Lease.

26. Waivers. Any waiver by either Party with respect to this Lease must be in writing, signed by the Party granting the waiver, and shall be limited to the express terms set forth in the waiver.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity. Any and all sums due from Tenant to Landlord under this Lease shall be considered rent.

28. Binding Effect. This Lease shall bind the Parties, and their respective successors and permitted assigns.

29. Signs. Subject to applicable rules and regulations, Tenant will be permitted, without Landlord's consent, to have one or more signs on the Premises which identify the Premises as a Florida Power & Light Company Warehouse.

30. Quiet Possession. Upon Tenant paying the Rent for the Premises and observing and performing all of the covenants, conditions and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises and use of the Premises from any interference from Landlord for the entire Term.

31. Right of Entry. Subject to Landlord's duties, if any, relating to police, fire and other municipal services for which no advance notice is required, Landlord, or any of its agents, shall have the right to enter the Premises during reasonable hours to examine the same but only when accompanied by a qualified or designated employee of Tenant.

32. Force Majeure. In the event that either Party is unable to fulfill, or shall be delayed or restricted in the fulfillment of any obligation, or the curing of a default, under any provision of this Lease due to reasons outside of its reasonable control, or not wholly or mainly within such Party's reasonable control, including strike, lock-out, war, acts of military authority, acts of terrorism, sabotage, rebellion or civil commotion, fire or explosion, flood, wind, storm, hurricane, water, earthquake, acts of God or other casualty or by reason of any statute or law or any regulation or order passed or made, or by reason of any order or direction of any administrator, controller, board or any governmental department or officer or other authority (other than, in the case of City claiming relief under this Section 27, any statute or law or any regulation or order passed or made, or by reason of any order or direction of, any administrator, controller, board or any governmental department or officer or other authority of City), and whether of the foregoing character or not, such Party shall, so long as any such impediment exists, be relieved from the fulfillment of such obligation and the other Party shall not be entitled to compensation for any damage, inconvenience, nuisance or discomfort thereby occasioned or to terminate this Lease.

33. Counterparts. This Lease may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument.

34. Brokerage. Landlord and Tenant each represent and warrant one to the other that neither of them has employed any broker in connection with the negotiations of the terms of this Lease or the execution thereof. Landlord and Tenant hereby agree to indemnify and to hold each other

harmless against any loss, expense or liability with respect to any claims for commissions or brokerage fees arising from or out of any breach of the foregoing representation and warranty. This provision shall survive the expiration or earlier termination of this Lease.

35. Attorneys' Fees. In the event Tenant or Landlord defaults in the performance of any of the terms, covenants, conditions, agreements, or provisions contained in this Lease and Landlord or Tenant employs attorneys and brings suit in connection with the enforcement of this Lease or any provision hereof or the exercise of any of its remedies hereunder, then the prevailing Party in any suit so instituted shall be promptly reimbursed by the other Party for all reasonable attorneys' fees and expenses so incurred, including, without limitation, any such fees and expenses incurred in appellate, bankruptcy and post-judgment proceedings. Any monetary judgment rendered in any litigation concerning this Lease shall bear interest at the highest rate allowed by applicable law. The foregoing provisions shall survive expiration or earlier termination of this Lease.

36. Estoppel Certificate. Landlord and Tenant shall, from time to time and without additional consideration, execute and deliver to each other or to any person whom the requesting Party may designate, within twenty (20) days after the request therefor: (a) an estoppel certificate consisting of statements, if true, that (i) this Lease is in full force and effect, with Rent current through the date of the certificate; (ii) this Lease has not been modified or amended (or setting forth all modifications and amendments); and (iii) to the best of such Party's knowledge and belief, the other Party is not then in default (or if in default, specifying such default), and Tenant and Landlord have fully performed all of Tenant's and Landlord's obligations, respectively, required to have been performed under this Lease as of the date of the certificate; and (b) such further consents and instruments of a similar nature evidencing the agreement (subject to the provisions of this Lease) of Landlord or Tenant to the mortgage or other hypothecation by Tenant of the leasehold estate created hereby, as may be reasonably requested by Tenant or any approved leasehold mortgagee, or authorized assignee or transferee of the interest of Landlord or Tenant, as applicable. Notwithstanding the foregoing, neither Party may make excessive requests for estoppel certificates, and neither Party shall be obligated to provide more than two (2) estoppel certificates in any Lease Year.

37. Notices. Every notice, approval, consent or other communication required or permitted under this Lease shall be in writing, shall be deemed to have been duly given on the date of receipt, and shall be deemed delivered if either served personally on the Party to whom notice is to be given, or sent to the Party to whom notice is to be given, by overnight courier or by first class registered or certified mail (return receipt requested), postage prepaid, and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by notice given to the other Party in the manner provided in this Section.

To Landlord: City of Vero Beach
1053 20th Place
Vero Beach, FL 32960
Attention: City Manager

With a required copy to:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Attorney
To Tenant:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Corporate Real Estate
With a required copy to:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Law Department

38. Recording. This Lease shall be recorded in the Public Records of Indian River County, Florida at Tenant's expense.

39. No Personal Liability. Excluding any successor-in-interest to Landlord or Tenant under this Lease, notwithstanding anything to the contrary in this Lease, no present or future parent, subsidiary, affiliate, member, principal, shareholder, manager, officer, official, director, or employee of Tenant or Landlord will be personally liable, directly or indirectly, under or in connection with this Lease, or any document, instrument or certificate securing or otherwise executed in connection with this Lease, or any amendments or modifications to any of the foregoing made at any time or times, or with respect to any matter, condition, injury or loss related to this Lease, and each of the Parties, on behalf of itself and each of its successors and assignees, waives and does hereby waive any such personal liability.

40. Entire Agreement. This Lease and any exhibits, schedules or addenda attached hereto and forming a part hereof, contains the entire agreement between the Parties hereto with respect to the subject matter of this Lease, and supersedes all previous negotiations leading thereto, and it may be modified only by an agreement in writing executed and delivered by Landlord and Tenant. All exhibits, schedules or addenda attached to this Lease are expressly incorporated herein by this reference.

41. Governing Law; Forum. This Lease shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, OR ANY CLAIM FOR INJURY OR DAMAGE, SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR

PROCEEDING. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

42. WAIVER OF JURY TRIAL. THE PARTIES HERETO SHALL, AND THEY HEREBY DO, IRREVOCABLY WAIVE TRIAL BY JURY IN ANY AND EVERY ACTION OR PROCEEDING BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND ANY CLAIM FOR INJURY OR DAMAGE. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE.

43. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present a health risk to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

44. Holding Over. If Tenant remains in possession of the Premises after this Lease expires or terminates for any reason:

(a) Tenant shall be deemed to be occupying the Premises as a tenant from month-to-month at the sufferance of Landlord. Tenant will continue to be subject to and comply with all of the provisions of this Lease, except that, at Landlord's discretion, the rent will be at a monthly rate up to an amount equal to 1/12th of the fair market annual rental value of the Premises, including all improvements and fixtures, calculated at the time of the expiration or termination, and paid by Tenant on the first day of each month subsequent to the expiration or termination.

(b) Tenant shall reimburse Landlord and indemnify and hold Landlord harmless for any and all additional losses and damages which Landlord suffers by reason of Tenant's continued occupancy.

(c) Tenant shall indemnify Landlord from and against all claims made by any successor tenant insofar as such delay is occasioned by Tenant's failure to surrender possession of the Premises.

45. Landlord/Tenant Relationship; and Third Party Beneficiaries. This Lease creates a landlord/tenant relationship, and no other relationship, between the Parties. This Lease is for the sole benefit of the Parties hereto and, except for assignments permitted hereunder, no other person or entity shall be a third party beneficiary hereunder.

46. No Waiver of Regulatory Authority. Nothing in this Lease constitutes a waiver of Landlord's regulatory, public safety or other municipal authority with respect to the Premises or any other matter. Further, nothing in this Lease shall be deemed to waive Landlord's or Tenant's right of eminent domain.

47. Sovereign Immunity. Landlord is a Florida municipal corporation whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of Landlord beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of Landlord's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to, anything that might allow claims otherwise barred by sovereign immunity or operation of law.

48. Time, Interpretation. In computing any period of time pursuant to this Lease, the day of the act, event, or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. A legal holiday as used in this Lease includes days on which banks in Vero Beach, Florida are not open for regular business. Time is of the essence. The captions in this Lease are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Lease or any of the provisions hereof. This Lease shall not be construed more strongly against or for either Party regardless of the drafter. Unless the context otherwise requires, (a) all references to Sections or Exhibits are to Sections or Exhibits in or to this Lease, and (b) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter and the term "including" shall mean by way of example and not by way of limitation.

[Remainder of page intentionally blank; Signature pages follows]

City of Vero Beach Execution Pages

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Lease to be executed as of the Effective Date.

ATTEST: **CITY OF VERO BEACH**

_____ By:_____
Tammy K. Bursick Laura Moss
City Clerk Mayor

[SEAL]

WITNESSES:

_____
Print
name:_____

_____
Print
name:_____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing Lease Agreement was acknowledged before me this _____ day of _____ 2017 by **Laura Moss, as Mayor**, and attested by **Tammy K. Bursick, as City Clerk**, of the City of Vero Beach, Florida. They are both known to me.

_____
NOTARY PUBLIC
Print name:
Commission No. [SEAL]
My Commission Expires:

ADMINISTRATIVE REVIEW

(For Internal Use Only–Sec. 2-77 COVB Code)

Approved as to form and legal sufficiency:

Wayne R. Coment
City Attorney

Approved as conforming to municipal policy:

James R. O'Connor
City Manager

Approved as to technical requirements:

Ted Fletcher
Director of Electric Utility Operations

Approved as to technical requirements:

Cynthia D. Lawson
Director of Finance

Approved as to technical requirements:

Timothy J. McGarry
Director of Planning and Development

Florida Power & Light Company Execution Page

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Lease to be executed as of the Effective Date specified in this Lease.

WITNESSES:

TENANT:

FLORIDA POWER & LIGHT COMPANY, a Florida corporation

_____
Print
name:_____

_____
Print
name:_____

By:_____
Name:_____
Title:_____

STATE OF FLORIDA
COUNTY OF _____

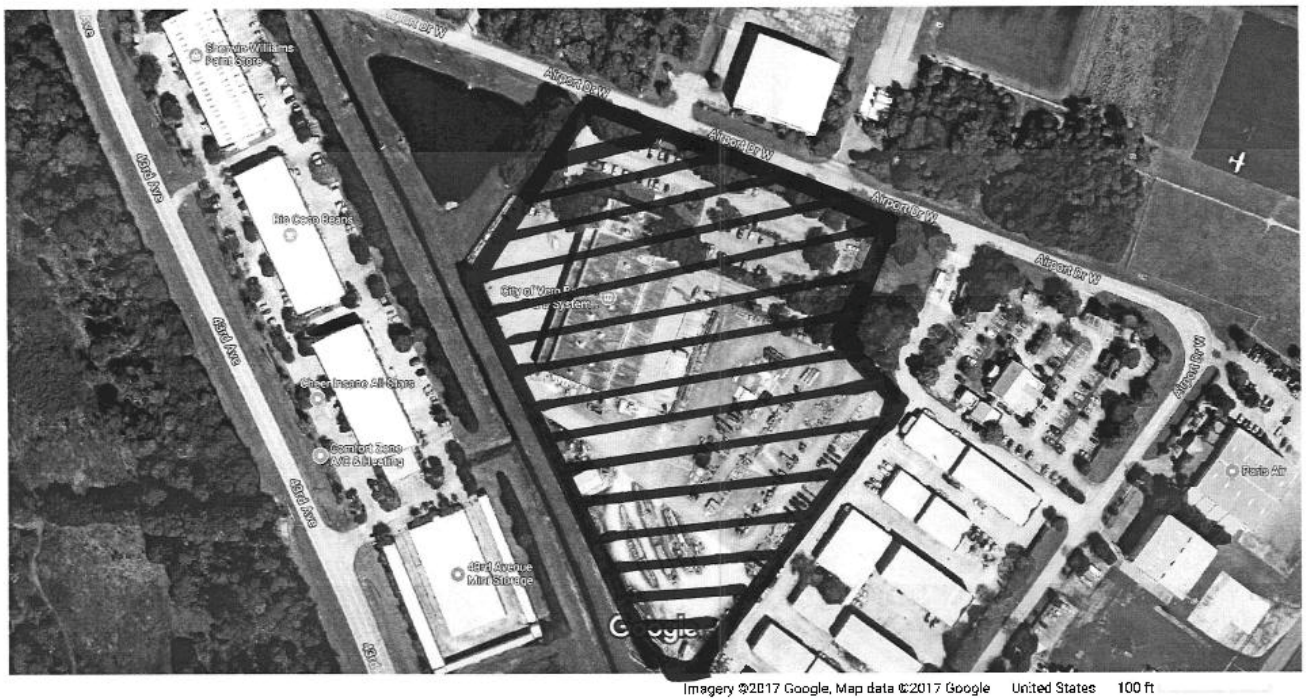
The foregoing instrument was acknowledged before me this day of _____, 20__, by , the of **FLORIDA POWER & LIGHT COMPANY**, a Florida corporation, who [ ] is personally known to me or [ ] has produced as identification.

Seal:

_____
Notary Public, State of Florida at Large
Print Name: _____
Notary Commission No.: _____
My Commission Expires: _____

Lease by and between the City of Vero Beach, Florida and Florida Power & Light Company

Exhibit "A"



HATCH MARKED AREA DEPICTS PREMISES
DIMENSIONS TO BE SUPPLIED

Exhibit J

Current Form of Streetlight Agreement

[*Exhibit begins on the following page.*]

FPL Account Number:
FPL Work Order Number:

STREET LIGHTING AGREEMENT

In accordance with the following terms and conditions, ___ (hereinafter called the Customer), requests on this ___ day of ___, ___ , from FLORIDA POWER & LIGHT COMPANY (hereinafter called FPL), a corporation organized and existing under the laws of the State of Florida, the following installation or modification of street lighting facilities at (general boundaries) ___, located in ___, Florida.
(city/county)

(a) Installation and/or removal of FPL-owned facilities described as follows:

Lights Installed

Fixture Rating (in Lumens)	Fixture Type	# Installed

Lights Removed

Fixture Rating (in Lumens)	Fixture Type	# Removed

Poles Installed

Pole Type	# Installed

Poles Removed

Pole Type	# Removed

Conductors Installed

Feet not Under Paving

Feet Under Paving

Conductors Removed

Feet not Under Paving

Feet Under Paving

(b) Modification to existing facilities other than described above (explain fully):

That, for and in consideration of the covenants set forth herein, the parties hereto covenant and agree as follows:

FPL AGREES:

1. To install or modify the street lighting facilities described and identified above (hereinafter called the Street Lighting System), furnish to the Customer the electric energy necessary for the operation of the Street Lighting System, and furnish such other services as are specified in this Agreement, all in accordance with the terms of FPL's currently effective street lighting rate schedule on file at the Florida Public Service Commission (FPSC) or any successive street lighting rate schedule approved by the FPSC.

THE CUSTOMER AGREES:

2. To pay a contribution in the amount of $___ prior to FPL's initiating the requested installation or modification.

3. To purchase from FPL all of the electric energy used for the operation of the Street Lighting System.

4. To be responsible for paying, when due, all bills rendered by FPL pursuant to FPL's currently effective street lighting rate schedule on file at the FPSC or any successive street lighting rate schedule approved by the FPSC, for facilities and service provided in accordance with this agreement.

5. To provide access, final grading and, when requested, good and sufficient easements, suitable construction drawings showing the location of existing and proposed structures, identification of all non-FPL underground facilities within or near pole or trench locations, and appropriate plats necessary for planning the design and completing the construction of FPL facilities associated with the Street Lighting System.

6. To perform any clearing, compacting, removal of stumps or other obstructions that conflict with construction, and drainage of rights-of-way or easements required by FPL to accommodate the street lighting facilities.

IT IS MUTUALLY AGREED THAT:

7. Modifications to the facilities provided by FPL under this agreement, other than for maintenance, may only be made through the execution of an additional street lighting agreement delineating the modifications to be accomplished. Modification of FPL street lighting facilities is defined as the following:

   a. the addition of street lighting facilities:
   b. the removal of street lighting facilities; and
   c. the removal of street lighting facilities and the replacement of such facilities with new facilities and/or additional facilities.

   Modifications will be subject to the costs identified in FPL's currently effective street lighting rate schedule on file at the FPSC, or any successive schedule approved by the FPSC.

8. FPL will, at the request of the Customer, relocate the street lighting facilities covered by this agreement, if provided sufficient right-of-ways or easements to do so. The Customer shall be responsible for the payment of all costs associated with any such Customer- requested relocation of FPL street lighting facilities. Payment shall be made by the Customer in advance of any relocation.

9. FPL may, at any time, substitute for any luminaire/lamp installed hereunder another luminaire/lamp which shall be of at least equal illuminating capacity and efficiency.

10. This Agreement shall be for a term of ten (10) years from the date of initiation of service, and, except as provided below, shall extend thereafter for further successive periods of five (5) years from the expiration of the initial ten (10) year term or from the expiration of any extension thereof. The date of initiation of service shall be defined as the date the first lights are energized and billing begins, not the date of this Agreement. This Agreement shall be extended automatically beyond the initial the (10) year term or any extension thereof, unless either party shall have given written notice to the other of its desire to terminate this Agreement. The written notice shall be by certified mail and shall be given not less than ninety (90) days before the expiration of the initial ten (10) year term, or any extension thereof.

11. In the event street lighting facilities covered by this agreement are removed, either at the request of the Customer or through termination or breach of this Agreement, the Customer shall be responsible for paying to FPL an amount equal to the original installed cost of the facilities provided by FPL under this agreement less any salvage value and any depreciation (based on current depreciation rates as approved by the FPSC) plus removal cost.

12. Should the Customer fail to pay any bills due and rendered pursuant to this agreement of otherwise fail to perform the obligations contained in this Agreement, said obligations being material and going to the essence of this Agreement, FPL may cease to supply electric energy or service until the Customer has paid the bills due and rendered or has fully cured such other breach of this Agreement. Any failure of FPL to exercise its rights hereunder shall not be a waiver of its rights. It is understood, however, that such discontinuance of the supplying of electric energy or service shall not constitute a breach of this Agreement by FPL, nor shall it relieve the Customer of the obligation to perform any of the terms and conditions of this Agreement.

13. The obligation to furnish or purchase service shall be excused at any time that either party is prevented from complying with this Agreement by strikes, lockouts, fires, riots, acts of God, the public enemy, or by cause or causes not under the control of the party thus prevented from compliance and FPL shall not have the obligation to furnish service if it is prevented from complying with this Agreement by reason of any partial, temporary or entire shut-down of service which, in the sole opinion of FPL, is reasonably necessary for the purpose of repairing or making more efficient all or any part of its generating or other electrical equipment.

14. This Agreement supersedes all previous Agreements or representations, either written, oral or otherwise between the Customer and FPL, with respect to the facilities referenced herein and constitutes the entire Agreement between the parties. This Agreement does not create any rights or provide any remedies to third parties or create any additional duty, obligation or undertakings by FPL to third parties.

15. This Agreement shall inure to the benefit of, and be binding upon the successors and assigns of the Customer and FPL.

16. This Agreement is subject to FPL's Electric Tariff, including, but not limited to, the General Rules and Regulations for Electric Service and the Rules of the FPSC, as they are written, or as they may be hereafter revised, amended or supplemented. In the event of any conflict between the terms of this Agreement and the provisions of the FPL Electric Tariff or the FPSC Rules, the provisions of the Electric Tariff and FPSC Rules shall control, as they are now written, or as they may be hereafter revised, amended or supplemented.

IN WITNESS WHEREOF, the parties hereby caused this Agreement to be executed in triplicate by their duly authorized representatives to be effective as of the day and year first written above.

Charges and Terms Accepted:

Customer (Print or type name of Organization)

FLORIDA POWER & LIGHT COMPANY

By:_____
Signature (Authorized Representative)

_____
(Print or type name)

Title:_____

By:_____
(Signature)

(Print or type name)

Title: Construction Services Representative

EXHIBIT L-1

Form of Fiber License Agreement

L-1

FIBER LICENSE AGREEMENT BETWEEN THE CITY OF VERO BEACH AND FLORIDA POWER & LIGHT COMPANY

THIS FIBER LICENSE AGREEMENT (this "License Agreement") is made this ___ day of _____, 20__ by and between the City of Vero Beach, Florida, a municipal corporation organized under the laws of the State of Florida (hereinafter "LICENSOR"), with an address of 1053 20th Place, Vero Beach, Florida and Florida Power & Light Company, a Florida corporation (hereinafter "Licensee"), with a principal office at 700 Universe Boulevard, Juno Beach, Florida 33408. LICENSOR AND LICENSEE may individually be referred to herein as a "Party", and together as the "Parties".

WITNESSETH

WHEREAS, the Parties have entered into an Asset Purchase and Sale Agreement dated as of _____, 2017(the "APA") in connection with Licensee's acquisition of substantially all of the assets of LICENSOR's electric system; and

WHEREAS, the APA requires that the Parties enter into and deliver this Agreement at the Closing, as defined in the APA;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
ADOPTION AND INCORPORATION OF RECITALS

The above recitals are true and correct and by this reference are incorporated herein and made a part of this License Agreement.

ARTICLE II
DEFINITIONS

Each defined term shall have the meaning set forth in this Article II, except that all terms used herein and not defined herein shall have the meanings assigned to them in the APA. When used herein with initial or complete capitalization whether in the singular or in the plural, the following terms shall have the following meanings:

"Consortium" means the School District of Indian River County, Indian River County, and LICENSOR, all of which are parties to the Interlocal Agreement.

"Fiber Acceptance Date" means the date that LICENSEE accepts or conditionally accepts the Licensor Fiber Optic Strands as set forth Article VII herein.

"Interlocal Agreement" means the Revised and Restated Joint Fiber Optics Project Interlocal Agreement, made as of May 19, 2015, by and among the School District of Indian River County, Indian River County, and LICENSOR, as such Agreement may be amended or superseded from time to time.

"Licensee Facilities" means any telecommunications equipment owned by LICENSEE, including the cables, conduit, bays, panels, jacks, ironworks, associated electronics, fiber optic termination equipment, regenerators, power sources and other related equipment owned by LICENSEE, but excluding the Licensor Fiber Optic Strands and Licensor Facilities.

"License Fee" means, as more particularly described in Article IV below, the amount paid by LICENSEE to LICENSOR for the license and privilege of using, directly, certain Licensor Fiber Optic Strands and, indirectly, certain other parts of the Licensor Facilities necessary to LICENSEE'S stated use in Section 4.4 hereof.

"Licensor Facilities" means the fiber optic strands and those facilities owned by LICENSOR, either individually or together with one or both other members of the Consortium, including equipment, cables, conduit, bays, panels, jacks, ironworks, associated electronics, fiber optic termination equipment, regenerators, power sources and other related equipment owned by LICENSOR, structures, rights-of-way and easements.

"Licensor Fiber Optic Strands" means all dark fiber optic strands owned by LICENSOR, either individually or together with one or both other members of the Consortium, and which may or may not be licensed to LICENSEE depending upon the terms of this License Agreement.

"Make-Ready Work" means the work necessary with respect to the Licensor Facilities in order to accommodate the relocations of the Licensor Fiber Optic Strands or the construction of new installations of Licensor Fiber Optic Strands.

"Relocation" means any adjustment, rearrangement or relocation of the Licensor Fiber Optic Strands licensed to LICENSEE.

"Splice" means a point where two separate sections of Fibers are physically connected.

"Term" means the initial five-year term of this License Agreement, and any extension term, as described in Article III of this Agreement.

ARTICLE III
TERM AND EXTENSION

This License Agreement shall commence on the date of this Agreement and shall continue for an initial term of five (5) years, unless earlier terminated as provided in this Agreement. Unless earlier terminated as provided in this Agreement, LICENSEE, at its sole option, may extend this License Agreement, after the initial term, for up to five (5) successive five-year terms by providing notice to LICENSOR not less than eighteen (18) months prior to expiration of the initial term or any extension term, as the case may be.

ARTICLE IV
SCOPE OF LICENSE; AND LICENSE FEES

4.1 License of Fibers.

The routes with respect to which the Licensor Fiber Optic Strands are configured are described in Exhibit A, Route Diagram. LICENSOR shall provide LICENSEE not less than one hundred twenty (120) days prior notice of any proposed changes in right-of-way configurations that affect, in any material respect, the license granted under this Agreement. All of the Licensor Fiber Optic Strands are, or, to the extent not yet installed, will be, engineered and constructed in substantial compliance with Exhibit B. The following Exhibits, attached hereto, are by this reference incorporated herein:

Exhibit A	Route Diagram
Exhibit B	Fiber Specifications and connections
Exhibit C	Contact List and Outage Notice Form
Exhibit D	Sample Notice of Acceptance

4.2 Number of Fibers, License Fee and Payment.

LICENSOR hereby licenses to LICENSEE, and LICENSEE hereby licenses from LICENSOR, exclusive use of certain Licensor Fiber Optic Strands previously used by LICENSOR in the operation of its electric system, which specifically consist of: (a) not less than twenty-four (24) Licensor Fiber Optic Strands previously used by LICENSOR for protection of all existing substations; and (b) not less than twenty (20) Licensor Fiber Optic Strands previously used by LICENSOR for supervisory control and data acquisition (SCADA) functions necessary in the operation of the substations and other electric utility assets. LICENSEE shall have the exclusive use of such Licensor Fiber Optic Strands along routes as set forth in Exhibit A, Route Diagram, at a License Fee of Four and 54/100 Dollars ($4.54) per Licensor Fiber Optic Strand per mile per month. Notwithstanding anything to the contrary herein: (a) in no event shall the maximum License Fee due and owing to LICENSOR for all Licensor Fiber Optic Strands exceed Twenty-Three Thousand Eight Hundred Forty-seven Dollars ($23,847.00) per month; and (b) LICENSOR shall reserve not less than two (2) spare Licensor Fiber Optic Strands for LICENSEE's use solely as set forth in Section 4.4, and LICENSEE's use shall be rolled to such spare fibers should any activity undertaken by LICENSOR pursuant to this License Agreement cause an outage on, or any impairment of, the Licensor Fiber Optic Strands originally licensed to LICENSEE hereunder. Upon exercising any option to extend this License Agreement as more fully described in Article III above, LICENSEE shall have the right in its reasonable discretion to relinquish its license to any of the Licensor Fiber Optic Strands licensed to LICENSEE hereunder and which constitute the subject matter of this License Agreement, and the License Fee thereafter due and owing shall be reduced proportionately. The License Fee paid hereunder shall be inclusive of all charges, and shall begin on the Fiber Acceptance Date. LICENSEE shall pay the License Fee to LICENSOR for each calendar month within five days after the beginning of such calendar month. Payments for partial calendar months shall be pro-rated accordingly. Any amounts due and not paid in full when due shall be deemed delinquent and shall accrue interest at a rate equal to one percent (1%) per month.

4.3 CPI Adjustment.

The License Fee shall be subject to an annual adjustment. The first adjustment shall occur as of the January 1 that next follows a full year of the initial five-year term. Subsequent adjustments shall occur as of January 1 of each subsequent calendar year during the Term. The adjustment shall be determined in accordance with the percentage change in index known as the "United States Bureau of Labor Statistics Consumer Price Index (CPI) For All Urban Consumers" (the "Index") using the most recent October to October Reports by applying the following formula: (Current monthly License Fee) x (annual percentage increase (October to October) as reported in the most recent Index (or if the Index no longer is published, then as reported in its successor index). The adjustment for any calendar year shall not exceed five percent (5%). In no event shall the License Fee for any calendar year be less than the License Fee for the immediately preceding calendar year.

4.4 Use.

LICENSEE shall use the Licensor Fiber Optic Strands solely for the protection, control and monitoring of LICENSEE's electric transmission and distribution system that formerly was operated by LICENSOR. Nothing herein shall preclude LICENSEE from sub-licensing any excess fiber or capacity to third parties in accordance with all applicable laws and regulations, provided that LICENSEE submits a proposal for such sub-licensing and obtains the approval of LICENSOR as more fully described in Section 14 of the Interlocal Agreement. In case of such sub-licensing, LICENSEE shall remain primarily liable to LICENSOR under this License Agreement. In the case of such sub-licensing, LICENSEE shall remain bound by all of its covenants and obligations under this License Agreement, and shall be liable to LICENSOR for violation of its covenants and obligations contained in this License Agreement and any applicable laws and regulations. If LICENSEE chooses to sublicense to a third party then, in the event that LICENSOR knows of an outage, LICENSOR shall notify LICENSEE in accordance with Exhibit C, and LICENSEE shall be responsible for notifying all of its sub-licensees of such outage.

ARTICLE V
OWNERSHIP OF EXISTING FIBER OPTIC STRANDS

5.1 Ownership.

The Licensor Fiber Optic Strands and cable, including jacket, structure, attachments and conduits and which constitute the Licensor Facilities along the designated route, shall at all times remain the sole and exclusive property of, and legal title shall be held by, LICENSOR or the Consortium, as the case may be. LICENSEE's license of the Licensor Fiber Optic Strands is a right of use only and neither such use nor payment to LICENSOR for such use shall create or vest in LICENSEE any easement or any ownership right in the Licensor Facilities or the Licensor Fiber Optic Strands.

5.2 LICENSEE's Equipment.

Notwithstanding any contrary provisions of this License Agreement, LICENSEE shall own all of the Licensee Facilities in the exercise of, or associated with, LICENSEE's use under Section 4.4 of this License Agreement.

ARTICLE VI
NEW INSTALLATIONS

6.1 Construction.

If, at any point during the Term, replacement of existing Licensor Fiber Optic Strands is required in any route identified in Exhibit A, as reasonably determined by LICENSOR or pursuant to the requirements of any governmental entity, LICENSOR shall construct such new fiber optic strands, at the sole cost and expense of LICENSOR, in accordance with the specifications in Exhibit B attached hereto including Make-Ready Work associated with such installations. Make-Ready Work shall include any and all improvements to the Licensor Facilities necessary to physically accommodate the given route identified in Exhibit A and to maintain electrical and operating safety standards and fiber circuit continuity. LICENSOR shall perform, or cause to be performed, any engineering, cable installation, splicing, material procurement, installation and testing required to complete the installation of the fiber optic strands using LICENSOR's specifications and subject to LICENSEE's approval, which shall not be unreasonably withheld or delayed. LICENSOR and LICENSEE shall each assign a project engineer as a point of contact for all necessary approvals and will assign construction inspectors for review of all construction activities to assure compliance with the approved design.

6.2 Connections.

In the event of a new installation of fiber optic cable, LICENSOR shall install Splices as agreed to by the Parties at specified locations along the routes. LICENSOR shall be responsible for its network electronics, fiber Splices, and the Licensor Facilities. LICENSEE shall be responsible for its network electronics, fiber Splices and Licensee Facilities.

6.3 Specifications and Documentation.

All permits required for LICENSOR's construction of new installations are the responsibility of LICENSOR. LICENSOR shall provide to LICENSEE as-built drawings on the newly-installed route, and relocation of any routes shall be documented on the as-built drawings and made part of this License Agreement. The newly-installed fiber optic strands shall be in substantial compliance with the performance standards and criteria set forth in Exhibit B. LICENSOR and LICENSEE may be present, observe and participate in the analysis and testing of the fiber optic strands. Acceptance of newly-installed fiber optic strands shall be undertaken and shall be subject to the provisions of Article VII herein.

ARTICLE VII
ACCEPTANCE

7.1 Acceptance of Licensor Fiber Optic Strands.

Upon completion of construction of the newly-installed replacement fiber optic strands, if any, and any LICENSEE Make-Ready Work, LICENSOR shall test the Licensor Fiber Optic Strands to insure that the new fiber optic strands meet or exceed the Licensor Fiber Optic Strand specifications outlined in Exhibit B. In the event the new fiber optic strands meet such specifications, LICENSOR shall notify LICENSEE in writing of the availability of the fiber optic strands (the "Fiber Notice"). Within five (5) Business Days of LICENSEE receiving the Fiber Notice, LICENSEE shall give LICENSOR notice of any failure of the fiber optic strands to satisfy any acceptance test, or to otherwise meet specifications.

7.2 Corrections.

If LICENSEE gives LICENSOR notice of any failure as described in Section 7.1, LICENSOR shall use its Commercially Reasonable Efforts to correct such failure within five Business Days or such longer time as may be mutually agreed upon by the Parties whereupon LICENSEE and LICENSOR shall jointly conduct another acceptance test. This procedure shall be repeated until all new fiber optic strands are in substantial compliance with the performance standards and criteria set forth in Exhibit B.

7.3 Conditional Acceptance.

In the event a failure continues to be identified after the third round of testing pursuant to Section 7.2, LICENSEE may, at its option, conditionally accept the new fiber optic strands. LICENSOR shall have an obligation nonetheless to correct any such deficiencies within sixty (60)days of conditional acceptance.

7.4 Acceptance by Default.

If LICENSEE does not give LICENSOR notice of any such failure within five Business Days of LICENSEE receiving the Fiber Notice, it shall be deemed that LICENSEE has accepted the new fiber optic strands and they shall constitute Licensor Fiber Optic Strands.

7.5 Fiber Acceptance Date.

The date on which LICENSEE has accepted or conditionally accepted the new fiber optic strands will be considered the Fiber Acceptance Date.

ARTICLE VIII
RELOCATION OF FIBER OPTIC CABLE; LICENSOR'S OBLIGATION TO MAINTAIN AND RESTORE FIBER OPTIC CABLE

8.1 Requests of LICENSOR or Third Party.

If relocation of any Licensor Facilities, including any Licensor Fiber Optic Strands licensed to LICENSEE hereunder, is required by LICENSOR or by a third party (e.g., the Department of Transportation) the relocation expenses of the LICENSOR Fiber Optic Strands (including engineering, materials, construction, and Make-Ready Work) shall be borne by LICENSOR except to the extent that LICENSOR may obtain reimbursement from a third party.

8.2 Requests of LICENSEE.

If relocation of any Licensor Facilities, including any Licensor Fiber Optic Strands licensed to LICENSEE hereunder, is required by LICENSEE and is not caused by a third party or LICENSOR, LICENSEE shall pay or reimburse LICENSOR for the total cost of such relocation, including engineering, material, construction and Make-Ready Work.

8.3 Avoidance of Interruptions.

During any relocation of the Licensor Facilities, LICENSOR and LICENSEE shall use good faith efforts to avoid interruption of or interference with the use by the other Party of such Licensor Facilities for the purposes herein described.

8.4 Duty to Maintain.

LICENSOR shall be responsible for the maintenance and restoration of the Licensor Fiber Optic Strands and LICENSOR shall pay all costs associated with the maintenance and restoration of all of the Licensor Fiber Optic Strands; *provided, however*, that in the event that LICENSOR cannot commit to restoration within the timeframes in Section 9.1.4 below, LICENSEE may restore the LICENSEE Fiber Optic Strands within the Licensor Facilities as set forth in Section 9.1.4.

8.5 Maintenance of LICENSOR Fiber Optic Strands.

Maintenance and restoration provided by LICENSOR shall be limited to the Licensor Fiber Optic Strands. LICENSOR shall have no obligation to perform maintenance or restoration on any electronics or other equipment not owned by the Consortium or one or more members thereof.

ARTICLE IX
COVENANTS

9.1 LICENSOR Covenants.

9.1.1 Periodic Inspections, Maintenance and Scheduled Repairs. LICENSOR agrees to perform annual inspections of the Licensor Facilities. LICENSOR further agrees to perform annual inspections, testing and any and all maintenance required for the provision of the Licensor Fiber Optic Strands licensed to LICENSEE hereunder and to maintain and provide adequate spare equipment and parts as is appropriate for its obligations hereunder. LICENSOR shall use Commercially Reasonable Efforts to schedule maintenance from midnight to 6:00 A.M., Eastern Time, and to avoid performing maintenance during the period beginning two days prior to Thanksgiving and ending on the following January 3. LICENSOR shall notify LICENSEE, as set forth in Exhibit C, at least five (5) Business Days in advance of any such work.

9.1.2 Notice of Unscheduled Outage.

In the event of any unscheduled outage, LICENSEE shall notify LICENSOR promptly and LICENSOR shall as soon as reasonably practicable perform an assessment of the outage. Upon completion of such assessment, LICENSOR shall notify LICENSEE, as soon as reasonably practicable and in the manner set forth in Exhibit C, of the results of such assessment and include in its notification to LICENSEE the nature and cause of the interruption, the extent of the repairs required, and the estimated time to restore, if known.

9.1.3 LICENSOR Restoration of Fiber.

LICENSOR shall use its Commercially Reasonable Efforts to restore the provision of the Licensor Fiber Optic Strands on an expedited basis, and to restore the route segment and any splicing of the Licensor Fiber Optic Strands in a systematic and rotational manner, with the Licensor Fiber Optic Strands licensed to LICENSEE having equal priority to other fibers within the cable, to the extent permitted by the Interlocal Agreement and applicable law. LICENSOR further agrees that it shall use Commercially Reasonable Efforts to dispatch repair technicians to the affected site within two (2) hours after LICENSEE's notification of outage to LICENSOR and to use its reasonable efforts to keep the outage to less than four (4) hours from the time notification of the outage was received by LICENSOR. All permanent repair work shall be performed by LICENSOR during a maintenance window mutually agreed upon by the Parties.

9.1.4 LICENSEE Restoration of Licensee Fiber.

If LICENSOR fails to dispatch repair technicians within two (2) hours following LICENSEE's notification of outage to LICENSOR, LICENSEE, at its sole discretion and after notification to LICENSOR, may dispatch repair technicians to assess the situation and temporarily repair the Licensor Fiber Optic Strands licensed to LICENSEE hereunder. If LICENSEE's repair technicians are dispatched to repair any Licensor Fiber Optic Strands pursuant to the immediately preceding sentence, LICENSEE shall use reasonable efforts to perform the work under the supervision of LICENSOR. LICENSEE's repair, which shall be solely on the Licensor Fiber Optic Strands licensed to LICENSEE hereunder and will be of a temporary nature. LICENSOR shall be responsible for the permanent repair work in the Licensor Facilities, including the Licensor Fiber Optic Strands licensed to LICENSEE hereunder. LICENSEE's work shall be performed according to current industry standards and in accordance with applicable law, including all necessary covering to protect the repaired area(s). All reasonable costs incurred by LICENSEE in undertaking LICENSOR's duty to repair or restore the Licensor Fiber Optic Strands licensed to LICENSEE hereunder shall constitute an offset, on a dollar for dollar basis, against any one or more payments due to be made to LICENSOR by LICENSEE as License Fees hereunder. Nothing herein shall diminish or excuse the initial duty of LICENSOR to make Commercially Reasonable Efforts to dispatch repair technicians within two (2) hours after notification of an outage. Except as provided herein, no liability shall accrue to LICENSOR on account of the failure of LICENSOR to dispatch repair technicians or to repair the damage within the time specified hereon, except to the extent of LICENSOR'S willful misconduct, subject to the limitations of section 768.28, Florida Statutes.

9.1.5 Credits.

In the event that an outage exceeds eight (8) hours, except in the case of a force majeure as defined in Section 19.0 below, LICENSOR shall extend to LICENSEE a credit equal to one day's License Fee for the strands affected (to be considered 1/30th of the then current monthly rate) for each consecutive eight (8) hour outage interval, or fraction thereof, in excess of the initial eight (8) hours. By way of example, an eight (8) hour outage = I day credit; an 10 hour outage = 1 day credit; and a 17 hour outage = 2 days credit). The credit shall apply whether or not LICENSEE dispatched repair technicians to the repair site, and shall constitute an offset against LICENSEE's payment of License Fees to LICENSOR.

9.2 LICENSEE Covenants.

9.2.1 LICENSEE Responsibilities. LICENSEE shall be solely responsible, at its own expense, for the purchase, installation, operation, maintenance and repair of all LICENSEE equipment and Licensee Facilities required in connection with its use of the Licensor Fiber Optic Strands licensed to LICENSEE hereunder.

9.2.2 Future Splices.

In the future, LICENSEE may require additional Splice into the Licensor Fiber Optic Strands licensed to LICENSEE hereunder. LICENSOR shall perform the future Splice and LICENSEE shall provide LICENSOR with not less than forty-eight (48) hours prior notice of the need for such splicing activities. LICENSEE shall bear all costs of such splicing.

9.2.3 Taxes Franchise Fees.

LICENSEE shall pay, when they become due, any and all taxes, assessments, and governmental charges of any kind whatsoever (whether sales tax, use tax, excise tax or other tax) lawfully levied or assessed and attributable to LICENSOR'S license to LICENSEE hereunder, LICENSEE's use of the Licensor Facilities or the Licensor Fiber Optic Strands licensed to LICENSEE hereunder, or any portion thereof, with regard to the licensing, operation or use of the Licensor Facilities or the Licensor Fiber Optic Strands. LICENSEE shall include with each month's License Fee, and in addition thereto, any and all sales or use tax amounts thereon (currently at the rate of ___%). LICENSEE shall pay without apportionment any taxes levied on it that are based on LICENSEE's business profits. In addition, LICENSEE shall pay, or as appropriate, reimburse LICENSOR, without apportionment, for any ad valorem taxes, fees, assessments or other charges which are assessed against LICENSOR that arise from LICENSEE's use of the Licensor Facilities or Licensor Fiber Optic Strands licensed to LICENSEE hereunder or any portion thereof. LICENSOR shall be responsible for or pay any taxes, fees, or charges attributable to its ownership of the Licensor Facilities and Licensor Fiber Optic Strands, if any, when such taxes, fees, or charges are not based on or imposed by virtue of LICENSEE's use of any such facilities or its receipt of License Fees from LICENSEE under this License Agreement.

ARTICLE X
COMPLIANCE WITH LAWS

10.0 By LICENSOR.

LICENSOR shall have and maintain in effect at all times, all necessary franchises, consents, rights-of-way, easements, permits and authorizations applicable to this License Agreement from Federal, State, County, City and other regional or local authorities, to construct, maintain, operate and use LICENSOR'S Facilities.

10.1 By LICENSEE.

LICENSEE shall have and maintain in effect at all times, all necessary franchises, consents, permits and authorizations applicable to this License Agreement from Federal, State, county, City and other regional or local authorities.

10.2 All Applicable Laws.

LICENSEE and LICENSOR each shall comply with all applicable federal, state and local laws and regulations, including those of the Federal Communications Commission and the Florida Public Service Commission.

ARTICLE XI
NO CONSEQUENTIAL DAMAGES

Notwithstanding any other provisions of this License Agreement, and irrespective of any fault or negligence or gross negligence, neither party shall be liable to the other for any indirect, incidental, consequential exemplary, punitive or special damages (including damages for harm to business, lost revenues, lost savings or lost profits), regardless of the form of action, whether based on statute, contract, warranty or tort (including, without limitation, negligence of any kind whether active or passive and strict liability). Each Party hereby releases the other Party (and its respective parents, subsidiaries, and affiliated companies, and each of their respective agents, officers, employees, and representatives) from any claim or liability for any indirect, incidental, consequential, exemplary, punitive or special damages incurred as a result of or in connection with the performance or nonperformance of this License Agreement.

ARTICLE XII
NO THIRD PARTY BENEFICIARIES

This License Agreement does not provide third parties (including, without limitation, customers of LICENSOR or of LICENSEE) with any remedy, claim, liability, reimbursement, cause of action or other right or privilege, except that the provisions hereof involving indemnification or limitation of liability of either Party shall also inure to the benefit of that Party's employees, officers, agents, affiliates and with respect to LICENSOR, also to the benefit of the other members of the Consortium, including, without limitation, their respective employees, officers, agents and affiliates.

ARTICLE XIII
INDEMNITY, HOLD HARMLESS

13.1 LICENSEE Indemnity of LICENSOR.

LICENSEE shall indemnify, hold harmless and defend LICENSOR, and the other members of the Consortium, and their respective governing body members, directors, officers, employees and agents against any claim, action, loss, damage, injury liability, cost or expense, including, without limitation, reasonable attorneys' fees and court costs, arising out of injury to persons, including, without limitation, death or damage to property, caused by the negligence of LICENSEE, or its directors, officers, employees or agents, in connection with this License Agreement or any breach of this License Agreement by LICENSEE or its officers, employees or agents.

13.2 LICENSOR Indemnity of LICENSEE.

Subject to the limitations of section 768.28, Florida Statutes and subsequent amendments thereto, LICENSOR shall indemnify, defend and hold harmless LICENSEE, its affiliates, and respective directors, officers, employees and agents against any claim, action, loss, damage, injury, liability, cost or expense, including, without limitation, reasonable attorneys' fees and court costs, arising out of injury to persons, including, without limitation, death or damage to property, caused by the negligence of LICENSOR, its directors, officers, employees or agents in connection with this License Agreement.

13.3 Additional Remedies.

The remedies in this Article XIII shall be in addition to any other remedy available under this License Agreement, or at law or equity, and shall survive the termination or expiration of this License Agreement, with respect to any circumstance or event occurring before such termination; *provided however*, under no circumstances shall LICENSOR be liable for damages of any kind or nature, other than personal injury or death, to LICENSEE, its successors, assigns or sub-licensees in excess of one year's License Fees due under or with respect to this License Agreement. This Section 13.3 shall not be deemed a waiver of the liability limitations of section 768.28, Florida Statutes.

ARTICLE XIV
INSURANCE

14.1 LICENSOR understands that LICENSEE self-insures, and that LICENSEE has provided LICENSOR with a letter of such self-insurance. In the event that LICENSEE ceases to self-insure, then, during the Term:

(a) LICENSEE shall procure and maintain, at LICENSEE's sole cost and expense, commercial general liability insurance providing coverage which protects LICENSEE and LICENSOR from and against any and all claims and liabilities for bodily injury, death and property damage arising from operations, premises liability, and fire with respect to the Substation. Such insurance shall provide minimum coverage of $1,000,000.00 per occurrence and $2,000,000.00 aggregate. LICENSEE shall be and remain liable for and pay all deductibles and other amounts not covered, paid or reimbursed under the insurance policies.

(b) LICENSEE shall procure and maintain, at LICENSEE's sole cost and expense, workers' compensation insurance and employers' liability insurance with coverage amounts with a limit of (i) One Million Dollars ($1,000,000) for bodily injury per accident, (ii) One Million

Dollars ($1,000,000) for bodily injury by disease per policy and (iii) One Million Dollars ($1,000,000) for bodily injury by disease per employee .

(c) The certificates of insurance required herein for commercial general liability insurance, including, without limitation, all renewals, shall include LICENSOR as an additional insured, and provide for at least thirty (30) days advance notice to LICENSOR by the insurer prior to any non-renewal or cancellation. LICENSEE shall provide LICENSOR with a copy of certificates of insurance stating that the coverage as required herein is in full force and effect no later than the date of this Agreement. LICENSEE shall cause certificates of insurance or self-insured letter in conformance with the requirements hereof to be promptly provided to LICENSOR for each subsequent policy renewal.

(d) LICENSEE's insurance in all instances shall be primary and any insurance that may be maintained by LICENSOR shall be in excess of and shall not contribute with LICENSEE's insurance. All insurance policies shall be issued by a company or companies licensed to do business in the State of Florida.

(e) LICENSEE understands and acknowledges that the responsibility and obligation to provide and maintain insurance in the forms, types and coverages required herein are solely LICENSEE's responsibilities and obligations which continue during the Term.

(f) In the event that LICENSEE fails for any reason to procure or maintain insurance in the forms, types or coverages required and to name the LICENSOR as an additional insured on the certificates of insurance, LICENSEE shall cure such material breach within fifteen (15) calendar days after LICENSEE is given notice of such breach. Should LICENSEE fail to cure the breach within such period or such other time as may be agreed to by the Parties in writing, LICENSOR in LICENSOR's sole discretion may, but is not obligated to, secure replacement insurance coverage at LICENSEE's sole expense. Should LICENSOR elect to secure replacement insurance, LICENSEE shall thereafter reimburse LICENSOR within fifteen (15) calendar days of LICENSOR's providing to LICENSEE an invoice for the costs and premiums incurred by LICENSOR for the replacement insurance coverage, plus an administrative charge of ten percent (10%) or $250.00, whichever is greater. LICENSEE shall continue to be responsible for the payment of all deductibles applicable to the insurance policies and all losses incurred with respect to any lapse in coverage. Should LICENSEE subsequently obtain the required insurance, LICENSEE shall remain responsible for and reimburse LICENSOR for all costs and expenses to LICENSOR for the insurance premiums incurred by LICENSOR and the administrative charges set forth in this Section 14.1(f).

(g) LICENSEE's obligations under this Article XIV shall survive the termination or expiration of this License Agreement.

ARTICLE XV
TERMINATION

15.1 Termination.

Except as may be provided elsewhere in this License Agreement, this License Agreement may be terminated prior to expiration of the Term as set forth in this Article XV:

15.2 By LICENSEE.

LICENSEE may terminate this License Agreement as follows:

15.2.1 Upon 60 days' Notice.

LICENSEE may terminate this License Agreement at any time after the initial five-year term, as described in Article III, with or without cause, upon providing LICENSOR with not less than sixty (60) days' notice. After five (5) days' prior notice to LICENSEE and upon the sixtieth (60th) day after notice of termination is given by LICENSEE under this Section, LICENSOR, at the sole discretion of LICENSOR, may disconnect the Licensor Fiber Optic Strands licensed to LICENSEE under this License Agreement without recourse to LICENSOR by LICENSEE and LICENSOR shall not be held liable by LICENSEE or LICENSEE's sub-licensees, if any, as a result of such disconnection.

15.2.2 If LICENSEE as Telecommunications Company.

By entering into this License Agreement, LICENSEE does not intend to, and shall not, be classified as a telecommunications company, telecommunications carrier, telecommunications service or any other telecommunications entity, or come under the jurisdiction or existing or future regulation of any state or Federal regulatory agency as a telecommunications company, including, without limitation, the Federal Communications Commission or the Florida Public Service Commission. If, however, a proceeding is commenced in which it is sought to classify LICENSEE as a telecommunications company, LICENSOR and LICENSEE shall cooperate with each other to determine whether and to what extent this License Agreement can be amended to remove that classification. If this License Agreement cannot be so amended or if there is no agreement as to such amendment, then LICENSEE may terminate this License Agreement immediately upon agency or court order approving such termination, or, at the sole discretion of LICENSEE, after five (5) days' prior notice to LICENSOR. if the proceeding described in this Section has been pending for not less than sixty 60) days. Upon such termination, LICENSOR may disconnect the Licensor Fiber Optic Strands licensed to LICENSEE under this License Agreement as provided in Section 15.2.1 above.

15.3 By LICENSOR.

LICENSOR may terminate this License Agreement as follows:

15.3.1 Default of LICENSEE.

Upon a default by LICENSEE under this Agreement including, without limitation, a payment default, LICENSOR shall be entitled to terminate this Agreement, by giving notice of termination to LICENSEE, if LICENSOR has previously given LICENSEE notice of such default and LICENSEE has not cured such default within thirty (30) days after notice of such default was given.

If LICENSOR terminates this License Agreement under this Section 15.3.1, LICENSOR shall have the right to disconnect the Licensor Fiber Optic Strands licensed to LICENSEE under this License Agreement without recourse to LICENSOR by LICENSEE. Furthermore LICENSOR shall not be liable to LICENSEE or LICENSEE's sub-licensees as a result of such disconnection.

15.3.2 If LICENSOR is Found to be a Telecommunications Company. By entering into this License Agreement, LICENSOR does not intend to, and shall not, be classified as a telecommunications company, telecommunications carrier, telecommunications service or any other telecommunications entity, or come under the existing or future jurisdiction or regulation of any State or Federal regulatory agency as a telecommunications company, including, without limitation, the Federal Communications Commission or the Florida Public Service Commission. If, however, a proceeding is commenced in which it is sought to classify LICENSOR as a telecommunications company, LICENSEE and LICENSOR shall cooperate with each other to determine whether and to what extent this License Agreement can be amended to remove that classification. If this License Agreement cannot be so amended or if there is no Agreement as to such amendment, then LICENSOR may terminate this License Agreement immediately upon agency or court order approving such termination, or at the sole discretion of LICENSOR, after five (5) days' prior notice to LICENSEE if the proceeding described in this Section has been pending for not less than sixty 60) days. Notwithstanding the preceding provisions of this Section 15.3.2, if LICENSOR becomes certified by the Florida Public Service Commission as a telecommunication company, this License Agreement shall remain in full force and effect.

ARTICLE XVI
RESTRICTIONS AGAINST TRANSFER

Neither Party shall sell, assign, transfer, or otherwise alienate or dispose of this License Agreement or the privileges hereby granted, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

ARTICLE XVII
FAILURE TO ENFORCE PROVISIONS IS NOT A WAIVER

The consent by a Party to any act by the other Party shall not be deemed to imply consent or to constitute the waiver of a breach of any provision hereof or continuing waiver of any subsequent breach of the same or any other provision, nor shall any custom or practice which may arise between the Parties in the administration of any part of the provisions hereof be construed to waive or lessen the right of a Party to insist upon the performance by the other Party in strict accordance with the provisions hereof.

ARTICLE XIII
SEVERABILITY

In the event that any provision of this License Agreement shall be held unconscionable, unenforceable, or void for any reason by any tribunal of competent jurisdiction, it is agreed that the provision in question shall be modified to eliminate the elements of concern to the tribunal

and as modified shall be binding on the Parties. The remaining provisions of this License Agreement shall not be affected by the action of any tribunal or modification of such provision, and shall remain in full force and effect.

ARTICLE XIX
FORCE MAJEURE

Except as otherwise expressly provided herein, neither Party shall be liable for any failure or delay in the performance of its obligations under this License Agreement due to causes not reasonably within its control, including, without limitation, acts of courts and regulatory agencies, superior governmental authority, acts of God, war, riot or insurrection, inability to obtain required construction permits, blockages, embargoes, sabotages, terrorism, epidemics, fires, floods, strikes, lockouts or other labor difficulties, provided such labor difficulties do not arise from inequitable labor practices. In the event of any failure or delay resulting from any of such causes, upon notice of such force majeure being given to the other Party, the time for performance hereunder shall be extended for a period of time reasonably necessary to overcome the effects of such delays. In the event any such failure or delay shall last for a period of more than one hundred eighty (180) days, then either Party may terminate this License Agreement forthwith, in whole or in part, by notice thereof to the other.

ARTICLE XX
NOTICE

Except for notifications relating to construction, outages or maintenance which shall be as provided in Exhibit C attached hereto, any notice, request, instruction, demand, consent, or other communication required or permitted to be given under this License Agreement shall be in writing and shall be delivered either by hand or by certified mail, postage prepaid, and certified return receipt requested to the following address or such other address as the Parties may provide to each other in writing:

To LICENSEE:

Florida Power & Light Company
Attn: _____
700 Universe Boulevard
Juno Beach, Florida 33408

To LICENSEE:

Florida Power & Light Company
Attn: General Counsel
700 Universe Boulevard
Juno Beach, Florida 33408

To Vero Beach:	City Manager City of Vero Beach 1053 20th place Vero Beach, Florida 32960
With a Copy to:	Carlton Fields P.O. Box 3239, Tampa, Florida 33601 Attention: Nathaniel L. Doliner, Attorney at Law (if by mail) or 4221 West Boy Scout Boulevard Tampa, FL 33607 Attention: Nathaniel L. Doliner, Attorney at Law (if by other than mail)

ARTICLE XXI
CHOICE OF LAW; VENUE; NO JURY TRIAL

21.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including matters of validity, construction, effect, performance and remedies.

21.2 THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT.

21.3 EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT, AND SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT.

ARTICLE XXII
ENTIRE AGREEMENT; AMENDMENTS

This License Agreement constitutes the entire Agreement between the Parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter hereof. There are no representations, warranties, agreements or understandings (whether oral or written) between the Parties relating to the subject matter hereof which are not fully expressed herein. No provision of this License Agreement may be changed or amended except by written agreement signed by both Parties.

ARTICLE XXIII
PARTIES BOUND

This License Agreement shall be binding upon the Parties hereto and their respective successors and permitted assigns.

ARTICLE XXIV
CONSTRUCTION OF AGREEMENT

24.1. Ambiguities Not To Be Resolved Against Drafting Party.

Each Party and its counsel have reviewed this License Agreement. Accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the construction and interpretation hereof.

25.2 Captions.

The captions are inserted for convenience of reference only and shall have no effect on the construction or interpretation of this License Agreement.

25.3 Usage.

Unless the context otherwise requires, the word "including" shall mean "including, without limitation." The fact that in certain instances in this Agreement, the phrase "including, without limitation" appears shall not affect the interpretation of the preceding sentence.

The terms "hereof", "hereunder" and "herein" shall refer to this License Agreement as a whole.

[*Signature Pages Follow*]

The Parties hereto have caused these presents to be executed, by their respective officers thereunto duly authorized, on the day, month and year first above written.

ATTEST:

Sign: _____

Print: _____

Title: _____

LICENSOR: CITY OF VERO BEACH

Sign: _____

Print: _____

Title: _____

Approved as to form
and legal sufficiency

_____
City Attorney

Approved as conforming to
municipal policy:

_____
City Manager

[SEAL]

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this day ____ of _____, 2013, by _____ as Mayor, and attested by _____, as City Clerk, of the City of Vero Beach, Florida. They are both known to me and did not take an oath.

NOTARY PUBLIC

Sign:_____
Print:_____
State of Florida at Large [SEAL]
My Commission Number:___
My Commission Expires:____

Corporation: THIS LICENSE AGREEMENT MUST BE EXECUTED BY THE CHIEF EXECUTIVE OFFICER, OR PRESIDENT OR VICE-PRESIDENT, AND THE SECRETARY OR ASSISTANT SECRETARY, UNLESS THE BYLAWS OR A RESOLUTION OF THE BOARD OF DIRECTORS SHALL OTHERWISE PROVIDE, IN WHICH EVENT A CERTIFIED COPY OF THE BYLAWS OR RESOLUTION, AS THE CASE MAY BE, MUST BE FURNISHED. ALSO, THE CORPORATE SEAL OF LICENSEE, IF LICENSEE HAS SUCH A SEAL, MUST BE AFFIXED.

ATTEST:

Sign: _____

Print: _____

Title: Secretary

LICENSEE

Sign: _____

Print: _____

Title: President

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this ____ day of _____, 2013, by _____, as President, and attested by _____, as Secretary, on behalf of _____. They are personally known to me or produced _____as identification and did / did not take an oath.

NOTARY PUBLIC

Sign:_____
Print:_____
State of Florida at Large [SEAL]
My Commission Number:_____
My Commission Expires:_____

EXHIBIT "A"
ROUTE DIAGRAM

[PLEASE INSERT]

EXHIBIT "B"
FIBER SPECIFICATIONS AND CONNECTION DETAILS

FIBER:

All Fiber will meet or exceed the Corning SMF-28, dual 1310/1550 window optical glass specifications:

Maximum attenuation for 1310 nm systems will be .35 dB/km

Maximum attenuation for 1550 nm systems will be .25 dB/km

SPAN SPECIFICATIONS:

Discontinuities (known as steps, Splices, or attenuation non-uniformities) shall be measured with an Optical Time Domain Reflectometer (OTDR) to determine the loss for the localized attenuation.

No Fiber shall show a point discontinuity greater than 1.0 dB. However, a Fiber Span that includes a discontinuity in excess of specifications may still be considered acceptable, with mutual agreement of LICENSOR and LICENSEE, provided said Fiber still meets LICENSEE's overall attenuation and dispersion specifications.

Performance levels will be maintained as accepted through the duration of the Agreement.

GENERAL CONSTRUCTION:

OPTICAL SYSTEM LOSS TABLE					
WAVE LENGTH NM	MAXIMUM FIBER Loss/KM	MAXIMUM CONNECTOR Loss	AVERAGE Loss PER SECTION	MAXIMUM Loss PER SPLICE	AVERAGE Loss PER SPLICE
1310	.35dB	.5 dB	.06 dB	.2 dB	.06 dB
1550	.25 dB	.5 dB	.06 dB	.2 dB	.06 dB

The Fiber will be constructed in accordance with sound commercial practices. The National Electric Safety Code will be followed in every case except where local regulations are more stringent, in which case local regulations shall govern.

Optical and span test data, including OTDR traces, will be submitted by LICENSOR to LICENSEE at an agreed upon schedule.

EXHIBIT "C"

NOTICES

Notifications to FPL:

All notifications relating to construction, outage, or maintenance should be relayed to Licensee through this number:[1]

Notifications to Vero Beach:

All notifications relating to construction, outage, or maintenance should be relayed to the LICENSOR through this number:

[1] NTD: Needs to be provided for both parties.

EXHIBIT "D"

SAMPLE NOTICE OF ACCEPTANCE

Date:

To [Person Specified in Article 20]

Re: Notice of Acceptance of Licensed Fibers

Dear [Person Specified in Article 20]:

Our technician tested the licensed fibers, today, and confirmed that they meet the Performance Specifications required by our Agreement. Accordingly, today, we accepted the Licensed Fibers as operational.

In accordance with our Agreement, I have enclosed, herewith, the first installment of the License Fee ($_____.__).

Sincerely yours,

_____

By:

cc: [Person Specified in Article 20]

Exhibit L-2

Form of Substation Easement Agreement

[*Exhibit begins on the following page.*]

Prepared by and return to:
Nathaniel L. Doliner
Carlton Fields
4221 W. Boy Scout Blvd., Ste. 1000
Tampa, Florida 33607-5780

SUBSTATION EASEMENT AGREEMENT

THIS SUBSTATION EASEMENT AGREEMENT (the "**Agreement**"), made and entered into as of [_____ __], 201[__] (the "**Effective Date**"), is between CITY OF VERO BEACH, FLORIDA, a Florida municipal corporation (herein called "**City**"), with an address of 1053 20th Place, Vero Beach, FL 32960, and FLORIDA POWER & LIGHT COMPANY, a Florida corporation (herein called "**FPL**"), with an address of 700 Universe Boulevard, Juno Beach, FL 33408. City and FPL are sometimes together referred to herein as the "**Parties**" and individually as a "**Party.**"

RECITALS

A. As of the Effective Date, City has sold, assigned and conveyed certain electric utility assets of City to FPL, as contemplated under that certain Asset Purchase and Sale Agreement, dated [_____], 2017, by and between City and FPL (the "**Asset Purchase and Sale Agreement**"). As used in this Agreement, the "**Vero Beach Electric Utility**" means the electric utility system of electricity transmission and distribution owned or operated by FPL providing retail electric service to City of Vero Beach's electric utility customers on and after the Effective Date.

B. To operate the Vero Beach Electric Utility efficiently, FPL seeks to establish an electric substation on the real property consisting of approximately 1.75 acres described and depicted on attached **Exhibit "A"** (the "**Substation Premises**").

C. To provide ingress and egress for the Substation Premises, the City desires to provide a non-exclusive access easement (the "**Access Easement**") in favor of FPL and benefitting the Substation Premises, across property adjacent to the Substation Premises, as legally described and depicted on **Exhibit "B"** attached hereto and made a part hereof (the "**Access Parcel**").

D. The equipment and improvements constructed or placed on the Substation Premises by or for FPL from time to time are referred to in this Agreement collectively as the "**Facilities**." The Substation Premises together with the Facilities, are described in this Agreement collectively as the "**Substation**." In accordance with the Asset Purchase and Sale

Agreement, City has agreed to grant an easement to FPL over the Substation Premises subject to the provisions of this Agreement.

NOW THEREFORE, for $10.00 and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, and in consideration of and subject to the terms, covenants, agreements, provisions and limitations set forth in this Agreement, City and FPL agree as follows:

1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

2. Grant of Easements.

(a) **Substation Premises**. Subject to the provisions of this Agreement, City does hereby grant unto FPL, the exclusive, perpetual right, privilege and easement to install, operate and maintain in perpetuity, the Facilities on, under or over the Substation Premises together with all rights necessary of convenient for the full use and enjoyment of the Substation Premises for the purposes granted herein, (subject to the provisions of this Agreement), including without limitation, the right: (a) to patrol, inspect, alter, improve, add to, repair, rebuild, relocate and remove the Facilities; (b) to increase or decrease the voltage and to change the quantity and type of Facilities; (c) of ingress and egress over the Substation Premises; (d) to trim, cut or remove from the Substation Premises, at any time, trees, limbs, undergrowth, structures or other obstructions; and (e) to trim, cut or remove and to keep trimmed or remove dead, diseased, weak or leaning trees or limbs outside of the Substation Premises which, in the commercially reasonable discretion of FPL, might interfere with or fall upon the Facilities. Excluding removal of vegetation and obstructions as provided herein, any physical damage to the City's adjoining property caused by FPL or its contractors shall be repaired to a condition equal to or better than the previous condition.

(b) **Access Parcel**. City grants and conveys to FPL, for the duration of the Term, the Access Easement benefitting the Substation Premises and providing ingress and egress to and from the Substation Premises over and across the Access Parcel.

3. Use of Substation. The Substation Premises shall be used solely and exclusively for the purpose of electric power purposes as a part of the Vero Beach Electric Utility, and the Facilities shall be installed, repaired, replaced and maintained by FPL, at FPL's sole cost and expense.

4. City Access to Substation Premises/Non-Exclusive Access Easement. The City may, with FPL's prior consent, and accompanied by an FPL representative, access the Substation Premises from time to time. Further, City may use the Access Parcel for any purpose which does not interfere with FPL's use and enjoyment of the easement rights granted herein. FPL acknowledges and agrees that the Access Parcel may be used as a common driveway for ingress, egress, and utilities serving multiple parcels of real property, and that neither FPL, the City or any subsequent user of the Access Parcel shall construct any fences, gates or other impediments to the common use of the Access Parcel. Further, City reserves the right to grant rights to others affecting the Access Parcel provided that all such third parties enter into a road maintenance agreement between FPL, City and all users of the Access Parcel, and provided that such rights do

not block FPL's access to the Substation Premises, create an unsafe condition or conflict with the rights granted to FPL herein.

5. Cash Consideration. The cash consideration to be paid by FPL to City for this Agreement shall be Two Million Dollars ($2,000,000.00), and shall be paid to City in a single payment at the Closing, as defined in, and in accordance with, the Asset Purchase and Sale Agreement as a part of the Purchase Price under the Asset Purchase and Sale Agreement. FPL shall also pay any and all applicable documentary stamp tax or other taxes on the consideration for this Agreement or the conveyance of the easements described herein.

6. Representations and Warranties.

(a) City represents and warrants to FPL as follows:

(i) City has full power and authority to enter into this Agreement.

(ii) The person executing and delivering this Agreement on City's behalf is acting pursuant to proper authorization and this Agreement is the valid, binding and enforceable obligation of City enforceable against City in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

(b) FPL represents and warrants to City as follows:

(i) FPL is a corporation duly incorporated, validly existing and having active status under the laws of the State of Florida, with the necessary corporate power and authority to enter into this Agreement.

(ii) The person executing and delivering this Agreement on FPL's behalf is acting pursuant to proper authorization, and this Agreement is the valid, binding and enforceable obligation of FPL enforceable against FPL in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

7. Improvements to Substation Premises/Relocation of Fiber Optic Lines.

(a) As described in the Substation Equipment Operating and Dismantling Agreement between the Parties, FPL shall relocate the portion of the Fiber Optic System, as defined in the Asset Purchase and Sale Agreement, to the Substation Premises or otherwise, at City's direction so that the Fiber Optic System will have continuous connectivity at all times without any interruption. Such relocation of the Fiber Optic System shall be completed in connection with or prior to the construction of improvements to the Substation Premises or Access Parcel described in this Section 7.

(b) In addition to City's regulatory authority, if any, FPL acknowledges that City, as the owner of lands adjacent to the Substation Premises and Access Parcel, has an interest in the manner in which the Substation Premises and Access Parcel are developed. Accordingly, prior to construction, FPL shall provide the City with four (4) copies of the site plan, landscape plan and civil design for the Substation Premises (collectively, the "Plans"), and City shall have the right to review and approve such Plans within forty-five (45) days following City's receipt of such plans. Failure of the City to provide FPL with written approval of the Plans such forty-five (45) days period, or if the Plans are not approved, to provide FPL with written comments to the Plans within such forty-five (45) day period, shall be deemed an approval of the Plans. The City's approval of the Plans shall not be deemed to be an assumption of the responsibility by City for the accuracy, sufficiency or propriety of the Plans.

The Plans will show the following: (i) location of any buildings, fixtures or equipment; (ii) the areas and related improvements (including, without limitation, ingress and egress, curb cuts, signage, utility lines and lighting); (iii) the location and nature of decorative features, including, without limitation, landscaping, planters and walls; (iv) setback lines; (v) proposed height of the proposed Facilities, and the area of any building; (vi) grading and drainage plans; and (vii) exterior dimensions, exterior design concept, the type, grade, color and texture of exterior materials and the basic exterior painting design, and any and all exterior signs or other signs contemplated for location on the Substation Premises.

City shall at all times act reasonably and in good faith in its review of and comments to the Plans.

8. Hazardous Materials and Pre-Existing Conditions.

(a) For purposes of this Agreement :

(i) "***Environmental Claim***" means any and all communications, whether written or oral, alleging potential Liability, administrative or judicial actions, suits, orders, liens, notices alleging Liability, notices of violation, investigations which have been disclosed to City, complaints, requests for information relating to the Release or threatened Release into the Environment of Hazardous Substances, proceedings, or other communication, whether criminal or civil, pursuant to or relating to any applicable Environmental Law, by any person (including any governmental authority) based upon, alleging, asserting, or claiming any actual or potential (i) violation of, or Liability under any Environmental Law, (ii) violation of any Environmental Permit, or (iii) Liability for investigatory costs, cleanup costs, removal costs, remedial costs, response costs, monitoring costs, natural resource damages, property damage, personal injury, fines, or penalties arising out of, based on, resulting from, or related to the presence, Release, or threatened Release into the environment of any Hazardous Substances at the Substation Premises or Access Parcel including any off-Site location to which Hazardous Substances, or materials containing Hazardous Substances, were sent.

(ii) "***Environmental Laws***" means all Laws regarding pollution or protection

of the Environment, the conservation and management of land, natural resources and wildlife or human health and safety or the Occupational Safety and Health Act (only as it relates to Hazardous Substances), including Laws regarding Releases or threatened Releases of Hazardous Substances (including Releases to ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport, disposal or handling of Hazardous Substances, including the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Oil Pollution Act (33 U.S.C. §§ 2701 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §§ 11001 et seq.), and all other Laws analogous to any of the above.

(iii) "***Environmental Permit***" means any Permit under or in connection with any Environmental Law, including any and all orders, consent orders or binding agreements issued or entered into by a governmental authority under any applicable Environmental Law, that is used in, or necessary for, (i) the business of the Vero Beach Electric Utility, or (ii) the ownership, use or operation of the Substation Premises, in each case under clause (i) or (ii), as conducted prior to the Effective Date.

(iv) "***Hazardous Substances***" means: (i) any petroleum, asbestos, asbestos-containing material, and urea formaldehyde foam insulation and transformers or other equipment that contains polychlorinated biphenyls; (ii) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "contaminants," "pollutants," "toxic pollutants," "hazardous air pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law; and (iii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

(v) "***Liability***" means any direct or indirect liability, commitment, indebtedness or obligation (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or un-accrued, whether liquidated or un-liquidated, and whether due or to become due) of any kind, character or nature, or any demand, claim or action asserted or brought against the relevant Party.

(vi) ***"Law"*** means any foreign, federal, state or local law, constitutional provision, statute, charter, ordinance or other law, rule, regulation, code (including any zoning code, fire code or health and safety code), or interpretation of any governmental authority or any order of or by any governmental authority,

including all Environmental Laws, requirements and regulations, applicable to the Substation Premises or the Vero Beach Electric Utility.

(vii) "***Loss***" or "***Losses***" means any and all damages, fines, fees, penalties, deficiencies, losses, Liabilities, interest, awards, judgments, actions and expenses (whether or not involving a third party claim), including all remediation costs, reasonable fees of attorneys, accountants and other experts, or other expenses of litigation or proceedings or of any claim, default or assessment relating to the foregoing.

(viii) "***Release***" means any actual, threatened or alleged spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping or disposing of a Hazardous Substance into the environment or within any building, structure, facility or fixture.

(ix) "***Remediation***" means any action of any kind required by applicable Law to address the presence or Release of Hazardous Substances, including: (i) monitoring, investigation, assessment, treatment, cleanup containment, removal, mitigation, response or restoration work, as well as obtaining any permits necessary to conduct any such activity; (ii) preparing and implementing any plans or studies for any such activity; and (iii) obtaining a written notice from a governmental authority with competent jurisdiction under Environmental Laws, that no material additional work is required.

(b) As may be more fully described in the Asset Purchase and Sale Agreement, except to the extent exacerbated or contributed to by FPL, City agrees to be responsible for any and all Losses of FPL, and pay and perform when due any and all Liabilities of FPL:

(i) under Environmental Laws, Environmental Permits or Environmental Claims with respect to the Substation Premises arising from any event, condition, circumstance, act or omission that occurred prior to the Effective Date; or

(ii) arising from the presence of Hazardous Substances that originated on the Substation Premises prior to the Effective Date or the Release of Hazardous Substances at, on, in, under, or migrating from the Substation Premises prior to the Effective Date (such Losses or Liabilities under this Section 8(b)(i) or Section 8(b)(ii) hereof, the "**Environmental Liabilities**");

Provided, however, that as an absolute condition to such responsibility, FPL must give to City notice (the "**Environmental Notice**") of any claim of Environmental Liabilities no later than thirty (30) days prior to the anticipated Effective Date and, solely with respect to any Environmental Liability which FPL demonstrates occurred subsequent to FPL's Phase II Environmental Testing described below, FPL must give the Environmental Notice prior to the Effective Date, which Environmental Notice, in either case, must contain the estimated total amount of the Environmental Liabilities and a summary of facts then known to FPL that support such claim; and provided, further, that in no event shall City be liable or responsible for any

Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate, from all sources as described in the Asset Purchase and Sale Agreement, (the "**Aggregate Environmental Cap**"). FPL hereby releases City from, and City shall not be liable or responsible for, any and all Environmental Liabilities as to which FPL does not give City the Environmental Notice or Environmental Notices prior to the time required in the immediately preceding sentence. FPL also hereby releases City from, and City shall not be responsible for, any and all Environmental Liabilities that exceed Five Hundred Thousand Dollars ($500,000) in the aggregate from all sources as described in the Asset Purchase and Sale Agreement. The limitations on City's liability or responsibility for Environmental Liabilities under this Section 8 are absolute limitations and will control over any other provisions in this Agreement or other agreements between the Parties that are or may be to the contrary.

(c) In order to make a claim against City pursuant to Section 8 (b) above, FPL must have completed its environmental testing, including Phase II environmental testing, on the Substation Premises and the Access Parcel and, if so performed, must have submitted the results of such testing to City at least thirty (30) days prior to the Effective Date (collectively, "**FPL's Phase II Environmental Testing**"). If FPL has not performed such actions by the within the time periods specified, FPL shall be deemed to have waived its right to make a claim against City under Section 8 (b) above with respect to the Substation Premises and the Access Parcel.

(d) FPL shall not cause or permit the Release in any manner of any Hazardous Substances upon the Substation Premises, the Access Parcel or upon adjacent lands, which violates any Environmental Laws. FPL shall give prompt notice to City of any Release of a Hazardous Substance in violation of Environmental Laws, whether caused by FPL or, to the knowledge of FPL, any third party.

(e) To evidence any changes to the environmental condition of the Substation Premises at the expiration or termination of this Agreement, FPL shall perform an environmental assessment, including soils and groundwater sampling, of the Substation Premises (the **"Closure Environmental Assessment")** as close in time as practical to the Expiration Date or the earlier termination of this Agreement, at its expense and provide a copy thereof to City as soon as practical. FPL's obligation to provide the Closure Environmental Assessment shall survive the expiration or termination of this Agreement.

(f) Except to the extent of City's responsibility as described in Section 8 (b) above, FPL shall be responsible, at FPL's sole cost and expense, for commencing and thereafter performing, or causing to be performed, any and all assessments, Remediation, cleanup and monitoring of all Hazardous Substances existing or Released on, in, under, from or related to the Substation Premises during the Term in violation of Environmental Laws; provided, however, that the foregoing shall not in any way limit or expand any liability, obligations or rights of FPL or City, to the extent expressly provided in the Agreement for Sale and Purchase. In the event any Remediation is required in the previous sentence, FPL shall furnish to City, within a reasonable period of time, written proof from the appropriate local, state or federal agency with jurisdiction over the Remediation that the Remediation has been satisfactorily completed in full compliance with all Environmental Laws. FPL's obligation to provide Remediation as required by this Section 8 shall survive the expiration or termination of this Agreement .

(g) FPL shall indemnify, defend and hold harmless City from and against, and pay, reimburse and fully compensate as the primary obligor City for, any and all claims, suits, judgments, loss, damage, and liability which may be incurred by City including, without limitation, City's reasonable attorney's fees and costs, arising in any way from Hazardous Substances existing or Released on, in, under, from the Substation Premises by FPL, its employees agents or contractors, or related to FPL's use of the Substation Premises or the Access Parcel during the Term in violation of Environmental Laws, or any violation of the Environmental Laws, by FPL, its agents, licensees, invitees, subcontractors or employees on, in, under or related to the Substation Premises or the Access Parcel during the Term. This responsibility shall continue to be in effect for any such Release or presence of Hazardous Substances as to which City gives notice to FPL on or before the fifth (5^{th}) anniversary of the Expiration Date. FPL's obligation to provide the indemnity, defense and hold harmless required by this Agreement shall survive the expiration or termination of this Agreement .

9. Abandonment and Termination. The term of this Agreement (the "Term") begins on the Effective Date and continues perpetually, unless terminated as described in this Agreement. FPL may terminate this Agreement without charge or penalty by giving not less than six (6) months prior notice to City. Furthermore, the Parties acknowledge that technology may change the methods for the delivery of electric power in the future. Accordingly, if FPL abandons the Substation or ceases to use the Substation as a actively functioning electrical substation for the distribution of electric power, and such abandonment or cessation of use continues for a period of not less than two (2) consecutive years, then this Agreement shall be deemed terminated. In the event of such termination, City and FPL shall promptly execute a Notice of Easement Termination, in form and substance that is mutually agreeable, reciting the termination of this Agreement and removing this Agreement as an encumbrance on the Substation Premises and Access Parcel, which shall be recorded in the Public Records. If this Agreement is terminated, for any reason whatsoever, whether in whole or in part, FPL shall not be entitled to any proration or return of the consideration for this Agreement. In addition, within six (6) months after termination of this Agreement, FPL shall, at its sole cost and expense, remove all Facilities from the Substation Premises and during such time FPL shall be deemed to be occupying the Substation Premises and Access Parcel as a licensee and FPL will continue to be subject to and comply with all of the provisions of this Agreement. FPL's obligations to remove the Facilities from the Substation Premises include the obligation to remove any and all fixtures and any and all improvements that may exist on, over or under the Substation Premises, installed by or for FPL, such as, but not limited to, lines, structures, poles, concrete slabs, footers, reinforcements, walls, gates and fences.

10. Assumption of Risk; Indemnification. FPL agrees as follows:

(a) FPL will rely exclusively upon its own investigation into the title relating to the Substation Premises and the Access Parcel and City makes no warranty of title relating to the Substation Premises or the Access Parcel. FPL's easement interest in the Substation Premises and Access Parcel pursuant to this Agreement is made subject to the Permitted Encumbrances (as defined in the Asset Purchase and Sale Agreement).

(b) Except as specifically provided in this Agreement, FPL acknowledges and agrees that City has not made, does not make and specifically negates and disclaims any

representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to the Substation Premises and Access Parcel and that the rights granted with respect to the Substation Parcel provided for in this Agreement are made on an "as is" condition and basis and with all faults. Without in any way limiting the generality of the foregoing, the grant of easement rights contemplated hereby is without any warranty other than City's express representations and warranties in this Agreement; and City and City's elected and appointed officials, officers, directors, employees, and affiliates (collectively the "**City's Related Parties**") have made no, and expressly and specifically disclaim, and FPL accepts that City and the City's Related Parties have disclaimed, any and all representations, guaranties or warranties, express or implied, or arising by operation of law (except for the representations and warranties, if any, expressly made by City in this Agreement), of or relating to: (i) the use, expenses, operation, characteristics or condition of the Substation Premises and Access Parcel, or any portion thereof, including, without limitation, warranties of suitability, habitability, merchantability, design or fitness for any specific or particular purpose, or good and workmanlike construction; (ii) the environmental condition of the Substation Premises or Access Parcel, or contamination by hazardous materials, or the compliance of any portion of the Substation Premises or Access Parcel with any or all Environmental Laws; or (iii) the soil conditions, drainage, flooding characteristics, accessibility or other conditions existing in, on or under any portion of the Substation Premises or Access Parcel. FPL acknowledges and agrees that it is not relying on any representations or statements (oral or written) which may have been made or may be made by City or any of the City's Related Parties (except for City's representations and warranties expressly set forth in this Agreement), and is relying solely upon FPL's or FPL's representatives' own physical inspection of the Substation Premises and Access Parcel and other investigations by FPL or FPL's representatives. FPL acknowledges that any condition of the Substation Premises or Access Parcel, whether apparent or latent, which FPL discovers or desires to correct or improve on or after the Effective Date shall be subject to City's review and approval rights, as set forth in this Agreement, and shall be at FPL's sole expense.

(c) FPL recognizes and hereby expressly and fully assumes all risks, known and unknown, that arise or might arise incidental to or in any way connected with the condition or use of the Substation Premises or access to the Substation Premises. This assumption of risk by FPL is made for and on behalf of FPL and FPL's successors, and permitted assigns.

(d) FPL agrees to indemnify, defend and hold harmless City and City's Related Parties against any and all claims, including costs and expenses, of any kind or nature, including, without limitation, costs of investigation, attorneys' fees, paralegal fees, experts' fees and costs through regulatory proceedings, trial and review or appeal, including but not limited to claims for personal injury, death of persons and property damage, or other liability to the extent arising from FPL's use, improvement, operation, condition or maintenance of the Substation or the Substation Premises, provided however that this indemnity shall not apply to the negligence or willful misconduct of the City and/or the City's Related Parties as determined by a court of competent jurisdiction.

(e) FPL's obligations under this Section 10 shall survive the termination of this Agreement.

11. Construction, Mechanics and Materialmen's Liens. FPL will make no alteration, change, improvement or addition to the landscaping or exterior of the Substation without the prior written consent of City which will not be unreasonably withheld, conditioned or delayed. FPL will be responsible for payment of any and all work performed on FPL's behalf on the Substation Premises and Access Parcel. In no event will City be responsible for payment of any work relating to the Substation nor will the Substation Premises or Access Parcel, or any interest therein, be subject to any lien for payment of any construction or similar work performed by or for FPL on or for the Substation or Access Parcel. Further, FPL shall promptly notify the contractor performing any such work or alterations on the Substation Premises or Access Parcel at FPL's request or making such improvements to the Substation Premises or Access Parcel at FPL's request of this provision exculpating City of responsibility for payment and liens. Notwithstanding the foregoing, if any mechanic's lien or other lien, attachment, judgment, execution, writ, charge or encumbrance is filed or recorded against any portion of the Substation or Access Parcel as a result of any work performed on or materials delivered to the Substation Premises or Access Parcel at FPL's direction, FPL shall, within sixty (60) days following written notice of any such lien, cause same to be paid, discharged or otherwise removed of record. In the event that FPL fails to remove any such mechanics or materialmen's lien relating to FPL's work at the Substation Premises or Access Parcel, the City may cause such lien to be removed and FPL shall reimburse City for all reasonable costs and expenses, including attorney's or paralegal fees incurred by City within forty-five (45) days following receipt of City's written invoice and supporting documentation.

12. Insurance. City understands that FPL self-insures, and that prior to accessing the Substation Premises or Access Parcel, FPL will provide City with a letter of such self-insurance. In the event that FPL ceases to self-insure, then, during the Term of this Agreement, and thereafter so long as FPL operates, uses or maintains any portion of the Substation:

(a) FPL shall procure and maintain, at FPL's sole cost and expense, commercial general liability insurance providing coverage which protects FPL and City and the City's Related Parties from and against any and all claims and liabilities for bodily injury, death and property damage arising from operations, premises liability, fire with respect to the Substation. Such insurance shall provide minimum coverage of $1,000,000.00 per occurrence and $2,000,000.00 aggregate. FPL shall be and remain liable for and pay all deductibles and other amounts not covered, paid or reimbursed under the insurance policies.

(b) FPL shall procure and maintain, at FPL's sole cost and expense, workers' compensation insurance as required by applicable law, and employers' liability insurance, with coverage amounts with a limit of (i) One Million Dollars ($1,000,000) for bodily injury per accident, (ii) One Million Dollars ($1,000,000) for bodily injury by disease per policy and (iii) One Million Dollars ($1,000,000) for bodily injury by disease per employee.

(c) The certificate of insurance required herein for commercial general liability insurance, including, without limitation, all renewals, shall include a blanket additional insured endorsement and provide for at least thirty (30) days advance notice to City of any non-renewal or cancellation. FPL shall provide City with a copy of certificates of insurance stating that the coverage as required herein is in full force and effect no later than the Effective Date. FPL shall

cause certificates of insurance or a self-insured letter in conformance with the requirements hereof to be promptly provided to City for each subsequent policy renewal.

(d) FPL's insurance in all instances shall be primary and any insurance that may be maintained by City shall be in excess of and shall not contribute with FPL's insurance. All insurance policies shall be issued by a company or companies licensed to do business in the State of Florida.

(e) City shall have the right to periodically review the adequacy of the required insurance, its forms and types, the amounts of coverage and, notwithstanding any other provision of this Agreement, unilaterally modify the insurance requirements of this Section 12 by giving notice of such modification to FPL. Such modification shall be as found reasonably necessary in the sole discretion of City. Factors which may be considered by City include, without limitation, changes in generally accepted insurance industry standards and practices, changes in use of the Substation Premises, changes in risk exposure, measurable changes in local and national economic indicators and changes in City's policies and procedures.

(f) FPL understands and acknowledges that the responsibility and obligation to provide and maintain insurance in the forms, types and coverages required herein are solely FPL's responsibilities and obligations which continue for the entire Term of this Agreement, and until such time as FPL no longer operates the Substation or enters the Substation Premises, whichever date is later.

(g) In the event that FPL fails for any reason to procure or maintain insurance in the forms, types or coverages required and to name City as an additional insured on the certificates of insurance, FPL shall cure such material breach within fifteen (15) calendar days after FPL is given notice of such breach. Should FPL fail to cure the breach within such period or such other time as may be agreed to by the Parties in writing, City in City's sole discretion may, but is not obligated to, secure replacement insurance coverage at FPL's sole expense. Should City elect to secure replacement insurance, FPL shall thereafter reimburse City within fifteen (15) calendar days of City's providing to FPL an invoice for the costs and premiums incurred by City for the replacement insurance coverage, plus an administrative charge of ten percent (10%) or $250.00, whichever is greater. FPL shall continue to be responsible for the payment of all deductibles applicable to the insurance policies and all losses incurred with respect to any lapse in coverage. Should FPL subsequently obtain the required insurance, FPL shall remain responsible for and reimburse City for all costs and expenses to City for the insurance premiums incurred by City and the administrative charges set forth in this Section 12(g).

(h) FPL's obligations under this Section 12 shall survive the termination or expiration of this Agreement.

13. No Consequential Damages. Notwithstanding any other provisions in this Agreement to the contrary, neither Party nor any of its elected officials, directors, officers, employees, lenders, shall be liable to the other Party for consequential, incidental, exemplary, punitive, anticipatory profits or indirect loss or damage of any nature, including, without limitation, loss of profit, loss of use, loss of operating time, loss of revenue, increased costs of producing revenues, cost of

capital or loss of goodwill whether arising in tort, contract, warranty, strict liability, by operation of law or otherwise, even if by such Party's, its representatives', agents', contractors', subcontractors', invitees' or licensees' negligence or fault, in connection with this Agreement, except to the extent claimed by third parties. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, sole remedy provisions and limitations on liability expressed in this Agreement shall survive termination or expiration of this Agreement and shall extend to the parent, affiliates, and subsidiaries of each Party and their respective, partners, directors, officers, and employees and elected officials.

14. Taxes. FPL shall pay any and all real property taxes for the Substation Premises during the entire Term of this Agreement. As used herein, the term "**real property tax**" shall include any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Substation Premises or any portion thereof by any authority having the direct or indirect power to tax, including, without limitation, any city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof, as against any legal or equitable interest of City or FPL in the Substation Premises or in any portion thereof. If separately assessed to FPL, FPL shall pay such real property taxes directly to the taxing authorities. FPL shall pay the real property taxes and shall deliver to City official receipts evidencing such payment, which payment of real property taxes shall be made and the receipts delivered at least thirty (30) days before the real property taxes would become delinquent in accordance with the law then in force governing the payment of such real property taxes. If, however, FPL desires to contest the validity of any real property taxes, FPL may do so without being in default hereunder, provided FPL gives City notice of FPL's intention to do so and provided the real property taxes are paid before any such real property taxes become delinquent after any applicable contest or appeal period.

15. Utility and Service Charges Associated with Substation. FPL shall be responsible for the payment of any and all water, gas, heat, light, power, telephone and other utilities and services supplied to the Substation Premises at FPL's request, together with any taxes on such services.

16. Compliance with Laws. During the Term, FPL shall, at its expense, comply with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Substation. Further, during the Term, FPL shall, at its expense, cause the Substation to attain compliance or remain in compliance with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Substation.

17. Assignment. City acknowledges that this Agreement and FPL's interests hereunder shall be subject to the encumbrance of FPL's pre-existing mortgage with Deutsche Bank Trust Company Americas. FPL shall not otherwise mortgage or assign its interest in this Agreement without the prior written consent of City, and such consent may be withheld in City's unfettered discretion unless such proposed assignment is to the purchaser of all or substantially all of the assets of Florida Power & Light Company, as a part of a bona fide sale by Florida Power & Light

Company to a third party purchaser for value and in such event City's consent will not be unreasonably withheld or delayed. Notwithstanding any assignment of this Agreement, FPL will not be released from any of its obligations hereunder unless such assignee executes an assignment and assumption agreement in form reasonably acceptable to City agreeing to be bound by the terms of this Agreement and City determines in its reasonable discretion that such assignee is creditworthy. Further, any assignment in violation of this Section 17 shall be deemed void and a breach of this Agreement by FPL.

18. Default and Remedies.

(a) **FPL Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by FPL**" under this Agreement by FPL:

(i) Failure by FPL to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by FPL, where such failure shall continue for a period of forty-five (45) days after notice thereof given by City to FPL. In the event the default cannot reasonably be cured within such forty-five (45) day period, FPL shall not be in default if FPL commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(ii) (A) The making by FPL of any general arrangement or general assignment for the benefit of creditors; (B) FPL becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against FPL, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of FPL's assets or of FPL's interest in this Agreement, where possession is not restored to FPL within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of FPL's assets or of FPL's interest in this Agreement, where such seizure is not discharged within sixty (60) days.

(b) **City Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by City**" under this Agreement by City:

(i) Failure by City to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by City, where such failure shall continue for a period of forty-five (45) days after notice thereof is given by FPL to City. In the event the default cannot reasonably be cured within such forty-five (45) day period, City shall not be in default if City commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(ii) (A) The making by City of any general arrangement or general assignment for the benefit of creditors; (B) City becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against City, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of City 's assets, where possession

is not restored to City within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of City's assets, where such seizure is not discharged within sixty (60) days.

(c) **Remedies.** If an Event of Default by FPL or an Event of Default by City occurs hereunder, the non-defaulting Party shall have the right at its option and without further notice, to exercise any remedy available at law or in equity, including, without limitation, a suit for specific performance of any obligations set forth in this Agreement or any appropriate injunctive or other equitable relief, or for damages resulting from such event of default. The Parties agree that remedies at law may be inadequate to protect against any actual or threatened breach of this Agreement. In the event of any breach or threatened breach, either Party shall have the right to apply for the entry of an immediate order to restrain or enjoin the breach and otherwise specifically enforce the provisions of this Agreement. In no event shall any Event of Default by FPL or Event of Default by City, terminate, or entitle either Party to terminate, rescind or cancel this Agreement or the rights granted hereunder. In the event that FPL or City, fail or neglect to do or perform any act that they are required to perform under this Agreement, following forty-five (45) days prior written notice (except in the event of an emergency), the other party may cure such default and be reimbursed by the other party within forty-five (45) days following receipt of the performing party's invoice and supporting documentation.

21. Condemnation. If the Substation Premises or any portion thereof are taken under the power of eminent domain, or sold under the threat of the exercise of such power (all of which are herein called "condemnation"), this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If so much of the Substation Premises is taken under the power of eminent domain such that the Substation Premises is no longer suitable for its intended use or suitable access cannot be provided to the Substation Premises, FPL may, at FPL's option, to be exercised in writing only within ten (10) days after City shall have given FPL written notice of such taking (or in the absence of such written notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. If FPL does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Substation Premises remaining. Any award for the taking of all or any part of the Substation Premises under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of City; provided, however, that FPL shall be entitled to any award for loss of FPL's easement interest in the Substation Premises created by this Agreement.

19. Recording. This Agreement shall be recorded in the Public Records of Indian River County, Florida at FPL's expense.

20. Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present a health risk to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

21. Severability. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or

other governmental authority: (a) such portion or provision shall be deemed separate and independent; (b) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling or adjudication; and (c) the remainder of this Agreement shall remain in full force and effect.

22. Repairs, Trash and Storage. City shall have absolutely no obligations of any kind for the repair, replacement, or maintenance of any part of the Substation or Access Parcel. FPL shall maintain the Substation and Access Parcel in a neat, clean, safe and sanitary condition. During the term of this Agreement FPL shall be solely responsible at its own expense for the regular removal from the Substation Premises and disposal of all refuse, garbage, debris, trash and other discarded materials and shall not allow refuse, garbage, debris and trash to accumulate on the Substation Premises. FPL shall not use the Substation Premises or Access Parcel for the storage of any materials, vehicles or equipment.

23. Waivers. Any waiver by either Party with respect to this Agreement must be in writing, signed by the Party granting the waiver, and shall be limited to the express terms set forth in the waiver.

24. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

25. Binding Effect. This Agreement shall bind the Parties, and their respective successors and permitted assigns.

26. Right of Entry. Subject to City's duties, if any, relating to police, fire and other municipal services for which no advance notice is required, City, or any of its agents, shall have the right to enter the Substation Premises during reasonable hours to examine the same but only when accompanied by a qualified or designated employee of FPL.

27. Force Majeure. In the event that either Party is unable to fulfill, or shall be delayed or restricted in the fulfillment of any obligation, or the curing of a default, under any provision of this Agreement due to reasons outside of its reasonable control, or not wholly or mainly within such Party's reasonable control, including strike, lock-out, war, acts of military authority, acts of terrorism, sabotage, rebellion or civil commotion, fire or explosion, flood, wind, storm, hurricane, water, earthquake, acts of God or other casualty or by reason of any statute or law or any regulation or order passed or made, or by reason of any order or direction of any administrator, controller, board or any governmental department or officer or other authority (other than, in the case of City claiming relief under this Section 27, any statute or law or any regulation or order passed or made, or by reason of any order or direction of, any administrator, controller, board or any governmental department or officer or other authority of City), and whether of the foregoing character or not, such Party shall, so long as any such impediment exists, be relieved from the fulfillment of such obligation and the other Party shall not be entitled to compensation for any damage, inconvenience, nuisance or discomfort thereby occasioned or to terminate this Agreement.

28. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument.

29. Attorneys' Fees. In the event of any dispute between the Parties relating to this Agreement, each Party shall pay its own legal fees except as otherwise provided herein. Any monetary judgment rendered in any litigation concerning this Agreement shall bear interest at the highest rate allowed by applicable law. The foregoing provisions shall survive expiration or earlier termination of this Agreement.

30. Notices. Every notice, approval, consent or other communication required or permitted under this Agreement shall be in writing, shall be deemed to have been duly given on the date of receipt, and shall be deemed delivered if either served personally on the Party to whom notice is to be given, or sent to the Party to whom notice is to be given, by overnight courier or by first class registered or certified mail (return receipt requested), postage prepaid, and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by notice given to the other Party in the manner provided in this Section.

To City:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Manager
With a required copy to:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Attorney
To FPL:	Florida Power & Light Company 700 Universe Boulevard, LAW/JB Juno Beach, Florida 33408 Attention: Corporate Real Estate
With a required copy to:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Law Department

31. No Personal Liability. Excluding any successor-in-interest to FPL or City under this Easement, notwithstanding anything to the contrary in this Agreement, no present or future parent, subsidiary, affiliate, member, principal, shareholder, manager, officer, official, director, or employee of FPL or City will be personally liable, directly or indirectly, under or in connection with this Agreement, or any document, instrument or certificate securing or otherwise executed in connection with this Agreement, or any amendments or modifications to any of the foregoing made at any time or times, or with respect to any matter, condition, injury or loss related to this Agreement, and each of the Parties, on behalf of itself and each of its successors and assignees, waives and does hereby waive any such personal liability.

32. Entire Agreement. This Agreement and any exhibits, schedules or addenda attached hereto and forming a part hereof, contains the entire agreement between the Parties hereto with respect to the subject matter of this Agreement, and supersedes all previous negotiations leading

thereto, and it may be modified only by an agreement in writing executed and delivered by City and FPL. All exhibits, schedules or addenda attached to this Agreement are expressly incorporated herein by this reference.

33. Governing Law; Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF CITY AND FPL, FPL'S USE OF THE SUBSTATION, OR ANY CLAIM FOR INJURY OR DAMAGE, SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. THE FOREGOING PROVISIONS OF THIS SECTION SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

34. WAIVER OF JURY TRIAL. THE PARTIES HERETO SHALL, AND THEY HEREBY DO, IRREVOCABLY WAIVE TRIAL BY JURY IN ANY AND EVERY ACTION OR PROCEEDING BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF CITY AND FPL, FPL'S USE OR OPERATION OF THE SUBSTATION, AND ANY CLAIM FOR INJURY OR DAMAGE. THE FOREGOING PROVISIONS OF THIS SECTION SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

35. City/FPL Relationship; No Third Party Beneficiaries. This Agreement creates a grantor/grantee relationship, and no other relationship, between the Parties. This Agreement is for the sole benefit of the Parties hereto and, except for assignments permitted hereunder, no other person or entity shall be a third party beneficiary hereunder.

36. No Waiver of Regulatory Authority or Right of Eminent Domain. Nothing in this Agreement constitutes a waiver of City's regulatory, public safety or other municipal authority with respect to the construction of improvements or any other matter. Further, nothing in this Agreement shall be deemed to waive City's or FPL's right of eminent domain.

37. Sovereign Immunity. City is a Florida municipal corporation whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of City beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of City's sovereign immunity under section 768.28, Florida Statutes, or otherwise. Nothing hereby shall inure to the benefit of any third party for any purpose, including, without limitation, anything that might allow claims otherwise barred by sovereign immunity or operation of law.

38. Time, Interpretation. In computing any period of time pursuant to this Agreement, the day of the act, event or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. A legal holiday as used in this Agreement includes days on which banks in Vero Beach, Florida are not open for regular business. Time is of the essence. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. This Agreement shall not be construed more strongly against or for either Party regardless of the drafter. Unless the context otherwise requires, (a) all references to Sections or Exhibits are to Sections or Exhibits in or to this Agreement, and (b) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter and the term "including" shall mean by way of example and not by way of limitation.

[Remainder of page intentionally blank; Signature pages follows]

City of Vero Beach Execution Pages

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date.

CITY:

ATTEST: **CITY OF VERO BEACH**

_____ By:_____
Tammy K. Bursick Laura Moss
City Clerk Mayor

[SEAL]

WITNESSES:

_____
Print
name:_____

_____
Print
name:_____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this _____ day of _____ _____ 2016 by **Laura Moss, as Mayor**, and attested by **Tammy K. Bursick, as City Clerk**, of the City of Vero Beach, Florida. They are both known to me.

_____
NOTARY PUBLIC
Print name:
Commission No. [SEAL]
My Commission Expires:

ADMINISTRATIVE REVIEW

(For Internal Use Only–Sec. 2-77 COVB Code)

Approved as to form and legal sufficiency:

Wayne R. Coment
City Attorney

Approved as conforming to municipal policy:

James R. O'Connor
City Manager

Approved as to technical requirements:

Ted Fletcher
Director of Electric Utility Operations

Approved as to technical requirements:

Cynthia D. Lawson
Director of Finance

Approved as to technical requirements:

Timothy J. McGarry
Director of Planning and Development

Florida Power & Light Company Execution Page

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date specified in this Agreement.

WITNESSES:

FPL:

FLORIDA POWER & LIGHT COMPANY, a Florida corporation

_____
Print
name:_____

By:_____
Name:_____
Title:_____

_____
Print
name:_____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this day of _____, 20__, by , the of **FLORIDA POWER & LIGHT COMPANY**, a Florida corporation, who [ ] is personally known to me or [ ] has produced as identification.

_____
Notary Public, State of Florida at Large
Seal: Print Name: _____
Notary Commission No.: _____
My Commission Expires: _____

Substation Easement Agreement by and between the City of Vero Beach, Florida and Florida Power & Light Company

Exhibit "A"

Substation Premises Legal Description and Map

NEW SUBSTATION EASEMENT
(SUBJECT TO REVISION)

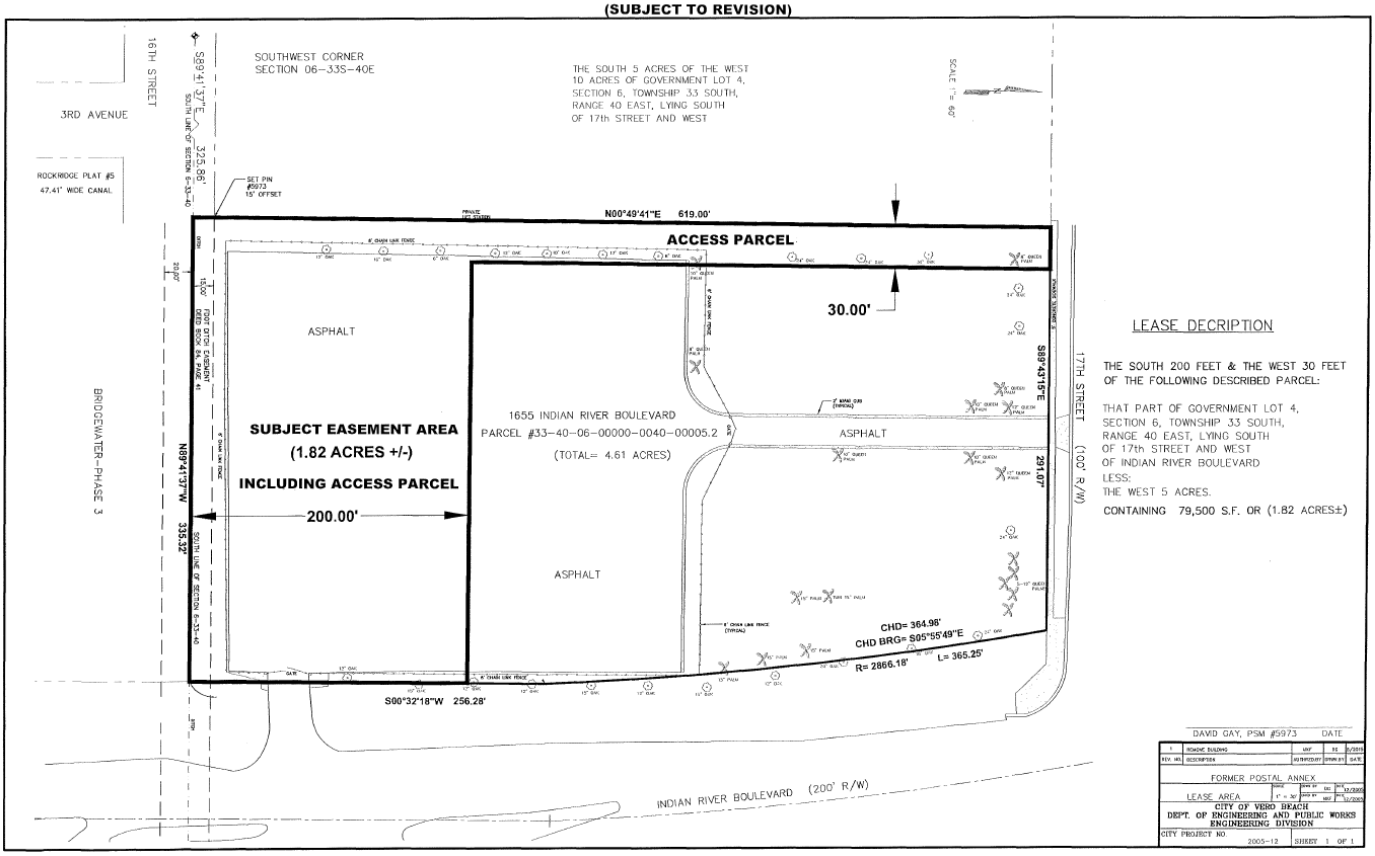
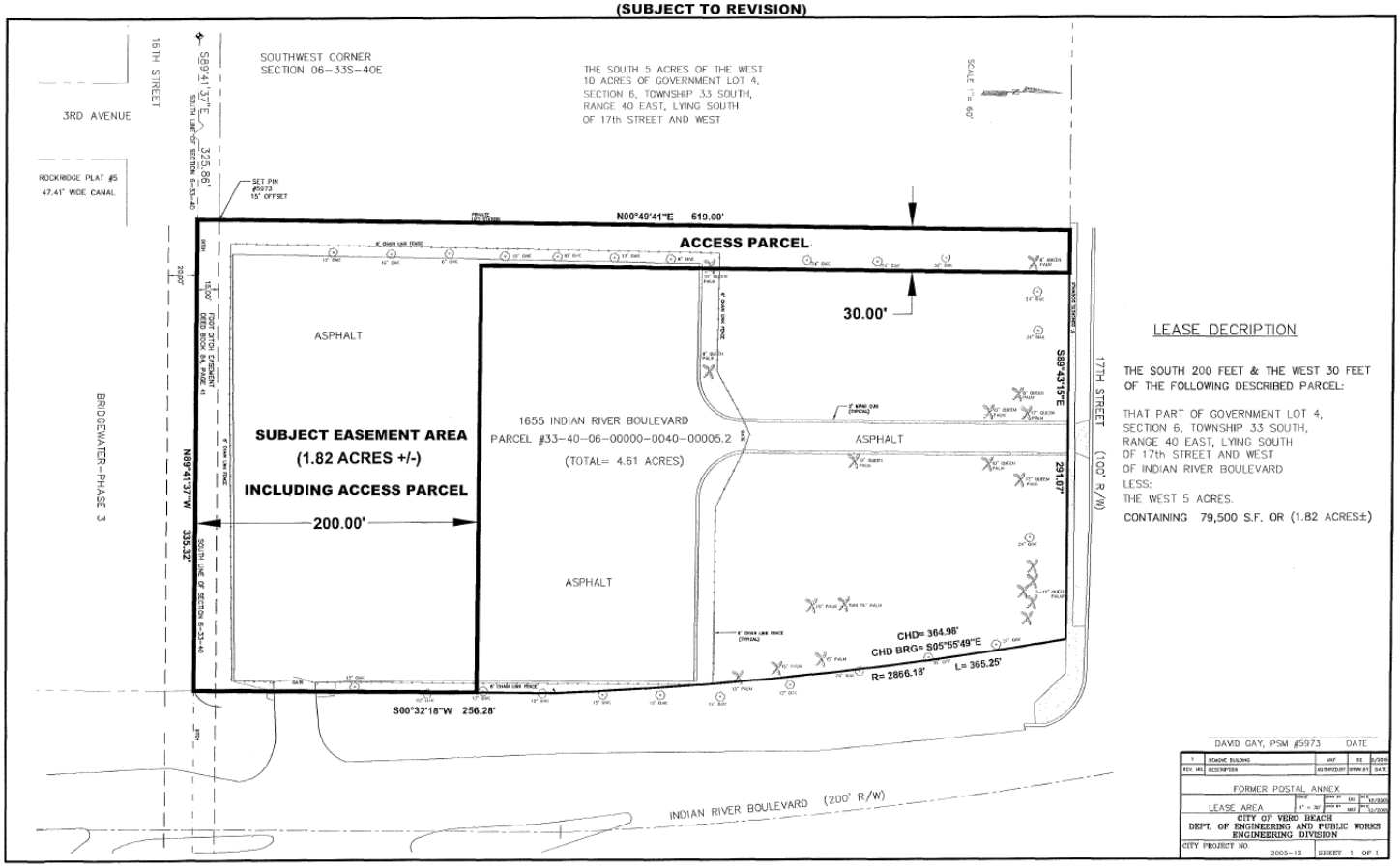


Exhibit "B"
Access Parcel Legal Description and Map

NEW SUBSTATION EASEMENT
(SUBJECT TO REVISION)



LEASE DECRIPTION

THE SOUTH 200 FEET & THE WEST 30 FEET OF THE FOLLOWING DESCRIBED PARCEL:

THAT PART OF GOVERNMENT LOT 4, SECTION 6, TOWNSHIP 33 SOUTH, RANGE 40 EAST, LYING SOUTH OF 17th STREET AND WEST OF INDIAN RIVER BOULEVARD
LESS:
THE WEST 5 ACRES.

CONTAINING 79,500 S.F. OR (1.82 ACRES±)

DAVID GAY, PSM #5973 DATE

FORMER POSTAL ANNEX
LEASE AREA
CITY OF VERO BEACH
DEPT. OF ENGINEERING AND PUBLIC WORKS
ENGINEERING DIVISION
CITY PROJECT NO. 2005-12 SHEET 1 OF 1

Exhibit L-3

Form of Substation Equipment Operating and Dismantling Agreement

[*Exhibit begins on the following page.*]

SUBSTATION EQUIPMENT OPERATING AND DISMANTLING AGREEMENT

THIS SUBSTATION EQUIPMENT OPERATING AND DISMANTLING AGREEMENT (the "**Agreement**"), made and entered into as of [_____ __], 201[__] (the "**Effective Date**"), is between CITY OF VERO BEACH, FLORIDA, a Florida municipal corporation (herein called "**City**"), with an address of 1053 20th Place, Vero Beach, FL 32960, and FLORIDA POWER & LIGHT COMPANY, a Florida corporation (herein called "**FPL**"), with an address of 700 Universe Boulevard, Juno Beach, FL 33408. City and FPL are sometimes together referred to herein as the "**Parties**" and individually as a "**Party.**"

RECITALS

A. As of the Effective Date, City has sold, assigned and conveyed certain electric utility assets of City to FPL, as contemplated under that certain Asset Purchase and Sale Agreement, dated [_____], 2017, by and between City and FPL (the "**Asset Purchase and Sale Agreement**"). As used in this Agreement, the "**Vero Beach Electric Utility**" means the electric utility system of electricity transmission and distribution owned or operated by FPL providing retail electric service to City of Vero Beach's electric utility customers on and after the Effective Date.

B. However, City has retained ownership of the real property located in the area described and depicted on attached **Exhibit "A"** (the "**Substation Premises**") and all of the equipment, poles, lines and improvements located thereon (collectively, the "**Substation Equipment**"). A list identifying the Substation Equipment is attached hereto as **Exhibit "B."** The Substation Premises together with the Substation Equipment may be referred to collectively as the "**Substation**."

C. Prior to execution of the Asset Purchase and Sale Agreement, FPL obtained a Phase I environmental assessment of the Substation Premises that identified various recognized environmental conditions identified on **Schedule "1"** attached hereto.

D. Prior to the Effective Date, FPL may have obtained an Phase II environmental assessment and all recognized environmental conditions set forth in such Phase II are identified on **Schedule "2"** attached hereto (the "**Baseline Recognized Environmental Conditions**").

E. FPL intends to construct a new substation (the "**New Substation**") on property west of Indian River Boulevard in Vero Beach pursuant to that certain Substation Easement Agreement between the Parties, the "**New Substation Easement Agreement**")] to replace the Substation, but, in order for FPL to provide reliable retail electric services to its electric utility customers as contemplated by the Asset Purchase and Sale Agreement, the Substation Equipment must remain in operation until the New Substation is completed.

F. City seeks to have the Substation Equipment dismantled and removed from the Substation Premises as soon as practical, but FPL has requested that City permit the continued operation of the Substation Equipment for a limited period of time (the "**Construction Period**") described herein.

G. City desires its citizens to have reliable electric service and, for that reason, is willing to delay dismantling the Substation Equipment for the Construction Period, so that the Substation Equipment may be used as a part of the Vero Beach Electric Utility on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of and subject to the terms, covenants, agreements, provisions and limitations set forth in this Agreement, City and FPL agree as follows:

1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

2. City's Continued Ownership of Substation Equipment. For the duration of the Construction Period, the Substation Equipment will remain owned by City, and City will take no action to remove the Substation Equipment from the Substation Premises or to dismantle the Substation Equipment.

3. FPL's Appointment as Bailee of the Substation Equipment. City hereby appoints FPL as its bailee of the Substation Equipment during the Construction Period, and FPL hereby accepts such appointment. As a result of its appointment as bailee, FPL hereby accepts from City the right to possess and control the Substation Equipment during the Construction Period for the limited purposes described in this Agreement. Except as may be set forth in this Agreement, FPL accepts and assumes all responsibilities, obligations and liabilities associated with the Substation Equipment during the Construction Period.

4. Access to Substation Equipment. The Parties acknowledge that FPL will have control of the Substation Equipment during the Construction Period and will require access to the Substation in order to exercise its obligations under this Agreement. Accordingly, during the Construction Period, City will take no action to prevent FPL from accessing the Substation, and, to the extent practical, City will provide FPL with reasonable access to the Substation so that FPL can perform its duties relating to the Substation Equipment at all times during the Construction Period.

5. FPL Duty to Protect and Maintain. At all times during the Construction Period, and at its own expense, FPL shall protect and maintain the Substation Equipment in good working condition in accordance with electric utility industry standard best practices and all federal and state regulations, orders and other requirements applicable to the Substation Equipment. To protect the Substation Equipment, and to protect the general public from the dangers inherent in the operation of the Substation Equipment, at all times during the Construction Period, and at its own expense, FPL shall restrict access to the Substation to those with a reasonable need for such access. At all times during the Construction Period, and at its own expense, FPL shall protect and maintain the Substation Premises including any fencing or other barrier around the Substation Premises in accordance with electric utility industry standard best practices and all federal and state regulations, orders and other requirements applicable to the Substation Premises.

6. Use of Substation Equipment. City consents to FPL's use of the Substation Equipment as an operating part of the Vero Beach Electric Utility during the Construction Period, but FPL may not use the Substation for any other purpose.

7. Construction Period. Unless otherwise provided by this Agreement, the Construction Period shall commence on the Effective Date and shall terminate (the "**Termination Date**") on the earliest of the following: (i) the date that is thirty (30) calendar months after the Effective Date, as may be extended to account for delays in the commencement of operations of the new Substation to the extent provided for in the New Substation Easement Agreement; (ii) the date that is eighteen (18) calendar months after the New Substation first begins to operate as a part of the Vero Beach Electric Utility; or (iii) the date that is eighteen (18) calendar months after the Substation Equipment ceases to be used as an operating part of the Vero Beach Electric Utility.

8. Dismantling Substation Equipment and Relocation of Fiber Optic Lines Prior to Termination Date.

(a) On or before the Termination Date, FPL shall, at its sole cost and expense, remove all the Substation Equipment from the Substation Premises. FPL's obligations to remove the Substation Equipment from the Substation Premises include the obligation to remove any and all fixtures and any and all improvements that may exist on, over or under the Substation Premises such as, but not limited to, lines, structures, poles, concrete slabs, footers, reinforcements, gates and fences. After removal of the Substation Equipment from the Substation Premises, FPL shall place sod, or other ground covering as City may approve, over and across the entire Substation Premises. To the extent the Substation Equipment has any salvage value or otherwise may be used by FPL, FPL will be entitled to retain the Substation Equipment after it is removed from the Substation Premises and may retain any and all sums it may receive from salvaging the Substation Equipment. Furthermore, City will assign to FPL any right, title and interest City may have in or to the Substation Equipment effective as of the time it is removed from the Substation Premises so that FPL may deal with such Substation Equipment as it deems appropriate.

(b) A portion of the Fiber Optic System, as defined in the Asset Purchase and Sale Agreement, is serving, connected with or existing on or under the Substation Premises. As a part of its work to dismantle the Substation Equipment, FPL shall remove and relocate or replace the portions of the Fiber Optic System serving, connected with or existing on or under the Substation Premises either along the new electrical distribution poles that are installed to facilitate the replacement of the existing Substation Equipment with equipment to be located in New Substation or to be dead-ended at an existing and remaining distribution pole, as decided by the City (the "***Fiber Optic Substitution Work***"). To the extent the City desires to relocate the fiber optic lines and equipment through an alternate location, the incremental cost above relocating the fiber optic lines to the new distribution poles and equipment to a location adjacent to the New Substation shall be at the City's expense. To the extent the dismantlement of the Substation Equipment will prevent the Fiber Optic System from remaining fully operational, FPL will perform the Fiber Optic Substitution Work in a manner that allows the Fiber Optic System to remain fully operational at all times in order to provide municipal services, and FPL's work to remove and relocate, replace or dead-end the affected portions of the Fiber Optic System shall be performed in accordance with this Agreement, subject to agreement by the other owners of the

Fiber Optic System. Within the Construction Period, subject to the City's timely direction as to whether the Fiber Optic System will be relocated to the new distribution poles and adjacent to the New Substation or dead-ended, FPL shall, at its sole cost and expense, remove and relocate the portion of the Fiber Optic System serving or on the Substation Premises, dead-end the existing fiber optic lines at the direction of the City, or install new fiber optic lines as may be necessary or expedient to relocate the fiber optic lines serving or on the Substation Premises to the new distribution poles, or to such new location (subject to the City's reimbursement obligation as set forth above). The Parties shall exercise commercially reasonable efforts to develop the plan for relocation and construction involving the Fiber Optic System as described in this Section 8 (b) including reimbursement procedures, the selection of contractors and procurement of equipment to perform the Fiber Optic Substitution Work, and the review and approval of plans and specifications, in accordance with each Parties' standard practices.

(c) With respect to remediation of any Releases at the Substation Premises or migrating from the Power Plant Site, FPL will remediate such Release, including any Baseline Recognized Environmental Conditions or Hazardous Substances migrating from the Power Plant Site (such Baseline Recognized Environmental Conditions and Hazardous Substances migrating from the Power Plant Site (but excluding any impacts to extent of any contribution or exacerbation by FPL), the "**City Responsible Environmental Conditions**") as part of dismantling the Substation or earlier if required by the Florida Department of Environmental Protection or Environmental Protection Agency, as applicable, subject the following conditions:

(1) Unless otherwise agreed by the Parties, FPL will remediate a Release to the least stringent standard permitted by the Florida Department of Environmental Protection and Environmental Protection Agency, as applicable, and obtain a final non-appealable agency action approving such remediation, if applicable (such remediation standard, the "**Minimum Required Standard**"). The City may direct FPL to remediate to a higher (cleaner) standard in which case the incremental cost (the "**Incremental Cost**") will be the City's responsibility.

(2) If the cost of remediating any City Responsible Environmental Conditions to the Minimum Required Standard, or such higher standard as may be requested or required by the City, will exceed $50,000 as reasonably estimated by FPL based on reasonable bids from a third party contractor in accordance with FPL's standard procurement practices, the total cost of remediating the City Responsible Environmental Condition will be the responsibility of City ; subject to the limitation set forth in Section 8(c)(4), below.

(3) If the Florida Department of Environmental Protection or Environmental Protection Agency requires remediation or other actions (e.g., monitoring) prior to dismantling the Substation, FPL has the sole right to direct such remediation activities regardless of the estimated cost and the City shall be responsible for the costs associated with remediating the City Responsible Environmental Conditions, subject to the limitation set forth in Section 8(c)(4), below.

(4) With respect to the City's payment obligations set forth in Section 8(c)(2)-(3), the City shall reimburse FPL within fifteen (15) calendar days of FPL's providing to the City an invoice for the costs incurred by FPL along with copies of the underlying invoices from the contractors who performed the work. Notwithstanding anything herein to the contrary, in no

event shall the City shall be responsible for the costs to remediate City Responsible Environmental Conditions in excess of the Aggregate Environmental Cap as defined in Section 6.22 of the Asset Purchase and Sale Agreement, except for Incremental Costs that exceed the Aggregate Environmental Cap.

9. Representations and Warranties.

(a) City represents and warrants to FPL as follows:

(i) City has full power and authority to enter into this Agreement.

(ii) The person executing and delivering this Agreement on City's behalf is acting pursuant to proper authorization and this Agreement is the valid, binding and enforceable obligation of City enforceable against City in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

(b) FPL represents and warrants to City as follows:

(i) FPL is a corporation duly incorporated, validly existing and having active status under the laws of the State of Florida, with the necessary corporate power and authority to enter into this Agreement.

(ii) The person executing and delivering this Agreement on FPL's behalf is acting pursuant to proper authorization, and this Agreement is the valid, binding and enforceable obligation of FPL enforceable against FPL in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

10. Hazardous Materials.

(a) For purposes of this Agreement:

(i) "***Environmental Laws***" means all applicable federal, state or local laws, statutes, ordinances, rules, regulations or other governmental restrictions regarding pollution or protection of the environment, the conservation and management of land, natural resources and wildlife or human health and safety or the Occupational Safety and Health Act (only as it relates to Hazardous Substances), including laws regarding Releases or threatened Releases of Hazardous Substances (including Releases to ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, Release, transport, disposal or handling of Hazardous Substances.

(ii) "***Hazardous Substances***" means: (i) any petroleum, asbestos, asbestos-containing material, and urea formaldehyde foam insulation and transformers or other equipment that contains polychlorinated biphenyls; (ii) any chemicals, materials or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "contaminants," "pollutants," "toxic pollutants," "hazardous air pollutants" or words of similar meaning and regulatory effect under any applicable Environmental Law; and (iii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

(iii) ***"Power Plant Site"*** has the meaning set forth in the Asset Purchase and Sale Agreement.

(iv) "***Release***" means any actual, threatened or alleged spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping or disposing of a Hazardous Substance into the environment or within any building, structure, facility or fixture.

(b) FPL shall indemnify, defend and hold harmless City from and against, and pay, reimburse and fully compensate as the primary obligor City for, any and all claims, suits, judgments, loss, damage and liability which may be incurred by City including, without limitation, City's reasonable attorneys' fees, paralegal fees, expert fees, and costs, through regulatory proceedings, trial, and review or appeal, arising in any way from Hazardous Substances existing or Released on, in, under, from or related to the Substation during the Construction Period in violation of Environmental Laws, or any violation of the Environmental Laws, by FPL, its agents, licensees, invitees, subcontractors or employees on, in, under or related to the Substation during the Construction Period; provided, however, FPL assumes no liability with respect to any City Responsible Environmental Conditions, and no duty or obligation to indemnify, defend and hold harmless City or any of the City's Related Parties with respect to such City Responsible Environmental Conditions except as expressly set forth herein. FPL's responsibility to the extent explicitly set forth in this Agreement and subject to the express limitations contained in this Agreement shall continue to be in effect for any such Release or presence of Hazardous Substances as to which City gives notice to FPL on or before the fifth (5^{th}) anniversary of the Expiration Date. In no event shall FPL be liable for any Release that occurs after the Construction Period except to the extent such Release is caused by FPL, its agents, licensees, invitees, subcontractors or employees. FPL's obligation to provide the indemnity, defense and hold harmless required by this Agreement shall survive the expiration or termination of this Agreement.

11. Assumption of Risk; Indemnification. FPL agrees as follows:

(a) Except as specifically provided in this Agreement, FPL acknowledges and agrees that City has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future of, as to,

concerning or with respect to the Substation Equipment and that the rights granted with respect to the Substation Equipment provided for in this Agreement are made on an "as is" condition and basis and with all faults. Without in any way limiting the generality of the foregoing, the grant of rights contemplated hereby is without any warranty other than City's express representations and warranties in this Agreement; and City and City's elected and appointed officials, officers, directors, employees, and affiliates (collectively the "**City's Related Parties**") have made no, and expressly and specifically disclaim, and FPL accepts that City and the City's Related Parties have disclaimed, any and all representations, guaranties or warranties, express or implied, or arising by operation of law (except for the representations and warranties, if any, expressly made by City in this Agreement), of or relating to: (i) the use, expenses, operation, characteristics or condition of the Substation Equipment, or any portion thereof, including, without limitation, warranties of suitability, habitability, merchantability, design or fitness for any specific or particular purpose, or good and workmanlike construction; (ii) the environmental condition of the Substation Premises, or contamination by hazardous materials, or the compliance of any portion of the Substation Premises with any or all Environmental Laws; or (iii) the soil conditions, drainage, flooding characteristics, accessibility or other conditions existing in, on or under any portion of the Substation Premises. FPL acknowledges and agrees that it is not relying on any representations or statements (oral or written) which may have been made or may be made by City or any of the City's Related Parties (except for City's representations and warranties expressly set forth in this Agreement), and is relying solely upon FPL's or FPL's representatives' own physical inspection of the Substation Equipment and Premises and other investigations by FPL or FPL's representatives. FPL acknowledges that any condition of the Substation Equipment or Premises, whether apparent or latent, which FPL discovers or desires to correct or improve on or after the Effective Date shall be subject to City's review and approval rights, as set forth in this Agreement, and shall be at FPL's sole expense.

(b) FPL recognizes and hereby expressly and fully assumes all risks, known and unknown, that arise or might arise incidental to or in any way connected with the condition or use of the Substation Equipment or Premises. This assumption of risk by FPL is made for and on behalf of FPL and FPL's successors, and permitted assigns.

(c) FPL agrees to indemnify, defend and hold harmless City and City's Related Parties against any and all claims, including costs and expenses, of any kind or nature, including, without limitation, costs of investigation, attorneys' fees, paralegal fees, experts' fees and costs through regulatory proceedings, trial and review or appeal, including but not limited to claims for personal injury, death of persons and property damage, or other liability to the extent arising from FPL's use, improvement, operation, condition or maintenance of the Substation Equipment or Premises, provided however that this indemnity shall not apply to the negligence or willful misconduct of the City and/or the City's Related Parties as determined by a court of competent jurisdiction.

(d) FPL's obligations under this Section 11 shall survive the termination of this Agreement.

12. Construction, Mechanics and Materialmen's Liens. FPL will make no alteration, change, improvement or addition to the Substation without the prior written consent of City which will not be unreasonably withheld, conditioned or delayed. FPL will be responsible for

payment of any and all work performed on FPL's behalf on the Substation Equipment or Premises. In no event will City be responsible for payment of any work relating to the Substation nor will the Substation, or any interest therein, be subject to any lien for payment of any construction or similar work performed by or for FPL on or for the Substation. Further, FPL shall promptly notify the contractor performing any such work or alterations on the Substation at FPL's request or making such improvements to the Substation at FPL's request of this provision exculpating City of responsibility for payment and liens. Notwithstanding the foregoing, if any mechanic's lien or other lien, attachment, judgment, execution, writ, charge or encumbrance is filed or recorded against any portion of the Substation as a result of any work performed on or materials delivered to the Substation Premises or Access Parcel at FPL's direction, FPL shall, within sixty (60) days following written notice of any such lien, cause same to be paid, discharged or otherwise removed of record. In the event that FPL fails to remove any such mechanics or materialmen's lien relating to FPL's work at the Substation, the City may cause such lien to be removed and FPL shall reimburse City for all reasonable costs and expenses, including attorney's or paralegal fees incurred by City within forty-five (45) days following receipt of City's written invoice and supporting documentation.

13. Insurance. City understands that FPL self-insures, and that prior to accessing the Substation, FPL will provide City with a letter of such self-insurance. In the event that FPL ceases to self-insure, then, during the Construction Period, and thereafter so long as FPL operates, uses or maintains any portion of the Substation:

(a) FPL shall procure and maintain, at FPL's sole cost and expense, commercial general liability insurance providing coverage which protects FPL and City and the City's Related Parties from and against any and all claims and liabilities for bodily injury, death and property damage arising from operations, premises liability, fire with respect to the Substation. Such insurance shall provide minimum coverage of $1,000,000.00 per occurrence and $2,000,000.00 aggregate. FPL shall be and remain liable for and pay all deductibles and other amounts not covered, paid or reimbursed under the insurance policies.

(b) FPL shall procure and maintain, at FPL's sole cost and expense, workers' compensation insurance as required by applicable law, and employers' liability insurance, with coverage amounts with a limit of (i) One Million Dollars ($1,000,000) for bodily injury per accident, (ii) One Million Dollars ($1,000,000) for bodily injury by disease per policy and (iii) One Million Dollars ($1,000,000) for bodily injury by disease per employee.

(c) The certificate of insurance required herein for commercial general liability insurance, including, without limitation, all renewals, shall include a blanket additional insured endorsement and provide for at least thirty (30) days advance notice to City of any non-renewal or cancellation. FPL shall provide City with a copy of certificates of insurance stating that the coverage as required herein is in full force and effect no later than the Effective Date. FPL shall cause certificates of insurance or a self-insured letter in conformance with the requirements hereof to be promptly provided to City for each subsequent policy renewal.

(d) FPL's insurance in all instances shall be primary and any insurance that may be maintained by City shall be in excess of and shall not contribute with FPL's insurance. All

insurance policies shall be issued by a company or companies licensed to do business in the State of Florida.

(e) City shall have the right to periodically review the adequacy of the required insurance, its forms and types, the amounts of coverage and, notwithstanding any other provision of this Agreement, unilaterally modify the insurance requirements of this Section 13 by giving notice of such modification to FPL. Such modification shall be as found reasonably necessary in the sole discretion of City. Factors which may be considered by City include, without limitation, changes in generally accepted insurance industry standards and practices, changes in use of the Substation Premises, changes in risk exposure, measurable changes in local and national economic indicators and changes in City's policies and procedures.

(f) FPL understands and acknowledges that the responsibility and obligation to provide and maintain insurance in the forms, types and coverages required herein are solely FPL's responsibilities and obligations which continue for the entire Term of this Agreement, and until such time as FPL no longer operates the Substation or enters the Substation Premises, whichever date is later.

(g) In the event that FPL fails for any reason to procure or maintain insurance in the forms, types or coverages required and to name City as an additional insured on the certificates of insurance, FPL shall cure such material breach within fifteen (15) calendar days after FPL is given notice of such breach. Should FPL fail to cure the breach within such period or such other time as may be agreed to by the Parties in writing, City in City's sole discretion may, but is not obligated to, secure replacement insurance coverage at FPL's sole expense. Should City elect to secure replacement insurance, FPL shall thereafter reimburse City within fifteen (15) calendar days of City's providing to FPL an invoice for the costs and premiums incurred by City for the replacement insurance coverage, plus an administrative charge of ten percent (10%) or $250.00, whichever is greater. FPL shall continue to be responsible for the payment of all deductibles applicable to the insurance policies and all losses incurred with respect to any lapse in coverage. Should FPL subsequently obtain the required insurance, FPL shall remain responsible for and reimburse City for all costs and expenses to City for the insurance premiums incurred by City and the administrative charges set forth in this Section 13(g).

(h) FPL's obligations under this Section 13 shall survive the termination or expiration of this Agreement.

14. No Consequential Damages. Notwithstanding any other provisions in this Agreement to the contrary, neither Party nor any of its elected officials, directors, officers, employees, lenders, shall be liable to the other Party for consequential, incidental, exemplary, punitive, anticipatory profits or indirect loss or damage of any nature, including, without limitation, loss of profit, loss of use, loss of operating time, loss of revenue, increased costs of producing revenues, cost of capital or loss of goodwill whether arising in tort, contract, warranty, strict liability, by operation of law or otherwise, even if by such Party's, its representatives', agents', contractors', subcontractors', invitees' or licensees' negligence or fault, in connection with this Agreement, except to the extent claimed by third parties. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, sole remedy provisions and

limitations on liability expressed in this Agreement shall survive termination or expiration of this Agreement and shall extend to the parent, affiliates, and subsidiaries of each Party and their respective, partners, directors, officers, and employees and elected officials.

15. Charges Associated with Substation. FPL shall be responsible for the payment of any and all water, gas, heat, light, power, telephone and other utilities and services supplied to the Substation Premises at FPL's request, together with any taxes on such services. In addition, to the extent that any taxes are due on any consideration due to City under this Agreement and any taxes are assessed thereon or on the Substation Premises during the Construction Period, FPL shall pay all such taxes or reimburse City for such taxes at City's option.

16. Compliance with Laws. During the Construction Period, FPL shall, at its expense, comply with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Substation. Further, during the Construction Period, FPL shall, at its expense, cause the Substation to attain compliance or remain in compliance with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Substation.

17. Assignment and Subletting. City acknowledges that this Agreement and FPL's interests hereunder may be subject to the encumbrance of FPL's loan with Deutsche Bank Trust Company Americas. FPL shall not otherwise assign its interest in this Agreement without the prior written consent of City, and such consent may be withheld in City's unfettered discretion unless such proposed assignment is to the purchaser of all or substantially all of the assets of Florida Power & Light Company, as a part of a bona fide sale by Florida Power & Light Company to a third party purchaser for value and in such event City's consent will not be unreasonably withheld or delayed. Notwithstanding any assignment of this Agreement, FPL will not be released from any of its obligations hereunder unless such assignee executes an assignment and assumption agreement in form reasonably acceptable to City agreeing to be bound by the terms of this Agreement and City determines in its reasonable discretion that such assignee is creditworthy. Further, any assignment in violation of this Section 17 shall be deemed void and a breach of this Agreement by FPL.

18. Default and Remedies.

(a) **FPL Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by FPL**" under this Agreement by FPL:

(i) Failure by FPL to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by FPL, where such failure shall continue for a period of forty-five (45) days after notice thereof given by City to FPL. In the event the default cannot reasonably be cured within such forty-five (45) day period, FPL shall not be in default if FPL commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(ii) (A) The making by FPL of any general arrangement or general assignment for the benefit of creditors; (B) FPL becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against FPL, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of FPL's assets or of FPL's interest in this Agreement, where possession is not restored to FPL within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of FPL's assets or of FPL's interest in this Agreement, where such seizure is not discharged within sixty (60) days.

(b) **City Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by City**" under this Agreement by City:

(i) Failure by City to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by City, where such failure shall continue for a period of forty-five (45) days after notice thereof is given by FPL to City. In the event the default cannot reasonably be cured within such forty-five (45) day period, City shall not be in default if City commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(ii) (A) The making by City of any general arrangement or general assignment for the benefit of creditors; (B) City becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against City, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of City 's assets, where possession is not restored to City within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of City's assets, where such seizure is not discharged within sixty (60) days.

(c) **Remedies.** If an Event of Default by FPL or an Event of Default by City occurs hereunder, the non-defaulting Party shall have the right at its option and without further notice, but subject to the limitations set forth in the last sentence of this subsection, to exercise any remedy available at law or in equity, including, without limitation, a suit for specific performance of any obligations set forth in this Agreement or any appropriate injunctive or other equitable relief, or for damages resulting from such event of default. The Parties agree that remedies at law may be inadequate to protect against any actual or threatened breach of this Agreement. In the event of any breach or threatened breach, either Party shall have the right to apply for the entry of an immediate order to restrain or enjoin the breach and otherwise specifically enforce the provisions of this Agreement. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, in no event shall any Event of Default by FPL or Event of Default by City, terminate, or entitle any Party to terminate, rescind or cancel this Agreement or the rights granted hereunder except that City may terminate this Agreement, at its option, for an Event of Default by FPL of the requirements of Section 6 of this Agreement. In the event that FPL, by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed, shall be in default under this Agreement, then City may, but shall not be required to, do or perform or cause to be done or performed such act or thing, and FPL shall

repay to City on demand the entire expense thereof, including, without limitation, compensation to the agents and employees of City. Any act or thing done by City pursuant to the provisions of this subsection shall not be or be construed as a waiver of any such Event of Default by FPL, or as a waiver of any covenant or condition herein contained or the performance thereof, or of any other right or remedy of City, hereunder or otherwise.

19. Severability. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority: (a) such portion or provision shall be deemed separate and independent; (b) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling or adjudication; and (c) the remainder of this Agreement shall remain in full force and effect.

20. Repairs, Trash and Storage. City shall have absolutely no obligations of any kind for the repair, replacement, or maintenance of any part of the Substation during the Construction Period. During the Construction Period, FPL shall maintain the Substation in a neat, clean, safe and sanitary condition. FPL shall be solely responsible at its own expense for regular removal and disposal of all refuse, garbage, debris, trash and other discarded materials and shall not allow an accumulation thereof on, in or adjacent to the Substation Premises. FPL shall not use the Substation Premises for the storage of any materials, vehicles or equipment.

21. Waivers. Any waiver by either Party with respect to this Agreement must be in writing, signed by the Party granting the waiver, and shall be limited to the express terms set forth in the waiver.

22. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

23. Binding Effect. This Agreement shall bind the Parties, and their respective successors and permitted assigns.

24. Right of Entry. Subject to City's duties, if any, relating to police, fire and other municipal services for which no advance notice is required, City, or any of its agents, shall have the right to enter the Substation Premises during reasonable hours to examine the same but only when accompanied by a qualified or designated employee of FPL.

25. Force Majeure. In the event that either Party is unable to fulfill, or shall be delayed or restricted in the fulfillment of any obligation, or the curing of a default, under any provision of this Agreement by reason of strike, lock-out, war, acts of military authority, acts of terrorism, rebellion or civil commotion, fire or explosion, flood, wind, storm, hurricane, water, earthquake, acts of God or other casualty or by reason of any statute or law or any regulation or order passed or made, or by reason of any order or direction of any administrator, controller, board or any governmental department or officer or other authority (other than, in the case of City claiming relief under this Section 25, any statute or law or any regulation or order passed or made, or by reason of any order or direction of, any administrator, controller, board or any governmental department or officer or other authority of City), or by reason of any other cause beyond such Party's reasonable control or not wholly or mainly within such Party's reasonable control,

whether of the foregoing character or not, such Party shall, so long as any such impediment exists, be relieved from the fulfillment of such obligation and the other Party shall not be entitled to compensation for any damage, inconvenience, nuisance or discomfort thereby occasioned or to terminate this Agreement.

26. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument.

27. Attorneys' Fees. In the event FPL or City defaults in the performance of any of the terms, covenants, conditions, agreements, or provisions contained in this Agreement and City or FPL employs an attorney and brings suit in connection with the enforcement of this Agreement or any provision hereof or the exercise of any of its remedies hereunder, then the prevailing Party in any suit so instituted shall be promptly reimbursed by the other Party for all reasonable attorneys' fees, paralegal fees, and expenses so incurred, including, without limitation, any such fees and expenses incurred in regulatory, appellate, bankruptcy and post-judgment proceedings. Any monetary judgment rendered in any litigation concerning this Agreement shall bear interest at the highest rate allowed by applicable law. The foregoing provisions shall survive expiration or earlier termination of this Agreement.

28. Notices. Every notice, approval, consent or other communication required or permitted under this Agreement shall be in writing, shall be deemed to have been duly given on the date of receipt, and shall be deemed delivered if either served personally on the Party to whom notice is to be given, or mailed to the Party to whom notice is to be given, by overnight courier or by first class registered or certified mail (return receipt requested), postage prepaid, and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by notice given to the other Party in the manner provided in this Section.

To City:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Manager
With a required copy to:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Attorney
To FPL:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Corporate Real Estate
With a required copy to:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Law Department

29. No Recording. Neither this Agreement, nor any memorandum, portion or copy hereof shall be recorded in the Public Records of Indian River County, Florida.

30. No Personal Liability. Excluding any successor-in-interest to FPL or City under this Agreement, notwithstanding anything to the contrary in this Agreement, no present or future parent, subsidiary, affiliate, member, principal, shareholder, manager, officer, official, director, or employee of FPL or City will be personally liable, directly or indirectly, under or in connection with this Agreement, or any document, instrument or certificate securing or otherwise executed in connection with this Agreement, or any amendments or modifications to any of the foregoing made at any time or times, or with respect to any matter, condition, injury or loss related to this Agreement, and each of the Parties, on behalf of itself and each of its successors and assignees, waives and does hereby waive any such personal liability.

31. Entire Agreement. This Agreement and any exhibits, schedules or addenda attached hereto and forming a part hereof, contains the entire agreement between the Parties hereto with respect to the subject matter of this Agreement, and supersedes all previous negotiations leading thereto, and it may be modified only by an agreement in writing executed and delivered by City and FPL. All exhibits, schedules or addenda attached to this Agreement are expressly incorporated herein by this reference.

32. Governing Law; Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF CITY AND FPL, FPL'S USE OF THE SUBSTATION, OR ANY CLAIM FOR INJURY OR DAMAGE, SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

33. WAIVER OF JURY TRIAL. THE PARTIES HERETO SHALL, AND THEY HEREBY DO, IRREVOCABLY WAIVE TRIAL BY JURY IN ANY AND EVERY ACTION OR PROCEEDING BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF CITY AND FPL, FPL'S USE OR OPERATION OF THE SUBSTATION OR THE SUBSTATION EQUIPMENT, AND ANY CLAIM FOR INJURY OR DAMAGE. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

34. City/FPL Relationship; No Third Party Beneficiaries. This Agreement creates a bailor/bailee relationship, and no other relationship, between the Parties. This Agreement is for

the sole benefit of the Parties hereto and, except for assignments permitted hereunder, no other person or entity shall be a third party beneficiary hereunder.

35. No Waiver of Regulatory Authority. Nothing in this Agreement constitutes a waiver of City's regulatory, public safety or other municipal authority with respect to the Substation or any other matter. Further, nothing in this Agreement shall be deemed to waive City's right of eminent domain.

36. Sovereign Immunity. City is a Florida municipal corporation whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of City beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of City's sovereign immunity under section 768.28, Florida Statutes, or otherwise. Nothing hereby shall inure to the benefit of any third party for any purpose, including, without limitation, anything that might allow claims otherwise barred by sovereign immunity or operation of law.

37. Time, Interpretation. In computing any period of time pursuant to this Agreement, the day of the act, event. or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. A legal holiday as used in this Agreement includes days on which banks in Vero Beach, Florida are not open for regular business. Time is of the essence. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. This Agreement shall not be construed more strongly against or for either Party regardless of the drafter. Unless the context otherwise requires, (a) all references to Sections or Exhibits are to Sections or Exhibits in or to this Agreement, and (b) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter and the term "including" shall mean by way of example and not by way of limitation.

[Remainder of page intentionally blank; Signature pages follows]

City of Vero Beach Execution Pages

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date.

ATTEST: **CITY OF VERO BEACH**

_____ By:_____

Tammy K. Bursick Laura Moss
City Clerk Mayor

[SEAL]

ADMINISTRATIVE REVIEW
(For Internal Use Only–Sec. 2-77 COVB Code)

Approved as to form and legal sufficiency:

Wayne R. Coment
City Attorney

Approved as conforming to municipal policy:

James R. O'Connor
City Manager

Approved as to technical requirements:

Ted Fletcher
Director of Electric Utility Operations

Approved as to technical requirements:

Cynthia D. Lawson
Director of Finance

Approved as to technical requirements:

Timothy J. McGarry
Director of Planning and Development

Florida Power & Light Company Execution Page

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date specified in this Agreement.

FPL:

FLORIDA POWER & LIGHT COMPANY, a Florida corporation

By:_____
Name:_____
Title:_____

Substation Equipment Operating and Dismantling Agreement by and between City of Vero Beach, Florida and Florida Power & Light Company

Exhibit "A"

Substation Premises Legal Description and Map

(To be Supplied)

Exhibit "B"

List of Substation Equipment

(To Be Supplied)

Schedule "1"

Phase 1 Recognized Environmental Conditions

- **Recognized Environmental Conditions**
  - REC-1: Leaking Transformer (Unit 1) – The transformer adjacent to Unit 1 has a leak on the southern side. Gravel stains were identified below the unit.
  - REC 2: Asbestos Containing Material – Potential asbestos-containing materials were identifies as Substation 01.
  - REC 3: Lead-Based Paint Containing Material – Lead containing materials were identified at Substation 01.
  - REC 4: Historic Leaky Transformer (Unit 5) – The transformer adjacent to Unit 5 has a report historic leak.
  - REC 5: Historic Use of PCBs – Based on the age of the substation and presence of leaking transformers, presence of PCBs are suspected.

- **Phase II Recommendations**
  - 2 soil samples, with analysis for PCBs and TRPH. Additive specific sampling.
  - Limited groundwater sampling pending soil sampling results
  - Quantitative sampling for asbestos, lead-based paint, PCBs in concrete

Substation Equipment Operating and Dismantling Agreement by and between City of Vero Beach, Florida and Florida Power & Light Company

Schedule "2"

Phase II Recognized Environmental Conditions

EXHIBIT L-4

SUBSTATION LICENSE AND ACCESS AGREEMENT Error! Bookmark not defined.

THIS SUBSTATION LICENSE AND ACCESS AGREEMENT ("**License**"), is made this _____ day of [_____], 2017 (the "**Effective Date**") by and between Florida Power & Light Company, a Florida corporation ("**Licensor**"), whose mailing address is 700 Universe Blvd., CRE/JB, Juno Beach, Florida 33408-0420, and City of Vero Beach, a municipal corporation organized and existing under the laws of the state of Florida ("**Licensee**"), whose mailing address is 1053 20th Place, Vero Beach, Florida 32961. Licensor and Licensee each is called a "**Party**" and together are called the "**Parties**."

WITNESSETH

WHEREAS, the Parties have entered into and are contemporaneously herewith consummating an Asset Purchase and Sale Agreement, dated _____, 2017 (the "**APA**") in connection with Licensor's acquisition of certain assets of Licensee. this License; and

WHEREAS, immediately prior to the date of this License, Licensee has used substations numbered 10-Central Beach; 11- South Beach; 20-County Line; 3-Mall Substation; 5- Piper Substation; 6- Gifford Substation; 7- West Substation; 8-South Substation; and 9- North Substation and the real property on which such Substations are located (collectively, the "**Existing Substations**" for the housing, operation, maintenance, repair and replacement of Licensee's communication equipment which is unrelated to the operation, protection and control of the electric utility assets to be purchased by Licensor; and

WHEREAS Licensor intends to construct a new substation on real property which is the subject of the Substation Easement Agreement between the Parties ("**New Substation**") (the Existing Substations together with the New Substation are referred to collectively as the "**Licensed Premises**") and

WHEREAS, pursuant to the APA, Licensor will obtain title to, and easement for or a lease of the Licensed Premises; and

WHEREAS, pursuant to a Fiber License Agreement, dated the date hereof, between the Parties (the "**Fiber License Agreement**") Licensee has licensed the use of certain fiber assets (the "**Fibers**") to Licensor; and

WHEREAS, Licensee requires certain access to the Licensed Premises, and Licensor is willing to provide Licensee such access under the terms of this License;

WHEREAS, Licensor plans to relocate, under the terms of this License, the Communications Equipment, as defined below, and Licensor is willing for Licensee to do so;

NOW, THEREFORE, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows: :

TERMS, CONDITIONS, AND PROVISIONS

1. **Use**. Licensee may use the Licensed Premises solely for: (a) the transmission and reception of telecommunication signals pursuant to all applicable rules and regulations including without limitation, the Federal Communications Commission ("**FCC**"); (b) perform no less than annual inspections, testing, and all necessary maintenance, relocation and restoration required in order that the Fibers may operate within certain required parameters; and (c) the construction, installation, operation, alteration, maintenance, repair, removal, and replacement of communication equipment including horizontal and vertical conduits, cables, wires, fibers, junction boxes, hangers, pull boxes and other appurtenant facilities and improvements owned or operated by Licensee or by Licensee together with Indian River County and the School Board of Indian River County, Florida under the Revised and Restated Joint Fiber Optics Project Interlocal Agreement, made as of May 19, 2015, singularly and collectively (collectively, the "**Communications Equipment**") for the purpose of providing telecommunication services to or for the benefit of entities other than and in addition to Licensor, but not for any other purpose. Licensee and its authorized personnel and subcontractors may at any and all times, enter the Licensed Premises, including Licensor's substation control structures at those structures where Licensee's Communications Equipment is installed and/or for the specific purposes set forth above. Licensee shall, and shall ensure that its personnel and subcontractors, (i) only enter the Licensed Premises while being escorted by an FPL Transmission employee and (ii) at all times strictly comply with the instructions of such FPL Transmission employee. Licensee is the sole owner of substation 1, and nothing in this License will be deemed or construed as granting, acknowledging or conveying any interest is such substation to Licensor. However, operation of such substation is subject to the Substation Equipment Operating and Dismantling Agreement between the Parties and Licensor acknowledges and agrees that Licensee will continue to use the fiber optic system located at substation number 1 until such lines and system is modified, moved or relocated in accordance with the Substation Equipment Operating and Dismantling Agreement.

2. **Term**. This License shall continue in full force and effect until all of the following have occurred: (a) Licensor has relocated all Communications Equipment from the current location of such Communications Equipment to the locations approved by the parties as a part of the Change Plan, defined below, as to each parcel of the Licensed Premises and (b) the appropriate instrument or agreement is executed and delivered by Licensor permitting the Communication Equipment to remain at the location constructed in accordance with the Change Plan on a permanent basis as described in Section 5 (d) below, and (c). Licensee has accepted such relocated Communications Equipment. .

3. **Access Fees**. If access to the Licensed Premises, or any of them, is required by Licensee solely for the purpose of accessing the Licensee's Communications Equipment, and for no other purpose, Licensee shall have the right during the first year of the Term to make entry free of charge no more than two (2) trips per month and after the first year of the Term to make entry free of charge no more than one (1) trip per month, each trip not to exceed ten (10) hours, including travel time between substations ("Monthly Allowed Access"). Licensee may visit more than one substation during a particular trip. Should Licensee exceed the Monthly Allowed Access, Licensee shall be charged the sum of One Hundred Dollars and 00/100 ($100.00) per hour for each hour or partial hour access to any of the Licensed Premises is required (the "Access Fees"). Such Access Fees shall constitute an offset, on a dollar for dollar basis, against any one or more payments due to be made from Licensor to Licensee as License Fees pursuant to the terms of the Fiber License Agreement. Notwithstanding anything to the contrary herein, Licensee shall not be required to pay Access Fees if such access is required for Work to be performed on the Fibers. Licensee agrees to pay the fees specified in this section 3 as to its access to substation 1 to compensate Licensor for any

Licensor personnel needed to accompany Licensee employees or contractor at the substation for safety reasons.

4. Licensor's Rights. Licensee agrees to never claim any interest or estate of any kind or extent whatsoever to or in the Licensed Premises by virtue of this License or the occupancy or use hereunder. Licensee's use of the Licensed Premises shall always be subordinate to Licensor's rights to and in the Licensed Premises, except as may be otherwise provided in the Fiber License Agreement. Licensor reserves the right to enter upon the Licensed Premises at any time and Licensee shall notify its employees, agents, contractors, subcontractors, licensees, and invitees accordingly. Licensor, its employees and contractors are not and shall not be responsible or liable for any injury, damage or loss to Licensee resulting from Licensor's use and/or Licensee's use of the Licensed Premises. Licensor may at its sole discretion, install and/or permit others to install facilities upon, over and/or under the surface of the Licensed Premises.

5. Conditions and Restrictions On Use.

(a) With respect to any work undertaken by Licensee in or around the Licensed Premises, Licensee shall at its sole cost and expense comply with all laws, rules, and regulations of all governmental authorities having jurisdiction over the Licensed Premises or use of the Licensed Premises. Licensee shall not within the Licensed Premises construct or erect any permanent or temporary building, structure, fixture, fence, shelter, attachment or improvement without prior written permission from Licensor. All work to be performed by Licensee upon the Licensed Premises shall be in accordance with detailed plans and specifications to be prepared by Licensee and submitted to Licensor for written approval thereof. Licensee shall not commence any such work until plans and specifications have been approved by Licensor. Licensee shall pay directly on its own behalf for all costs associated with construction and maintenance of all improvements and facilities that it constructs, operates and maintains upon the Licensed Premises. Licensee shall not cause or allow any waste of the Licensed Premises and shall not remove soil, import soil or alter the existing surface elevation of the Licensed Premises without first obtaining written permission of Licensor. Licensee shall pay for all utility and other services furnished to or for Licensee upon the Licensed Premises.

(b) Licensee shall not use the Licensed Premises in any manner which, in the sole opinion of Licensor, might interfere with Licensor's use of the Licensed Premises or might reasonably be expected to cause a hazardous condition to exist. Licensee acknowledges that electrical equipment and appurtenances including, but not limited to utility poles, overhead and underground wires, cables, circuits, insulators, transformers, guy wires, and guy wire anchors (collectively "**Licensor Facilities**"), are installed or may be installed over, upon and under the surface of the Licensed Premises by Licensor and by others and are conductors of high-voltage electricity. Licensee understands that contact with or disturbance of any of these Licensor Facilities may cause a condition hazardous to persons and/or property. Licensee shall exercise extraordinary precautions to prevent injury or damage to persons and/or property that could result from contact with or disturbance of Licensor Facilities. Licensee shall notify its employees, agents, contractors, subcontractors, licensees and invitees of the existence of Licensor Facilities when working in the vicinity of the Licensed Facilities.

(c) Licensee shall not cause or allow anything to exceed fourteen (14) feet in height above the surface of the Licensed Premises, nor allow any equipment capable of extending greater than fourteen (14) feet above the surface of the Licensed Premises to be brought upon the Licensed Premises, except that this provision shall not apply to equipment and items brought onto the Licensed Premises by Licensor or Licensor's employees, agents, and contractors. Licensee shall utilize effective dust control measures to prevent contamination of high-voltage circuit insulators. In each and every location where an

electrical circuit exists above the surface of the Licensed Premises, Licensee shall not allow to be planted in the ground within less than fifty (50) lateral feet of such circuit, any type of vegetation that is capable of growing to a height greater than fourteen (14) feet above the ground surface. Licensor shall have the right, but no form of obligation, to inspect the Licensed Premises to determine if Licensee is in compliance with all terms, conditions and provisions of this License.

(d) Within five (5) years after the Effective Date, Licensor shall remove all of Licensee's Communications Equipment from the relay vaults in each of the Licensed Premises and relocate such Communications Equipment in each case to an enclosure provided by Licensor in an area approved by Licensor and Licensee which does not require escorted access, and in such manner as Licensor shall determine in its sole but reasonable discretion ("**Change Plan**"). Licensor shall be responsible for the payment of all costs associated with the removal of Licensee's Communication Equipment from the relay vaults to a mutually agreeable area upon the Licensed Premises that does not require escorted access under the Plan. Licensor shall prepare a detailed design to accomplish the Change Plan and submit it to Licensee for review and approval, which will not be unreasonably withheld by Licensee. Upon Licensee's approval of the Change Plan, Licensor shall commence and complete such work in a safe manner consistent with generally accepted construction standards, in a good and workmanlike manner employing materials of good quality and in compliance with all applicable laws, approvals and authorizations. Licensee's approval of any portion of the Change Plan is not a representation that such Change Plan is in compliance with applicable legal requirements or that the Communications Equipment will not cause interference with other communications operations on or near the Licensed Premises, or that the Communications Equipment will function appropriately for Licensee's purposes following execution of the Change Plan. Licensor shall be solely responsible for performing all work under the Plan in a manner that does not unreasonably cause interference with or impair the function of the Communications Equipment for Licensee's purposes and, upon reasonable notice from Licensee, Licensor shall perform at its sole expense all work reasonably necessary to restore the functionality of the Communications Equipment or resolve any interference with the Communications Equipment.. In no event, however, shall Licensor, or any of Licensor's employees, agents, contractors, subcontractors or suppliers be liable for any indirect, consequential, incidental, or special damages, however caused and regardless of the theory of liability asserted (including negligence or tort) arising out of this License, or any work, facilities or equipment provided hereunder, even if Licensee has been informed of the possibility of such damages. As the Change Plan is completed for each parcel comprising the Licensed Premises, Licensor will grant an easement or other property right as may be reasonably necessary or expedient, and to the extent of Licensor's interest in the Licensed Premises, to permit the Communication Equipment to remain permanently at the new location as constructed in accordance with the Change Plan.

6. <u>Environmental</u>.

(a) Licensee agrees that no hazardous substance, as the term is defined in Section 101 (14) of the Comprehensive Environmental Response Compensation and Liability Act ("**CERCLA**") (42 USC Section 9601 [14]), petroleum products, liquids or flammables shall be placed upon, under, transported across, or stored upon the Licensed Premises, which restricts, impairs, interferes with, or hinders the use of the Licensed Premises by Licensor or the exercise by Licensor of any of its rights thereto.

(b) After the Effective Date, Licensee may perform a Phase I and/or Phase II environmental site assessment as per ASTM criteria to investigate the existing environmental condition of the Licensed Premises that is the subject of this License. The performance or the failure to perform an environmental site assessment does not relieve the Licensee from compliance with any other provision of this section.

Licensee shall maintain copies of any local, state or federal permits, licenses or other authorizations required for any and all of its activities on the Licensed Premises and present copies of such permits, licenses or other authorizations to Licensor and to any local, state and federal governmental agency official that requests to see the same.

(c) Licensee shall not create or contribute to any Environmental Contamination, Unauthorized or Unpermitted Wetland Impacts, Unpermitted Groundwater Wells, Illegal Use of Ground or Surface Waters or any Other Environmental Impacts, (collectively, referred to as "**Environmental Conditions**") as a result of its use of the Licensed Premises.

(1) Environmental Contamination is defined as any spilling or discharge of any chemical constituent by the Licensee to the environment that results in any pollution, sheen or contamination of the groundwater, surface water, soil, or any other environmental media, on or from the Licensed Premises, above the federal, state or local regulatory levels; including, (a) for groundwater: Chapters 62-777, Table I, 62-520, or 62-550 of the Florida Administrative Code ("**FAC**"); (b) for surface waters: Chapters 62-777, Table I, or 62-302 of the FAC; and (c) for soils: Chapters 62-777, FAC, Table II; or above natural background levels.

(2) Wetland Impacts are defined as activities impacting areas defined as "**wetland**" under the following: (a) federal law (for example, Section 404 of the Clean Water Act); (b) federal rules (for example, current approved Army Corps of Engineers ("**ACOE**") Delineation Manual); (c) federal guidance; (d) state law (for example, Section 373.019(22), Florida Statutes); (e) state rules (for example, Chapter 62-340, FAC); (f) state guidance; (g) case law as formulated that further explains wetland jurisdictional criteria; or (h) local law (for example, Miami-Dade County Ordinances; (i) local guidance; or (j) local policy. Unauthorized or Unpermitted Wetland Impacts shall mean the failure to obtain all required federal, state and local permits to impact the wetland or undertaking any action or activity in violation of any such permits. Some examples of permits needed to impact the wetland are the Miami-Dade County Department of Environmental Resources Management Permits, the State of Florida Department of Environmental Protection or Water Management District Permits, and the Federal ACOE Permits.

(3) Unpermitted Groundwater Wells means the installation or the use of an existing groundwater well without obtaining the appropriate state and local permits for the well installation and/or well pumping for use of groundwater or surface water in the area.

(4) Illegal Use of Ground or Surface Waters means the withdrawal or use of either ground water or surface water without obtaining any required consumptive use or water use permits from the St. Johns River Water Management District ("**SJRWMD**") or in violation of any consumptive use or water use permit issued by the SJRWMD.

(5) Other Environmental Impacts, include, but are not limited to; failure to apply pesticides consistent with labeling instructions; failure to dispose of pesticide containers as per label instructions; failure to have licensed and trained personnel applying pesticides; failure to properly manage pesticide mix/load sites to avoid pesticide release to soils or surface waters in quantities or concentrations other than that specified on the label application instructions; or any violations of Federal Insecticide, Fungicide, and Rodenticide Act, or its state law equivalent; or any violations of the Florida Department of Agriculture and Consumer Services rules or Best Management Practices for the activities contemplated by this License.

(d) If the Licensee causes any Environmental Conditions to occur because of the performance of activities contemplated by this License, Licensee shall notify Licensor immediately upon discovery. Licensee acknowledges that the failure to deliver such notification may cause Licensor to file a damage claim against Licensee and confers to Licensor the right to terminate this License as set forth in Section 8. Within seventy-two (72) hours of discovering such Environmental Conditions, Licensee shall, at its sole cost and expense, correct such condition or situation; provided that the Licensor retains the right to enter upon the Licensed Premises and correct any such condition or situation at any time. Any release notifications required to be submitted to federal, state or local regulatory agencies, because of the actions of Licensee pursuant to this License or any other notifications based on Environmental Conditions, shall be coordinated with Licensor.

(e) If Licensee, or its employees, contractors, subcontractors or anyone else working at the direction of the Licensee causes Environmental Conditions on the Licensed Premises, or causes contamination that originates on the Licensed Premises, the Licensee, on its own behalf and on behalf of its shareholders, officers, directors, employees, servants, agents, and affiliates, shall and hereby does forever hold harmless, indemnify, and release Licensor, and its parent, subsidiaries, shareholders, officers, directors, employees, servants, agents and affiliates (collectively "**Licensor Entities**"), not including Licensee which is part of Licensor Entities, of and from all claims, demands, costs, loss of services, compensation, actions or investigations on account of or in any way growing out of the Environmental Conditions, and from any and all known and unknown, foreseen and unforeseen damages, and the consequences thereof, resulting from the Environmental Conditions, including but not limited to, restoration of the site to the condition existing prior to the Environmental Conditions.

7. **Right to Cure**. Licensor, at its sole discretion, may remove or cause to be removed by it or by its employees, agents, contractors, subcontractors, licensees, and invitees, all objects, materials, debris, or structures that could create a condition hazardous to persons or property or interfere with Licensor's use of its Licensed Premises or with Licensor Facilities. All costs expended by Licensor pursuant to this section which are caused by Licensee, its employees, agents, contractors, subcontractors, licensees, and invitees, are and shall be the sole obligation of Licensee, who shall reimburse Licensor upon demand. If any of Licensee's activities or Licensee's use of the Licensed Premises results in an interruption of electric utility service, then Licensee shall reimburse Licensor for all costs to restore electric utility service, not to exceed $1 million.

8. **Default.** A party shall be in default under this License if such party fails to perform any obligation required under this License and such failure continues for more than thirty (30) days after written notice, provided that if the breach is of such a nature that it cannot be cured within thirty (30) days, then such party shall not be in default so long as it commences to cure within such period of time and thereafter diligently and continuously pursues such cure to completion. Upon the occurrence of a default, the non-defaulting party shall not have the right to terminate the License, but may seek any and all other remedies available at law and/or equity, including but not limited to an action for recovery of monetary damages or specific performance. Except as set forth to the contrary herein, any right or remedy of Licensor and Licensee shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

9. **Surrender**. Upon termination or expiration of this License, Licensee shall vacate and leave the Licensed Premises in as good a condition as existed prior to the Effective Date excluding any change in conditions resulting from the work performed by Licensor under the Change Plan. No later than thirty (30) calendar days following the date upon which this License becomes expired, terminated or revoked, Licensee shall remove all remaining personal property and improvements, if any, placed in areas

requiring escorted access within the Licensed Premises by Licensee and shall repair and restore and save Licensor harmless from all damage caused by such removal. If all such personal property and improvements placed in areas requiring escorted access within the Licensed Premises by Licensee are not so removed by Licensee within the above prescribed thirty (30) day period, then Licensor shall have the right to take possession of and appropriate unto itself, without any payment or offset thereof, any remaining personal property and improvements placed in areas requiring escorted access within the Licensed Premises by Licensee or any other entity acting on Licensee's behalf, and/or Licensor shall have the right to effect removal of such personal property and improvements at Licensee's sole cost and expense, the amount of which Licensee agrees to reimburse to Licensor immediately upon Licensor's demand. It expressly understood and agreed by Licensor and Licensee that the surrender rights under the section of the Substation License Agreement do not apply to any Licensee personal property or improvements relocated to areas that do not require escorted access upon the Licensed Premises under the Change Plan.

10. **No Encumbrances**. Licensee expressly covenants and agrees that the Licensed Premises shall not be subject to any encumbrance by any mortgage, lien, financial instrument or other agreement outside of or in addition to this License, nor shall the Licensed Premises be liable to satisfy any indebtedness that may result from Licensee's operation or activity. Licensor expressly covenants and agrees that the Licensee's Communications Equipment shall not be subject to any encumbrance by any mortgage, lien, financial instrument or other agreement outside of or in addition to this License, nor shall the Licensee's Communications Equipment be liable to satisfy any indebtedness that may result from Licensor's operation or activity.

11. **Indemnity**. Each party (each an "Indemnifying Party") shall exercise its respective rights and privileges herein at its sole risk and agrees to indemnify and save harmless the other party (each an "Indemnified Party"), from all liability, loss, cost, and expense, including attorneys' fees, which may be sustained by the Indemnified Party, incurred by any person, natural or artificial, by reason of the death of or injury to any person or damage to any property arising from or in connection with the use of the Licensed Premises by such Indemnifying Party and its employees, agents, contractors, subcontractors, licensees, and invitees. Such Indemnifying Party agrees to defend, at its sole cost and expense, but at no cost and expense to the Indemnified Party, any and all suits or actions instituted against the Indemnified Party for the imposition of such liability, loss, cost, and expense arising from the use of the Licensed Premises by the Indemnifying Party and its employees, agents, contractors, subcontractors, licensees, and invitees. Notwithstanding the foregoing, Licensee's obligations under this Section 11 shall be subject to the limitations set forth and provided for in Section 768.28 of the Florida Statutes with respect to injury to or death of employees or agents of Licensor or property damage of Licensor or its employees or agents, in each case caused directly by employees of Licensee.

12. **Insurance**. During the Term, Licensor and Licensee shall maintain, at their respective sole cost and expense, a liability policy with minimum limits of $1,000,000.00 for bodily injury or death of a person(s), and $1,000,000.00 for property damage arising out of each single occurrence, and workers compensation coverage as mandated by the applicable laws of the State of Florida. Said policy shall be endorsed to insure against obligations assumed by Licensor or Licensee, respectively, in the indemnity herein. A certificate of insurance shall be furnished to Licensor and Licensee evidencing that said policy of insurance is in force and will not be cancelled or materially changed so as to affect the interests of Licensor or Licensee Entities, as the case may be, until ten (10) days advance written notice has been furnished to Licensor. Upon request, copies of said policy will be furnished to Licensor or Licensee, respectively.

13. **No Transfer**. Licensee shall not, without the prior written consent of Licensor, allow any other entity or party to occupy or use the Licensed Premises or in any way transfer, assign, lease, sublease, license, sublicense or in any other manner, convey this License to any entity or party not specifically named herein by Licensor as a party to this License. Licensee shall not hypothecate this License, nor enter into any license, concession agreement, mortgage, contract or other agreement which conflicts with or is contradictory to the terms and provisions of this License.

14. **Holding Over**. If Licensee continues to occupy and/or use the Licensed Premises, or any part thereof, after expiration, termination or revocation of this License, then no tenancy, ownership or other legal interest in the Licensed Premises to the benefit of Licensee shall result therefrom, but such holding over shall be an unlawful detainer and all parties occupying and/or using the Licensed Premises shall be subject to immediate eviction and removal and Licensee shall upon demand pay to Licensor, as liquidated damages, a monthly sum equal to the monthly License Fees owed by Licensor to Licensee pursuant to the Fiber License Agreement for and during any and all period(s) which Licensee and/or its employees, agents, contractors, subcontractors, licensees, and invitees fail to vacate the Licensed Premises after the date upon which this License becomes expired, terminated, or revoked.

15. **Waiver of Jury Trial**. **Licensee and Licensor knowingly, voluntarily and intentionally waive any and all right(s) they may have to a trial by jury with respect to any litigation based upon, or arising from, under, or in connection with this License, or any document contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statement (whether oral or written) or action of Licensee or Licensor.** In any and all litigation arising out of or in connection with enforcement of the terms, conditions or provisions of this License, the prevailing party in such litigation shall be entitled to recovery of each and all of its costs, including reasonable attorneys' fees.

16. **Applicable Law and Venue**. This License, including each and all of its terms, conditions and provisions, is governed by and interpreted according to the laws of the State of Florida. Venue for all legal matters arising out of, or in connection with this License are and shall be the courts of the State of Florida in Indian River County, Florida, which court shall have exclusive jurisdiction for such purpose**.** If any term, condition or provision, or any part thereof, is found by a Florida court to be unlawful, void or unenforceable, then that term, condition, provision or part thereof shall be deemed severable and will not affect the validity and enforceability of any of the remaining terms, conditions and provisions of this License.

17. **Time and Entire Agreement**: Time is of the essence, and no extension of time shall be deemed granted unless made in writing and executed by both Licensor and Licensee. This instrument constitutes the entire agreement between the parties hereto and relative to the License, and any agreement or representation which is not expressly set forth herein and covered hereby is null and void. All amendments, modifications, changes, alterations and supplements to this License must be in writing and executed by both Licensor and Licensee in order to be deemed valid and enforceable. If Licensor or Licensee fails or elects to not enforce the other party's breach of any term, condition or provision of this License, then Licensor's or Licensee's failure or election to not enforce the other party's breach shall not be deemed a waiver of the non-breaching party's right to enforce one or more subsequent breaches of the same or any other term, condition or provision of this License.

18. **Notices**. All notices associated with and related to this License shall be deemed to have been served upon the date and time received by Licensor or Licensee at the addresses set forth in the Preamble by: government postal service, private delivery service, electronic email or facsimile transmission. Either party

may, at any time, designate in writing a substitute address for the address first written above, and thereafter notices shall be directed to such substituted address.

19. **Counterparts**. This License may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, Licensor and Licensee have caused this License to be signed and executed effective as of the Effective Date.

Witnesses for Licensor:

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

Licensor:
Florida Power & Light Company,
a Florida corporation

By: _____
Name: _____
Title: _____

Witnesses for Licensee:

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

Licensee:
City of Vero Beach, Florida, a municipal corporation

By: _____
Name: _____
Title: _____

EXHIBIT P

Prepared by/Return to:
_____
_____
_____
_____

PERMIT AND INTERLOCAL AGREEMENT
(No. VB-[_])

THIS PERMIT AND INTERLOCAL AGREEMENT (the "Agreement"), dated this [___] day of [_____], 201[__], by and between **INDIAN RIVER FARMS WATER CONTROL DISTRICT**, a drainage district organized and existing under the General Drainage Laws of the State of Florida, whose address is 7305 4th Street, Vero Beach, Florida (the "**District**"), and the **CITY OF VERO BEACH, FLORIDA**, a municipal corporation of the State of Florida, whose address is 1053 20th Place, P.O. Box 1389, Vero Beach, Florida 32961-1389 (the "**Permittee**").

NOW, THEREFORE, the District does hereby grant unto the Permittee a permit and license (collectively, the "**Permit**"), which Permit shall be effective from the date hereof and continue for a period of fifty (50) years (collectively, the "**Term**"), for the purpose of installing, maintaining, inspecting, operating, repairing and using electrical transmission lines, utility poles and related improvements collectively, (the "**Electrical Facilities**") on, over and across District right-of-way along the Main Canal at the locations (the "**Permit Area**") and in accordance with the plans and specifications attached hereto as "**Exhibit A**" signed by the parties and, incorporated herein by reference, together with the right of ingress and egress on and over the property at said locations.

Permittee agrees to and with the District as follows:

1. That the rights herein granted shall extend into the Permit Area from utility pole to utility pole in the locations and widths, which vary from utility pole to utility pole, as shown on the plans approved by the District in accordance with said "**Exhibit A**". Unless otherwise agreed to by District, the rights shall extend only for Electrical Facilities owned and used exclusively by Permittee or its sublicensee pursuant to Paragraph 19 herein, and Permittee, except as specifically permitted pursuant to Paragraph 19 herein, shall not have any right to

otherwise assign, sublet, grant a sub-permit or sublicense of the Permit or this Agreement or any part thereof unto a third party.

2. Permittee assumes full responsibility for the operation and maintenance of said Electrical Facilities and shall save and hold harmless District from any expense, loss, damage or claim in regard thereto, and the District assumes and shall have no liability in connection therewith.

3. Permittee and District acknowledge and agree that each operates critical infrastructure and provides necessary services to Florida residents. As a result, Permittee and District agree to work together in good faith to ensure that neither interferes with the facilities or operations of the other, and to work together in a cooperative fashion following any storm event to ensure prompt restoration of critical services. Each party will provide the other with a direct emergency contact number to be used for purposes of addressing issues arising in the field. All such field issues will be addressed by the parties within twenty-four (24) hours of the affected party's notice to the other party. Notwithstanding the foregoing, Permittee agrees and acknowledges that the Permit is subject always to the paramount right of the District to keep and maintain its drainage district functions and operations, and should the occupation or use by Permittee of District's property by Permittee hinder or prevent District's water control function, then Permittee's use or occupation of such property must and will yield to water control functions, and is subject to revocation and cancelation following a default by Permittee herein and Permittee's failure to cure such default. The parties further agree that within sixty (60) days following the District's delivery of written notice to Permittee advising of an interference, problem or obstruction caused by Permittee's use or occupation of District's property that is adversely affecting District's functions Permittee shall cure the problem, interference or obstruction, provided, however, in the event the functional loss, problem, interference or obstruction is not reasonably capable of cure within sixty (60) days following the delivery of written notice from the District to Permittee of such loss and Permittee, within sixty (60) days of the receipt of such notice, commences to cure such loss and thereafter diligently and continuously prosecutes such cure to completion, Permittee shall not be in default under this Agreement.

4. In no event shall the District be liable for any damages done or caused by the Permittee to the public or any other person using the Permit Area under the Permit, and Permittee shall, to the extent provided and allowed by law, save the District, its officers, agents, supervisors, and employees harmless from any costs, charge, expense, claim or demand of any person against the District for bodily injury, death or property damage arising from or pertaining to Permittee's exercise of rights under the Permit. Permittee shall, prior to accessing the Permit Area, provide the District with evidence satisfactory to District, of adequate reserves held or owned by Permittee or Sublicensee, as self-insurer, to protect the interests of District.

5. Permittee is cautioned that electrical, water, sewer, gas or other installations or utilities may be located within the Permit Area, and Permittee shall use diligent efforts to first detect and locate all such installations and shall coordinate construction with all other lawful users of the right-of-way within the Permit Area. Permittee shall be liable for all damages proximately resulting from its interference with or interruption of services provided by other lawful right-of-way users within the Permit Area. District shall ensure that this provision is

included in all permits issued to water, sewer, gas or other installations or utilities that are or may be located within the Permit Area.

6. Any construction on the Permit Area by Permittee and related cleanup shall be completed promptly by Permittee and in a workmanlike manner with minimum disturbance to existing berm, channel slopes and grade, with proper restoration and planting of any disturbed areas to prevent erosion occurring within thirty (30) days after completion of Permittee construction or installation of Electrical Facilities.

7. District and Permittee acknowledge that Permittee's Electrical Facilities currently exist within the Permit Area. For all replacements of Permittee's Electric lines, Permittee shall at all times maintain cable markers above ground at 100 foot intervals to show the location of the electrical transmission cables. For all newly replaced Electrical Facilities, the replacement of electrical transmission lines and utility poles shall be constructed and installed to permit the crossing of heavy equipment used by the District for the maintenance of its laterals, sublaterals and canals and for any similar heavy equipment used by land owners within the District. In any case i) where replacement Electrical Facilities, including electrical transmission lines, cross a pipe or culvert used for drainage or irrigation purposes, or ii) where a pipe or culvert is needed hereafter for drainage or irrigation of adjacent lands, and the pipe or culvert is deemed by District to be in need of repair or replacement, then District will provide Permittee with written notice of such event, and Permittee and District will devise a mutually agreeable schedule for the implementation of such work. Permittee agrees to make personnel and equipment available at the time of such repair or replacement work, at no cost to the District, to insure that the transmission lines do not interfere with such activities. District agrees that all District contractors and employees will attend a Permittee Safety Six presentation (which will be provided without cost to the District or its contractors) prior to commencing any such work in the vicinity of the Electrical Facilities. The District has the right to approve the location of each new electrical transmission pole installed within the Permit Area, which approval will not be unreasonably withheld, conditioned or delayed, to ensure that such installation will not interfere with the District's functions and operations.

8. Permittee shall provide advance notice to the District's office of any planned construction, or the anticipated completion date of all new construction.

9. Permittee shall not discharge any pollutants or contaminants into waters or canals owned or maintained by, or subject to the jurisdiction of District, nor shall Permittee permit Permittee's employees, contractors and agents to obstruct the flow of water within the District's canals. Permittee shall save and hold District harmless from any expense, loss or damage incurred by the District as a result of Permittee, its employees, contractors or agents discharging pollutants or contaminants into the waters or canals owned, operated or maintained by the District in violation of applicable environmental law, or obstructing the flow of waters in such canals. Permittee shall cure, or commence to cure, any such default within thirty (30) days following written notice of such default from District to Permittee.

10. Permittee shall comply with all applicable requirements of the Department of Environmental Protection for the State of Florida, as such requirements relate to Permittee's use of the District's Permit Area under the Permit, and if, at any time, the Permittee shall fail to meet

such requirements, which failure continues beyond the applicable cure period as set forth in paragraph 3 of this Agreement, Permittee shall be in default of this Agreement.

11. Permittee shall reimburse District, within forty-five (45) days of District's demand together with detailed, supporting documentation, for any reasonable fees for testing or other professional services, costs or expenses to District associated with or arising from Permittee's use of District's Permit Area.

12. The Permittee shall pay to the District for the use of the Permitted area [$12,015 for VB-2/$1,950 for VB-5/$5,280 for VB-6], payable in advance, as the first year's rent. District may increase the amount due hereunder by the annual cost of living over that of the first year hereof, or by 3% per year, whichever is greater.

13. [Reserved].

14. District and Permittee shall be entitled to exercise any remedy available at law or in equity, including without limitation, a suit for specific performance of any obligations set forth in this Agreement or any appropriate injunctive or other equitable relief, or for damages resulting from a default or breach. Notwithstanding the foregoing or anything to the contrary contained in this Agreement or applicable law, in no event shall any default or breach of this Agreement, or any failure to perform any obligations under this Agreement, terminate, or entitle the District or Permittee to terminate, rescind or cancel the Permit or the rights granted under this Agreement.

15. Following termination of the Permit, the Permittee shall, at its expense, promptly remove all Electrical Facilities from the Permit Area.

16. The Permit shall be considered to be a license only for the Term, for the limited purpose of installation, maintenance, inspection, operation, repair and use of the Electrical Facilities specified in this Agreement, and does not convey any other right, title or interest of the District in the subject right-of-way property.

17. In the event of any dispute arising hereunder, the parties agree that, as a condition precedent to litigation, the parties shall first submit the same to non-binding mediation for resolution.

18. Permittee assumes all risks of its use of the Permit Area under this Agreement, which use is at Permittee's sole risk. Any loss or damage to Permittee's Electrical Facilities or bodily injury or death of Permittee's personnel while on the Permit Area, regardless of the cause of the same, is Permittee's responsibility and not District's and, as a condition of the Permit, Permittee promises, covenants and agrees to release District from any such Permittee claims and indemnify District, to the extent provided and allowed by law, against any claims by Permittee's employees against District by reason of bodily injury, death or property damage suffered by such Permittee employees, including reasonable attorney's fees, fines and penalties. The parties hereto further acknowledge and agree that this hold harmless, indemnification and release is further consideration to the District for Permittee's use of the Permit Area under the Permit.

19. Concurrent with the sale of all or substantially all of Permittee's electrical power system, Permittee may enter into a sub-license of the Permit of Permittee's rights and obligations

under this Agreement (a "**Sublicense**") with the new owner of Permittee's electrical power system (the "**Sublicensee**"). Permittee shall not grant or attempt to grant any greater rights or powers to the Sublicensee than are permitted or granted to Permittee herein. Permittee shall not charge Sublicensee more than the amounts set forth in paragraph 12 of this Agreement. In the event Permittee enters into a Sublicense as provided herein, the following terms shall apply:

a. within three (3) business days following the execution of the Sublicense by Permittee and Sublicensee, an original of the fully executed Sublicense shall be delivered to the District;

b. the District, Sublicensee and Permittee shall be subject to all of the terms, conditions and obligations imposed upon District and Permittee pursuant to the Permit;

c. a Sublicense of Permittee's interests under this Agreement shall not release Permittee from any of the terms or conditions of this Agreement, provided, however, that if the District makes any claim against Licensee for indemnification hereunder and such claim is based on the acts or omissions of Sublicensee, Permittee shall enforce such claim against Sublicensee pursuant to the terms of the Sublicense, and the liability of Permittee to the District shall be limited to the amount of its recovery from Sublicensee;

d. in the event any of Sublicensee's Electrical Facilities within the Permit Area described in the Permit are abandoned by the Sublicensee, the Sublicensee shall provide District and Permittee with written notice of such abandonment within ten (10) business days of such event, and Sublicensee shall promptly cause all Electrical Facilities within the abandoned Permit Area to be removed within ninety (90) days from Sublicensee's notice of abandonment, and the Permit shall terminate as to the abandoned Permit Area;

e. the District may not amend, release or terminate the Permit without at least ninety (90) days prior written notice to Sublicensee and receipt of Sublicensee's written consent to such amendment, release or terminations, which written consent not to be unreasonably withheld, conditioned or delayed;

f. District agrees to provide Sublicensee with written notice of any default by Permittee under this Agreement simultaneously with any notice of default to Permittee. Sublicensee shall have an additional thirty (30) days following the expiration of Permittee's cure period within which to cure or, as the case may be, commence the cure, of the Permittee default.

g. Except for the Sublicense to the Sublicensee, neither the Permit, nor any portion thereof, may be otherwise assigned, sublet, licensed or otherwise conveyed (collectively, a "**Conveyance**") by Permittee to a third party without the District's prior written consent, which consent can be withheld in the District's sole and absolute discretion. A Conveyance without the District's consent shall be a default by Permittee herein.

20. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each

Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

21. In consideration of the grant of the Permittee, for itself, its successors and assigns, of the right to use and occupy District's property without acquiring the same, Permittee expressly waives and relinquishes power of eminent domain or condemnation of the property as to which the Permit applies for the use for which the Permit is granted. This clause shall survive termination or expiration of the Permit for so long as Permittee has the right to use and occupy District's property for the use for which the Permit is granted.

[remainder of page intentionally left blank]

[signatures on following page]

IN WITNESS WHEREOF, said District has caused these present to be executed in its name, by its Secretary and its corporate seal hereto affixed, by due authority of its Board of Supervisors, this ____ day of _____, 201__.

Signed, Sealed and delivered
in the presence of:

_____

_____
as to District

(SEAL)

INDIAN RIVER FARMS WATER CONTROL DISTRICT

By: _____
David E. Gunter, Secretary

[Permittee acceptance on following page]

Permittee hereby accepts the terms of this Agreement, and covenants and agrees that it will comply with the terms and condition of this Agreement and the Permit.

Dated this __ day of _____, 201__.

Signed, Sealed and delivered
in the presence of:

_____

_____
as to Permittee

_____

_____
as to Permittee

CITY OF VERO BEACH

By: _____
Mayor

Attest: _____
City Clerk

(SEAL)

"**Exhibit A**"

Plans and Specifications

EXHIBIT Q

Prepared by/Return to:

_____
_____
_____
_____

SUBLICENSE AGREEMENT
(No. VB-2, VB-5, and VB-6)

THIS SUBLICENSE AGREEMENT ("**Agreement**"), dated as of this [___] day of [_____], 201[__] (the "**Effective Date**"), by and between the **CITY OF VERO BEACH, FLORIDA**, a municipal corporation of the State of Florida, whose address is 1053 20th Place, P.O. Box 1389, Vero Beach, Florida 32961-1389 (the "**Sublicensor**") and **FLORIDA POWER & LIGHT COMPANY**, a corporation organized under the laws of the State of Florida whose address is 700 Universe Blvd, Juno Beach, FL 33408 (the "**Sublicensee**"). The Sublicensor and the Sublicensee are sometimes collectively referred to herein as the "**Parties**" and individually as a "**Party**."

WHEREAS, the Sublicensor and Indian River Farms Water Control District, a drainage district organized and existing under the General Drainage Laws of the State of Florida (the "**District**"), have entered into that certain Permit and Interlocal Agreement (No. VB-2, VB-5 and VB-6), dated 1, 201[__] (the "**License Agreement**"), pursuant to which the District has granted unto the Sublicensor a permit and license (collectively, the "**Permit**"), which Permit is effective from the date of the License Agreement and continues for a period of fifty (50) years (collectively, the "**Term**"), for the purpose of installing, maintaining, inspecting, operating, repairing and using electrical transmission lines, utility poles and related improvements (collectively, the "**Electrical Facilities**") on, over and across the District's right-of-way along the North side of the Main Canal, South Relief Canal & Lat. "B", and Lat. J Canal R/W at the locations (the "**Permit Area**") and in accordance with the plans and specifications attached hereto and thereto as "**Exhibit A** signed by the District and the Sublicensor and incorporated in this Agreement and the License Agreement by reference, together with the right of ingress and egress on and over the property at said locations;

WHEREAS, as of the Effective Date, the Sublicensor has either conveyed or leased to Sublicensee all right, title and interest in and to certain electric utility assets of the City of Vero Beach, and the Sublicensee will commence on the Effective Date providing retail electric service to the City of Vero Beach's electric utility customers as contemplated under that certain Asset Purchase and Sale Agreement, dated as of [_____], 201[__], by and between the Sublicensor and the Sublicensee (the "**Asset Purchase and Sale Agreement**");

WHEREAS, in order to provide retail electric services to said electric utility customers as contemplated by the Asset Purchase and Sale Agreement, the Sublicensee desires to sublicense from the Sublicensor, and the Sublicensor desires to sublicense to the Sublicensee, all of the Sublicensor's rights and obligations under the Permit for the remainder of the Term, as permitted by and in accordance with paragraph 19 of the License Agreement.

NOW, THEREFORE, in consideration of and subject to the terms, covenants, agreements, provision and limitations set forth in this Agreement, the Sublicensor and the Sublicensee agree as follows:

1. Capitalized terms used in this Agreement and not otherwise defined herein shall have the same meanings when used herein as in the License Agreement.

2. Subject to all of the terms, conditions and obligations set forth in the License Agreement, the Sublicensor does hereby grant unto the Sublicensee an exclusive sub-permit and sub-license of all of the Sublicensor's rights and obligations under the Permit and under the License Agreement for the remainder of the Term for the purpose of installing, maintaining, inspecting, operating, repairing and using the Electrical Facilities on, over and across the Permit Area. If the License Agreement is hereafter extended, renewed or replaced upon the expiration of the Term, then, at the option of the Sublicensee exercised by written notice to the Sublicensor, the Parties agree that this Agreement shall be extended, renewed or replaced on terms and conditions equivalent to those set forth in the extension, renewal or replacement of the License Agreement. Notwithstanding the foregoing and for purposes of clarity, Sublicensor shall maintain all rights under the Permit, if any, necessary for Sublicensor to provide municipal services other than providing electricity, including without limitation providing water and sewer services.

3. The Sublicensee, except as specifically permitted pursuant to paragraph 18 herein, shall not have any right to otherwise assign, sublet, grant a further sub-permit or sub-license of the Permit or any part thereof unto a third party. The Sublicensor agrees that it will not, without the prior written consent of the Sublicensee, which consent may be withheld in the Sublicensee's sole and absolute discretion, amend, release or terminate the License Agreement or the Permit.

4. Beginning on the Effective Date, Sublicensee assumes full responsibility for all future payments due to the District under the License Agreement, and, except as set forth below, for all responsibilities and indemnity obligations of Sublicensor under the License Agreement. Sublicensor shall remain responsible for its municipal facilities, including water and sewer facilities, installed on District property under the License, if any, and Sublicensor shall be responsible for indemnity obligations to the District under the License to the extent arising from

Sublicensor's ownership, use or operation of its municipal facilities on the Permit Area.. Without limiting the foregoing, from and after the Effective Date, the Sublicensee assumes full responsibility for the operation and maintenance of the Electrical Facilities and use of the Permit Area by Sublicensee for the Electrical Facilities. Sublicensee agrees to indemnify, defend and hold harmless Sublicensor and Sublicensor's elected and appointed officials, officers, directors, employees, and affiliates (collectively the "**Sublicensor's Related Parties**") against any and all claims, including costs and expenses, of any kind or nature, including, without limitation, costs of investigation, attorneys' fees, paralegal fees, experts' fees and costs through regulatory proceedings, trial and review or appeal, including but not limited to claims for personal injury, death of persons and property damage, or other liability to the extent arising from Sublicensee's use, improvement, operation, condition or maintenance of the Electrical Facilities or entry onto the Permit Area or other District property, provided however that this indemnity shall not apply to the negligence or willful misconduct of the Sublicensor and/or the Sublicensor's Related Parties as determined by a court of competent jurisdiction. Such right of indemnity and defense shall include the right to be paid by the Sublicensee reasonable expenses incurred in investigating or defending any such claim in advance of its final disposition within forty-five (45) days following Sublicensee's receipt of Sublicensor's invoice and supporting documentation.

In no event shall the Sublicensor or the District be liable for any damages done or caused by the Sublicensee to the public, to the Sublicensor or any other person, using the right-of-way or Permit Area under the Permit.

5. Notwithstanding any other provisions in this Agreement to the contrary, neither Party nor any of its elected officials, directors, officers, employees, lenders, shall be liable to the other Party for consequential, incidental, exemplary, punitive, anticipatory profits or indirect loss or damage of any nature, including, without limitation, loss of profit, loss of use, loss of operating time, loss of revenue, increased costs of producing revenues, cost of capital or loss of goodwill whether arising in tort, contract, warranty, strict liability, by operation of law or otherwise, even if by such Party's, its representatives', agents', contractors', subcontractors', invitees' or licensees' negligence or fault, in connection with this Agreement, except to the extent claimed by third parties. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, sole remedy provisions and limitations on liability expressed in this Agreement shall survive termination or expiration of this Agreement and shall extend to the parent, affiliates, and subsidiaries of each Party and their respective, partners, directors, officers, and employees and elected officials.

6. The Sublicensee is cautioned that electrical, water, sewer, gas or other installations or utilities may be located within the Permit Area, and the Sublicensee shall use diligent efforts to first detect and locate all such installations and shall coordinate construction with all other lawful users of the right-of-way within the Permit Area. The Sublicensee shall be liable for all damages proximately resulting from its interference with or interruption of services provided by other lawful right-of-way users within the Permit Area. The Sublicensee acknowledges that the District has agreed in the License Agreement to ensure that this provision is included in all permits issued to water, sewer, gas or other installations or utilities that are or may be located within the Permit Area. The Parties covenant to one another, that their respective activities related to this

Agreement or the Permit will not interfere with the other's right or ability to provide electrical or municipal services, including without limitation providing water and sewer services.

7. Any construction on the Permit Area and cleanup shall be completed promptly by the Sublicensee and in a workmanlike manner with minimum disturbance to existing berm, channel slopes and grade, with proper restoration and planting of any disturbed areas to prevent erosion occurring within thirty (30) days after completion of the Sublicensee construction or installation of Electrical Facilities.

8. Electrical Facilities acquired by the Sublicensee from the Sublicensor pursuant to the Asset Purchase and Sale Agreement currently exist within the Permit Area. For all newly installed Electric Facilities, the Sublicensee shall at all times maintain cable markers above ground at 100 foot intervals to show the location of the electrical transmission cables. For all newly installed Electrical Facilities, the electrical transmission lines and utility poles shall be constructed and installed to permit the crossing of heavy equipment used by the District for the maintenance of its laterals, sublaterals and canals and for any similar heavy equipment used by land owners within the District. In any case i) where newly installed Electric Facilities, including electrical transmission lines, cross a pipe or culvert used for drainage or irrigation purposes, or ii) where a pipe or culvert is needed hereafter for drainage or irrigation of adjacent lands, and the pipe or culvert is deemed by the District to be in need of repair or replacement, then the Sublicensor will provide the Sublicensee with a copy of any written notice of such event received from the District, and the Sublicensee and the District will devise a mutually agreeable schedule for the implementation of such work. The Sublicensee agrees to make personnel and equipment available at the time of such repair or replacement work, at no cost to the District and Sublicensor, to insure that the transmission lines do not interfere with such activities. The Sublicensee acknowledges that the District has agreed that all District contractors and employees will attend a Sublicensee Safety Six presentation (which will be provided without cost to the District or its contractors or Sublicensor) prior to commencing any such work in the vicinity of the Electrical Facilities. The Sublicensee acknowledges that the District has the right to approve the location of each new electrical transmission line installed within the Permit Area, which approval will not be unreasonably withheld, conditioned or delayed, to ensure that such installation will not interfere with the District's functions and operations.

9. The Sublicensee shall provide advance notice to the District's office of any planned construction, or the anticipated completion date of all new construction.

10. The Sublicensee shall not discharge any pollutants or contaminants into waters or canals owned or maintained by, or subject to the jurisdiction of the District, nor shall the Sublicensee permit the Sublicensee's employees, contractors and agents to obstruct the flow of water within the District's canals. The Sublicensee shall indemnify, defend and save and hold harmless the District and the Sublicensor from any and all expense, loss, damage or claim of any kind or nature whatsoever and incurred by or against the District or the Sublicensor to the extent it is as a result of the Sublicensee, its employees, contractors or agents discharging pollutants or contaminants into the canals owned, operated or maintained by the District in violation of applicable environmental law, or obstructing the flow of waters in such canals. Such right of

indemnity and defense shall include the right to be paid by the Sublicensee reasonable expenses incurred in investigating any such claim in advance of its final disposition within forty-five (45) days following Sublicensee's receipt of an invoice and adequate supporting documentation. The Sublicensee shall cure, or commence to cure, any such discharge, release or obstruction by Sublicensee, its employees, contractors or agents within thirty (30) days following written notice of such default from the District or the Sublicensor to the Sublicensee.

11. The Sublicensee shall comply with all applicable requirements of the Department of Environmental Protection for the State of Florida, as such requirements relate to the Sublicensee's use of the Permit Area under this Agreement, and if, at any time, the Sublicensee shall fail to meet such requirements, the Sublicensee shall be in default under this Agreement if such failure continues beyond the applicable cure period available to the Sublicensee as set forth in paragraph 19(f) of the License Agreement.

12. The Sublicensee shall reimburse the District, within forty-five (45) days of the District's demand together with detailed, supporting documentation, for any reasonable fees for testing or other professional services, costs or expenses to the District associated with or arising from the Sublicensee's use of the Permit Area. The Sublicensee acknowledges that the Permit may be suspended by the District for so long as such costs or expenses remain unpaid beyond such forty-five (45) day period.

13. The Sublicensee shall pay to the District on behalf of the Sublicensor the amounts payable under paragraphs 12 of the License Agreement as and when due from the Sublicensor to the District under the License Agreement as consideration (except as otherwise provided in Section 16 of this Agreement) for the sub-permit and sub-license granted hereunder by the Sublicensor to the Sublicensee.

14. The Sublicensor and the Sublicensee shall be entitled to exercise any remedy available at law or in equity, including without limitation, a suit for specific performance of any obligations set forth in this Agreement or any appropriate injunctive or other equitable relief, or for damages resulting from a default or breach. Notwithstanding the foregoing or anything to the contrary contained in this Agreement or applicable law, in no event shall any default or breach of this Agreement, or any failure to perform any obligations under this Agreement, terminate, or entitle the Sublicensor or the Sublicensee to terminate, rescind or cancel this Agreement or the rights granted hereunder. Notwithstanding any provision of this Agreement or the License Agreement to the contrary, the Sublicensee shall have the right at all times during the Term to take any and all actions it deems necessary or appropriate to maintain the License Agreement in full force and effect, including, without limitation, the right to cure any and all breaches or defaults by the Sublicensor thereunder whether during or after any cure period granted to the Sublicensor pursuant to the License Agreement and with or without notice from the District of the occurrence of any such breach or default, and the Sublicensor shall reimburse the Sublicensee for the cost of the cure of any such breach or default caused by Sublicensor or any employee, agent or subcontractor thereof within thirty (30) days after demand therefor. In addition, if the District defaults in any of its obligations under the License Agreement or seeks to terminate or repudiate the License Agreement, the Sublicensor agrees that Sublicensee may, at its expense, pursue a

claim against the District in the name of the Sublicensor to enforce the rights of the Sublicensor under the License Agreement and Sublicensor agrees to cooperate with Sublicensee in pursuit of such claim.

15. This Agreement shall be considered to be an irrevocable sub-permit and sub-license only for the Term, for the limited purpose of installation, maintenance, inspection, operation, repair and use of the Electrical Facilities specified in the License Agreement, and does not convey any other right, title or interest of the District in the subject right-of-way property.

16. The Sublicensee assumes all risks of its use of the Permit Area under this Agreement, which use is at Sublicensee sole risk. Any loss or damage to Sublicensee's Electrical Facilities or bodily injury or death of Sublicensee's personnel while on the Permit Area, regardless of the cause of the same, is not District's responsibility and, as a condition of this Agreement, Sublicensee promises, covenants and agrees to release District from any such Sublicensee claims and indemnify District, to the extent provided and allowed by law, against any claims by Sublicensee's employees against District by reason of bodily injury, death or property damage suffered by such Sublicensee employees, including reasonable attorney's fees, fines and penalties. The Parties hereto further acknowledge and agree that this hold harmless, indemnification and release is further consideration for Sublicensee's use of the Permit Area under this Agreement.

17. In the event any of the Sublicensee's Electrical Facilities within the Permit Area are abandoned by the Sublicensee, the Sublicensee shall provide the District and the Sublicensor with written notice of such abandonment within ten (10) business days of such event, and the Sublicensee shall promptly cause all Electrical Facilities within the abandoned Permit Area to be removed within ninety (90) days from the Sublicensee's notice of abandonment, and this Agreement shall terminate as to the abandoned Permit Area.

18. Sublicensor acknowledges that this Agreement and FPL's interests hereunder shall be subject to the encumbrance of FPL's pre-existing mortgage with Deutsche Bank Trust Company Americas. Except for the rights granted to the Sublicensee pursuant to this Agreement, neither the Permit, nor any portion thereof, may be otherwise assigned, sublet, licensed or otherwise conveyed (collectively, a "**Conveyance**") by the Sublicensor and any Conveyance in contravention of this sentence by the Sublicensor shall be null and void and without force or effect. The Sublicensee shall not, without the consent of the District, enter into any Conveyance with respect to the Sublicensee's rights, title or interest in the Permit, nor any portion thereof, nor of or under this Agreement.

19. Sublicensor agrees to deliver to the District a fully executed counterpart of this Agreement within three (3) business days following the Effective Date.

20. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each

Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

21. No waiver by any Party of any provision of this Agreement shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by the other Party of the same or any other provision.

22. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

23. This Agreement shall bind the Parties, and their respective successors and permitted assigns.

24. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument.

25. In the event the Sublicensee or the Sublicensor defaults in the performance of any of the terms, covenants, conditions, agreements, or provisions contained in this Agreement and the Sublicensor or the Sublicensee employs attorneys and brings suit in connection with the enforcement of this Agreement or any provision hereof or the exercise of any of its remedies hereunder, then the prevailing Party in any suit so instituted shall be promptly reimbursed by the other Party for all reasonable attorneys' fees so incurred.

26. [Reserved]

27. Every notice, approval, consent or other communication required or permitted under this Agreement shall be in writing, shall be deemed to have been duly given on the date of receipt, and shall be deemed delivered if either served personally on the Party to whom notice is to be given, or mailed to the Party to whom notice is to be given, by overnight courier or by first class registered or certified mail (return receipt requested), postage prepaid, and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by written notice given to the other Party in the manner provided in this paragraph.

To the Sublicensor: City of Vero Beach
1053 20th Place
Vero Beach, FL 32960
Attention: City Manager

With a copy to: City of Vero Beach
1053 20th Place
Vero Beach, FL 32960
Attention: City Attorney

To the Sublicensee: Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408
Attention: Corporate Real Estate

With a copy to: Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, Florida 33408
Attention: Law Department

28. This Agreement and the Asset Purchase and Sale Agreement contain the entire agreement between the Parties hereto as to the subject matter hereof and supersedes all previous negotiations leading hereto, and it may be modified only by an agreement in writing executed and delivered by the Sublicensor and the Sublicensee. Any formally executed addendum to or modification of this Agreement shall be expressly deemed incorporated by reference herein unless a contrary intention is clearly stated therein.

29. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF THE SUBLICENSOR AND THE SUBLICENSEE, THE SUBLICENSEE'S USE OR OCCUPANCY OF THE PERMIT AREA, OR ANY CLAIM FOR INJURY OR DAMAGE, SHALL BE IN THE COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT.

30. THE PARTIES HERETO SHALL, AND THEY HEREBY DO, IRREVOCABLY WAIVE TRIAL BY JURY IN ANY AND EVERY ACTION OR PROCEEDING BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF THE SUBLICENSOR AND THE SUBLICENSEE, THE SUBLICENSEE'S USE OR OCCUPANCY OF THE PERMIT AREA, AND ANY CLAIM FOR INJURY OR DAMAGE.

31. In consideration of the grant to the Sublicensee of the rights under this Agreement, Sublicensee expressly waives and relinquishes the power of eminent domain or condemnation of the property as to which the Permit applies for the use for which the Permit is granted. This clause shall survive termination or expiration of the Permit for so long as Sublicensee has the rights under this Agreement.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the date first set forth above.

Sublicensor:	**Sublicensee**:
CITY OF VERO BEACH, FLORIDA	FLORIDA POWER & LIGHT COMPANY, a Florida Corporation
By: _____ Name: Title: _____	By: _____ Name: _____ Title: _____
_____ Witness:	_____ Witness:
_____ Witness:	_____ Witness:

Sublicense Agreement by and between The City of Vero Beach, Florida and Florida Power
&
Light Company

Exhibit "A"

Description of Permit Area

Exhibit T

Grant Harbor Property Description

[*Exhibit begins on the following page.*]

480332

QUIT-CLAIM DEED FROM CORPORATION

RAMCO FORM 42

This Quit-Claim Deed, *Executed this* 17 *day of* October *, A. D. 19* 86*, by*

GRAND HARBOR, INC.,

a corporation existing under the laws of the State of Florida *, and having its principal place of business at* 660 Beachland Boulevard, Vero Beach, Florida 32963 *, first party, to*

THE CITY OF VERO BEACH, a municipal corporation of the State of Florida,

whose postoffice address is P.O. Box 1389, Vero Beach, Florida 32961-1389

second party:

(Wherever used herein the terms "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Witnesseth, *That the said first party, for and in consideration of the sum of $* 10.00 *in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of* Indian River *State of* Florida *, to wit:*

SEE SKETCH AND DESCRIPTION ATTACHED HERETO AS EXHIBIT A.

The described property is subject to the following Mortgages:

SEE EXHIBIT B ATTACHED HERETO.

Title of the property shall revert to the Grantor should the Grantee utilize the property for any purpose other than use as a utility substation site.

DOC ST. - AMT. $ 50
FRED A. WRIGHT, Clerk of Circuit Court
Indian River County - by Agnes Karaney D.C.

To Have and to Hold *the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said first party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.*

In Witness Whereof *the said first party has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.*

(CORPORATE SEAL)

ATTEST: ..... Secretary

GRAND HARBOR, INC.

By ..... RICHARD G. SCHAUB, Jr. President

Signed, sealed and delivered in the presence of:

.....

.....

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements personally appeared

RICHARD G. SCHAUB, Jr.,

well known to me to be the President of the corporation named as first party in the foregoing deed and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.

WITNESS my hand and official seal in the County and State last aforesaid this 17 day of October A. D. 19 86.

(Notarial Seal)

Notary Public, State of Florida at Large

My Commission Expires:

NOTARY PUBLIC, STATE OF FLORIDA
MY COMMISSION EXPIRES APRIL 4, 1988

This instrument prepared by: STEVE L. HENDERSON, Esq.
Address P.O. Box 3406, Vero Beach, Florida 32964-3406

RETURN TO: CITY ATTORNEY

O.R. 0751 PG 1269

DESCRIPTION

1. Beginning on the center 1/4 section corner of Section 23, Township 32 South, Range 39 East and run S 00°01'26" W, 663.16 feet to the Northwest corner of the West 1/2 of the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 23, Township 32 South, Range 39 East, said point being the Northwest corner of that property deeded by Barnes to Barnes, et al, as recorded in Official Record Book 171 on page 660, public records of Indian River County, Florida;

2. thence, continue S 00°01'26" W, 663.16 feet on the West boundary of said Barnes property;

3. and S 89°50'15" E, 665.92 feet on the South boundary of said Barnes property to the Southeast corner thereof and the True Point of Beginning;

4. thence, N 00°01'16" E, 577.14 feet on the East boundary of the Barnes property to an intersection with the West right-of-way line of Indian River Boulevard (200 ft. right-of-way);

5. thence, on a nontangent curve, concave to the West, run Southeasterly 456.00 feet to a point of reverse curvature on a curve having a radius of 5,000 feet, the chord to said curve bears S 22°30'45" E, 455.83 feet;

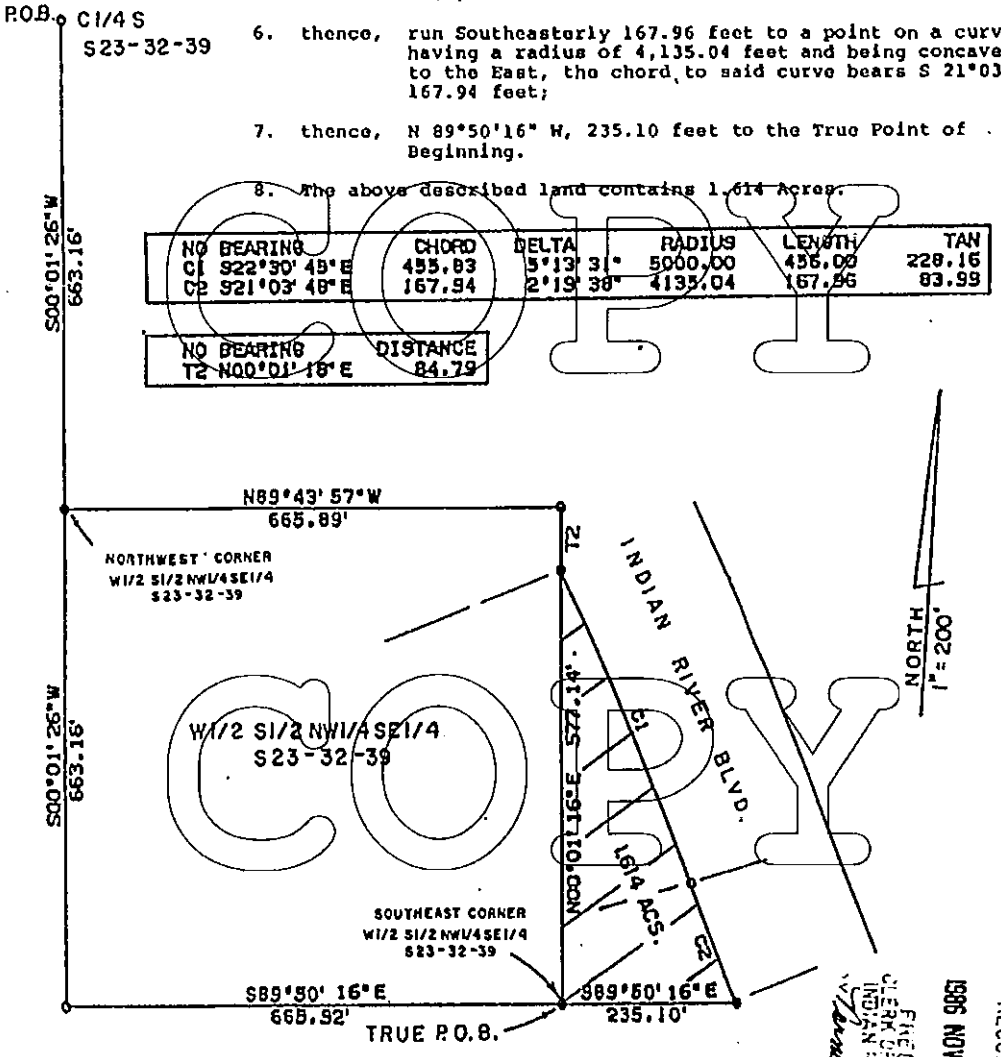
6. thence, run Southeasterly 167.96 feet to a point on a curve having a radius of 4,135.04 feet and being concave to the East, the chord to said curve bears S 21°03'48" E, 167.94 feet;

7. thence, N 89°50'16" W, 235.10 feet to the True Point of Beginning.

8. The above described land contains 1.614 Acres.

NO	BEARING	CHORD	DELTA	RADIUS	LENGTH	TAN
C1	S22°30'45"E	455.83	5°13'31"	5000.00	456.00	228.16
C2	S21°03'48"E	167.94	2°19'38"	4135.04	167.96	83.99

NO	BEARING	DISTANCE
T2	N00°01'16"E	84.79

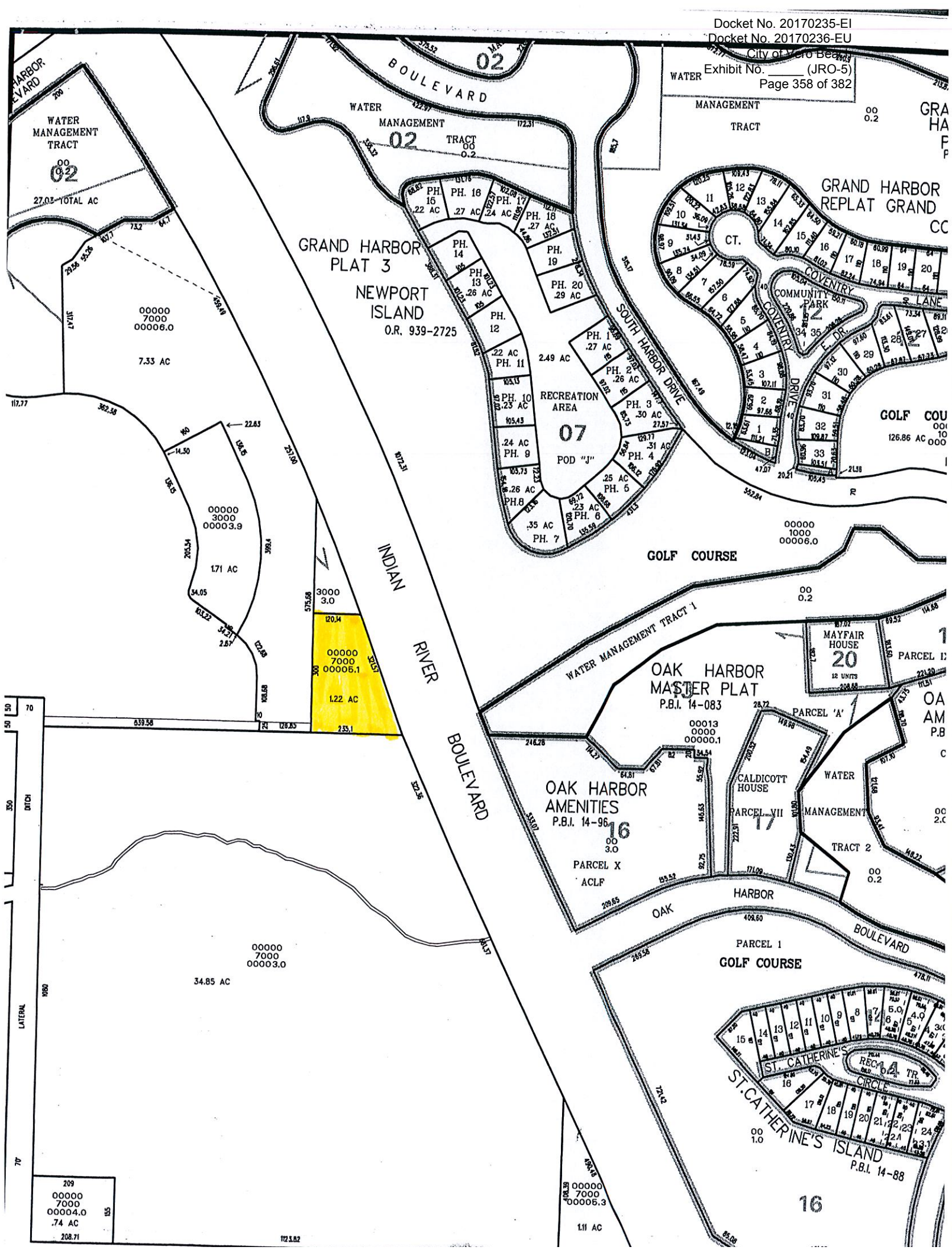


FILED FOR RECORD
BOOK AND PAGE ABOVE
RECORD VERIFIED
CLERK OF CIRCUIT COURT
INDIAN RIVER CO., FLA.
1986 NOV 12 AM 11: 25
O.R. 0751 PG 1220

LLOYD & ASSOCIATES, INC.
CONSULTING ENGINEERS, SURVEYORS, PLANNERS
1038 20TH STREET
VERO BEACH, FLORIDA 32960
(305) 569-6116

PART "B"

PROPERTY DESCRIPTION AND SKETCH


WATER MANAGEMENT TRACT
02
27.03 TOTAL AC
BOULEVARD
WATER MANAGEMENT TRACT
02
00 0.2
GRAND HARBOR PLAT 3
NEWPORT ISLAND
O.R. 939-2725
PH. 15 .22 AC
PH. 16 .27 AC
PH. 17 .24 AC
PH. 18 .27 AC
PH. 14
PH 13 .26 AC
PH. 12 .22 AC
PH. 11
PH. 10 .23 AC
PH. 9 .24 AC
PH.8 .26 AC
PH. 7 .35 AC
PH. 19
PH. 20 .29 AC
PH. 1 .27 AC
PH. 2 .26 AC
PH. 3 .30 AC
PH. 4 .31 AC
PH. 5 .25 AC
PH. 6 .23 AC
2.49 AC
RECREATION AREA
07
POD "J"
SOUTH HARBOR DRIVE
GRAND HARBOR REPLAT GRAND CC
CT.
COVENTRY
COMMUNITY PARK
12
COVENTRY DRIVE
E. DR.
LANE
GOLF COU
126.86 AC
00000 7000 00006.0
7.33 AC
00000 3000 00003.9
1.71 AC
3000 3.0
00000 7000 00006.1
1.22 AC
INDIAN RIVER BOULEVARD
GOLF COURSE
00000 1000 00006.0
WATER MANAGEMENT TRACT 1
00 0.2
MAYFAIR HOUSE
20
12 UNITS
PARCEL I
OAK HARBOR MASTER PLAT
P.B.I. 14-083
00013 0000 00000.1
PARCEL 'A'
OAK HARBOR AMENITIES
P.B.I. 14-96
16
00 3.0
PARCEL X
ACLF
CALDICOTT HOUSE
PARCEL VII
17
WATER MANAGEMENT TRACT 2
00 0.2
OAK HARBOR BOULEVARD
PARCEL 1
GOLF COURSE
ST. CATHERINE'S CIRCLE
REC 0.2 TR.
14
ST. CATHERINE'S ISLAND
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Docket No. 20170235-EI
Docket No. 20170236-EU
City of Vero Beach
Exhibit No. _____ (JRO-5)
Page 359 of 382

Indian River County GIS

ParcelID	OwnerName	PropertyAddress
32392300000700000005.1	CITY OF VERO BEACH	INDIAN RIVER BLVD VERO BEACH, FL 32967

Notes

498895

1300
50

This Quit-Claim Deed, Executed this 19th day of March, 1987, by THE CITY OF VERO BEACH, FLORIDA, a municipal corporation existing under the laws of the state of Florida, having its principal place of business in the county of Indian River and state of Florida, and lawfully authorized to transact business in the state of Florida, Grantor* to GRAND HARBOR, INC., a corporation of the State of Florida existing under the laws of the State of Florida, 660 Beachland Blvd., Vero Beach, Florida 32963
Grantee

Witnesseth: That the said Grantor, for and in consideration of the sum of $ 10.00 (Ten Dollars) and no/100---------- in hand paid by the said Grantee, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said Grantee forever, all the right, title, interest, claim and demand which the said Grantor has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Indian River, State of Florida, to-wit:

The land described in the description and sketch attached hereto as Exhibit "A" LESS the land described in the description and sketch attached hereto as Exhibit "B".

1987 MAR 19 PM 2:15

DOC. ST. - PAT. $ .50
Jeffrey R. Smith, Clerk of Circuit Court
Indian River County - by Brenda K. Warnock D.C.

Return To: City Attorney

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said Grantor, either in law or equity, to the only proper use, benefit and behoof of the said Grantee forever.

*"Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, Grantor hereunto set Grantor's hand and seal the day and year first above written.

Attest: Phyllis A. Neuberger
CITY CLERK

By William H. Cochrane
MAYOR

Signed, sealed and delivered in presence of:

Jammy K. Yoch

(Corporate Seal)

CITY OF VERO BEACH FLORIDA SEAL

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

I Hereby Certify, that on this 19th day of March 19 87, before me personally appeared William H. Cochrane and Phyllis A. Neuberger Mayor and City Clerk respectively of THE CITY OF VERO BEACH, a municipal corporation under the laws of the State of Florida, to me known to be the persons who signed the foregoing instrument as such officers and severally acknowledged the execution thereof to be their free act and deed as such officers for the uses and purposes therein mentioned and that they affixed thereto the official seal of said corporation, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and official seal at Vero Beach in the County of Indian River and State of Florida, the day and year last aforesaid.

IRENE B. MOORE NOTARY PUBLIC STATE OF FLORIDA

Notary Public
My commission expires:

Notary Public, State of Florida at Large
My Commission Expires Sept. 21, 1988

This instrument prepared by:
Terrence P. O'Brien, Esq.
P.O. Box 1389
Vero Beach, Fl. 32961-1389

O.R. 0763 PG 0877

EXHIBIT "A"

DESCRIPTION

1. Beginning on the center 1/4 section corner of Section 23, Township 32 South, Range 39 East and run S 00°01'26" W, 663.16 feet to the Northwest corner of the West 1/2 of the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 23, Township 32 South, Range 39 East, said point being the Northwest corner of that property deeded by Barnes to Barnes, et al, as recorded in Official Record Book 171 on page 660, public records of Indian River County, Florida;

2. thence, continue S 00°01'26" W, 663.16 feet on the West boundary of said Barnes property;

3. and S 89°50'15" E, 665.92 feet on the South boundary of said Barnes property to the Southeast corner thereof and the True Point of Beginning;

4. thence, N 00°01'16" E, 577.14 feet on the East boundary of the Barnes property to an intersection with the West right-of-way line of Indian River Boulevard (200 ft. right-of-way);

5. thence, on a nontangent curve, concave to the West, run Southeasterly 456.00 feet to a point of reverse curvature on a curve having a radius of 5,000 feet, the chord to said curve bears S 22°30'45" E, 455.83 feet;

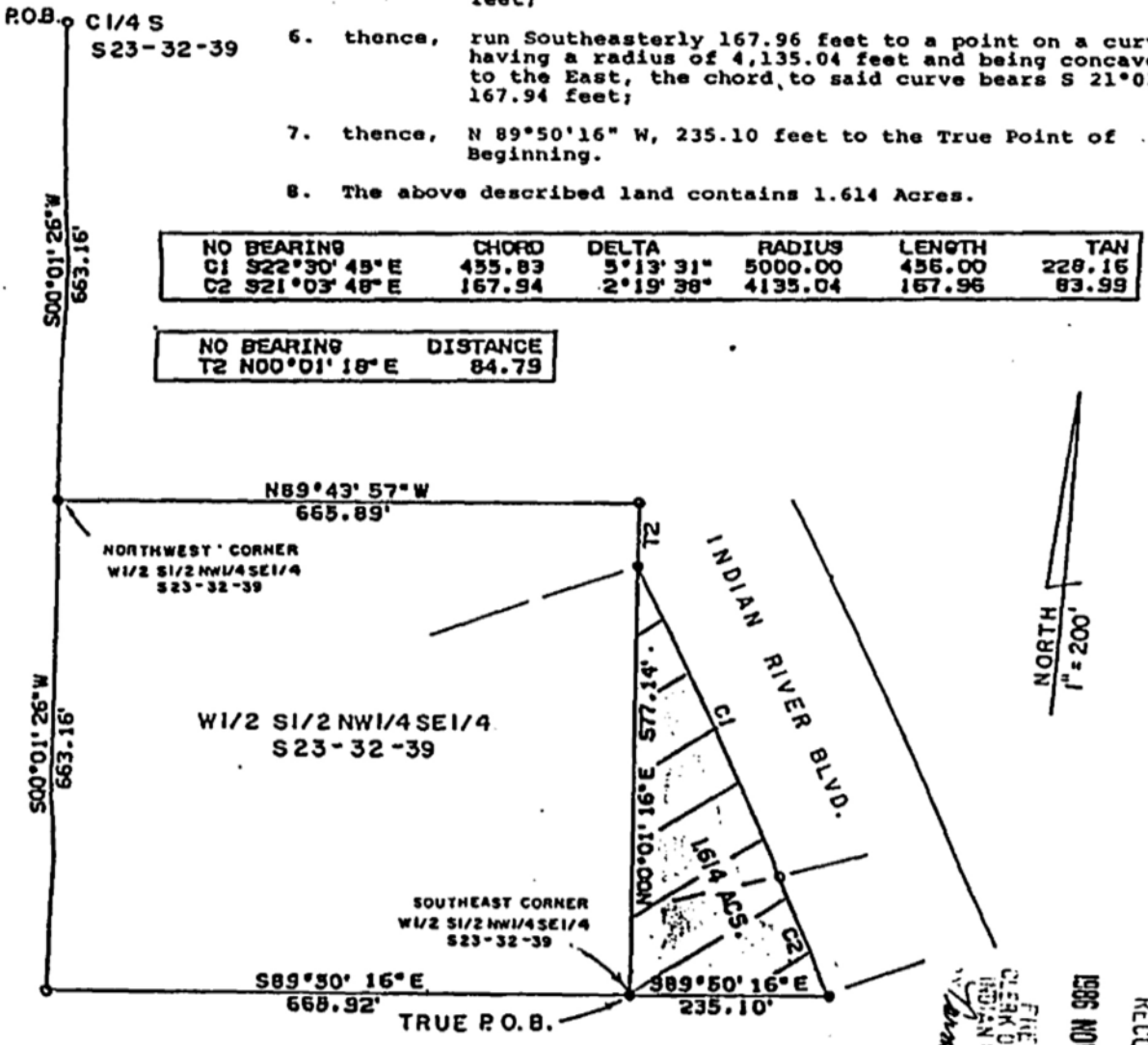
6. thence, run Southeasterly 167.96 feet to a point on a curve having a radius of 4,135.04 feet and being concave to the East, the chord to said curve bears S 21°03'48" E, 167.94 feet;

7. thence, N 89°50'16" W, 235.10 feet to the True Point of Beginning.

8. The above described land contains 1.614 Acres.

NO	BEARING	CHORD	DELTA	RADIUS	LENGTH	TAN
C1	S22°30'45"E	455.83	5°13'31"	5000.00	456.00	228.16
C2	S21°03'48"E	167.94	2°19'38"	4135.04	167.96	83.99

NO	BEARING	DISTANCE
T2	N00°01'16"E	84.79



ASSOCIATES, INC.

PART "B"

PROPERTY DESCRIPTION AND SKETCH

FILED FOR RECORD
BOOK AND PAGE ABOVE
RECORD VERIFIED

1986 NOV 12 AM 11:25

FILED FOR RECORD
CLERK OF CIRCUIT COURT
INDIAN RIVER CO., FLA.

O.R. 0751 PG 1270

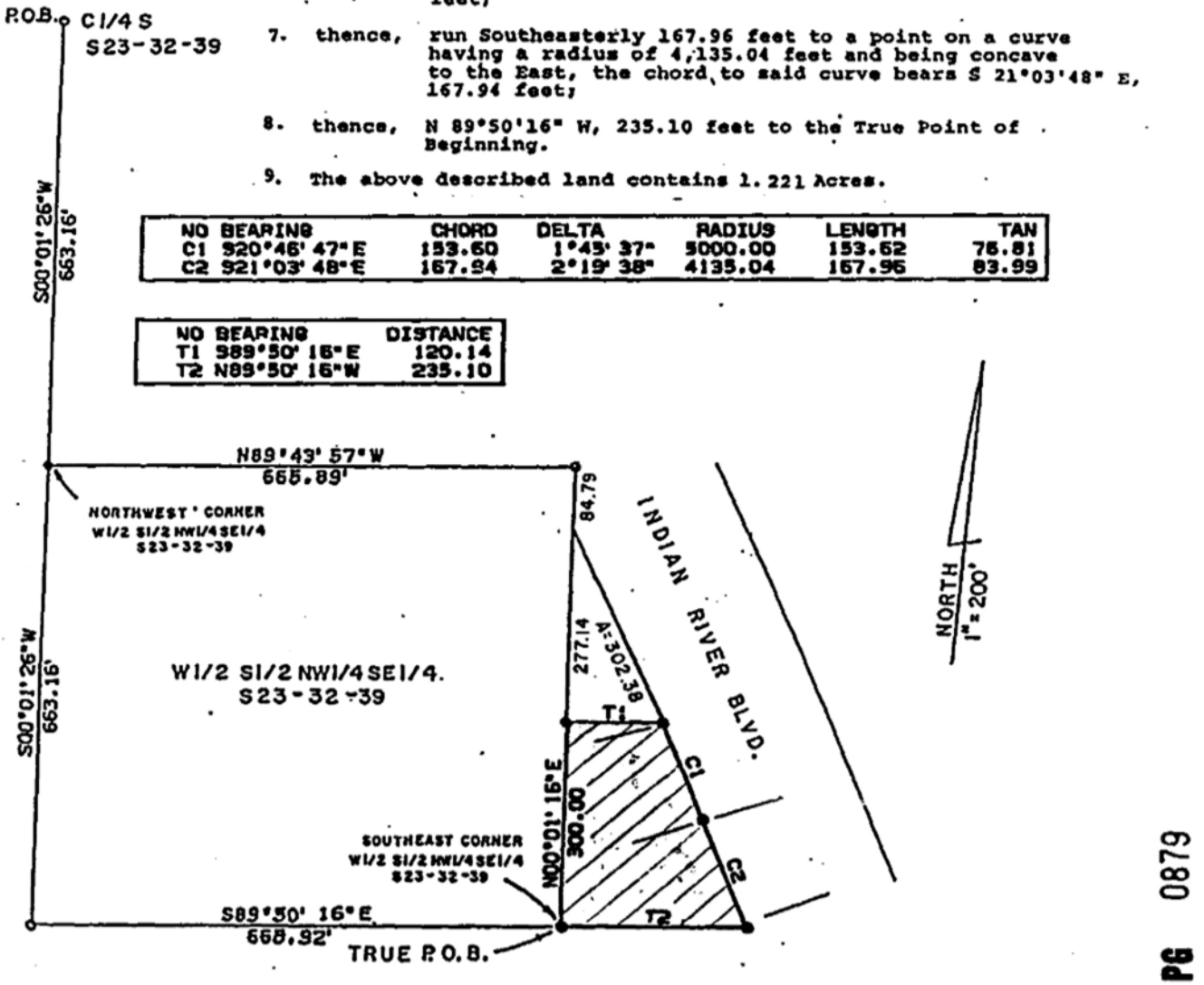
O.R. 0763 PG 0878

DESCRIPTION

1. Beginning on the center 1/4 section corner of Section 23, Township 32 South, Range 39 East and run S 00°01'26" W, 663.16 feet to the Northwest corner of the West 1/2 of the South 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 23, Township 32 South, Range 39 East, said point being the Northwest corner of that property deeded by Barnes to Barnes, et al, as recorded in Official Record Book 171 on page 660, public records of Indian River County, Florida;
2. thence, continue S 00°01'26" W, 663.16 feet on the West boundary of said Barnes property;
3. and S 89°50'16" E, 665.92 feet on the South boundary of said Barnes property to the Southeast corner thereof and the True Point of Beginning;
4. thence, N 00°01'16" E, 300.00 feet on the East boundary of the Barnes property;
5. thence, S 89°50'16" E, 120.14 feet to an intersection with the West right-of-way line of Indian River Boulevard (200 ft. right-of-way);
6. thence, on a nontangent curve, concave to the West, run Southeasterly 153.62 feet to a point of reverse curvature on a curve having a radius of 5,000 feet, the chord to said curve bears S 20°46'47" E, 153.60 feet;
7. thence, run Southeasterly 167.96 feet to a point on a curve having a radius of 4,135.04 feet and being concave to the East, the chord to said curve bears S 21°03'48" E, 167.94 feet;
8. thence, N 89°50'16" W, 235.10 feet to the True Point of Beginning.
9. The above described land contains 1.221 Acres.

NO	BEARING	CHORD	DELTA	RADIUS	LENGTH	TAN
C1	S20°46'47"E	153.60	1°45'37"	5000.00	153.62	76.81
C2	S21°03'48"E	167.94	2°19'38"	4135.04	167.96	83.99

NO	BEARING	DISTANCE
T1	S89°50'16"E	120.14
T2	N89°50'16"W	235.10



LLOYD & ASSOCIATES, INC.
SURVEYING ENGINEERS, CONSULTANTS, PLANNERS
1000 20TH STREET
VERO BEACH, FLORIDA 32960
(561) 562-1110

O.R. 0763 PG 0879

PROPERTY DESCRIPTION AND SKETCH

Exhibit V

Form of Grounding License Agreement

[*Exhibit begins on the following page.*]

GROUNDING LICENSE AGREEMENT

THIS GROUNDING LICENSE AGREEMENT (the "**Agreement**"), made and entered into as of [_____ __], 201[__] (the "**Effective Date**"), is between THE CITY OF VERO BEACH, FLORIDA, a Florida municipal corporation (the "**City**"), the SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA (the "**School District**"), and INDIAN RIVER COUNTY, a political subdivision of the State of Florida (the "**County**") (the City, School District and the County herein collectively called "**Licensor**"), with an address of 1053 20th Place, Vero Beach, FL 32960, and FLORIDA POWER & LIGHT COMPANY, a Florida corporation (herein called "**Licensee**"), with an address of 700 Universe Boulevard, Juno Beach, FL 33408. Licensor and Licensee are sometimes together referred to herein as the "**Parties**" and individually as a "**Party.**"

RECITALS

A. As of the Effective Date, City has sold, assigned and conveyed certain electric utility assets of City to Licensee, and Licensee has commenced providing retail electric service to the City of Vero Beach's electric utility customers as contemplated under that certain Asset Purchase and Sale Agreement, dated [_____], 201[__], by and between City and Licensee (the "**Asset Purchase and Sale Agreement**"). As used in this Agreement, the "**Vero Beach Electric Utility**" means the electric utility system of electricity transmission and distribution owned or operated by Licensee providing retail electric service to the City of Vero Beach's electric utility customers on and after the Effective Date.

B. In order to provide retail electric services to the electric utility customers as contemplated by the Asset Purchase and Sale Agreement, Licensee desires to license from Licensor, and Licensor desires to license to Licensee, the cable casing and other parts of the Fiber Optic System, as described in the Asset Purchase and Sale Agreement (the "**Fiber Optic System**"), that are owned by Licensor and used as the grounding for any part of the Acquired Assets, as defined in the Asset Purchase and Sale Agreement (collectively, the "**Grounding Equipment**"). The Grounding Equipment shall be used by Licensee only for grounding its electric facilities used in the Vero Beach Electric Utility.

C. Licensors are parties to the Revised and Restated Joint Fiber Optics Project Interlocal Agreement, made as of May 19, 2015, and recorded in Official Records Book 290, Page 1151 of the Public Records of Indian River County, Florida, as such agreement may be amended or superseded from time to time (the "**Interlocal Agreement**").

D. As described in the Interlocal Agreement, the Fiber Optic System is owned by Licensors, and the Interlocal Agreement governs the use and operation of the Fiber Optic System.

E. Section 14 of the Interlocal Agreement authorizes the license of the Grounding Equipment to be used for electric utility system grounding.

F. Licensee has requested that Licensor permit the continued use of the Grounding Equipment as the Grounding Equipment has been used by the City in its past operation of the Vero

Beach Electric Utility and Licensor is willing to permit such use of the Grounding Equipment in accordance with the terms and conditions of this Agreement.

G. The License (as hereinafter defined) granted by this Agreement is non-exclusive to Licensor's retained right to use the Fiber Optic System for any and all purposes.

H. Because the Fiber Optic System may be changed or relocated as determined by Licensor, the Grounding Equipment may change over time and no right to any particular portion of the Fiber Optic System is granted by this Agreement or any rights to any particular portion of real property where the Fiber Optic System may now or hereafter exist. Instead, the rights granted to Licensee pursuant to this Agreement are limited to the right to use the Grounding Equipment, as needed, and as the Grounding Equipment may exist from time to time, for grounding its electric facilities used in the Vero Beach Electric Utility.

I. It is intended that the Fee (as hereinafter defined) provided for in this Agreement shall be absolutely net to Licensor throughout the Term (as hereinafter defined), free of any taxes, costs, utilities, insurance expenses, liabilities, charges or other deductions whatsoever with respect to the Grounding Equipment and the operation, maintenance, repair, rebuilding, use or occupation thereof all of which shall be Licensee's sole responsibility during the entire Term.

NOW THEREFORE, in consideration of and subject to the terms, covenants, agreements, provision and limitations set forth in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Licensor and Licensee agree as follows:

1. Recitals. The above-stated recitals are true and correct and are incorporated herein by this reference.

2. License of Grounding Equipment. Licensor hereby Licenses to Licensee the right to use the Grounding Equipment as described in this Agreement solely for grounding its electric facilities used in the Vero Beach Electric Utility (the "**License**"). The License is non-exclusive to Licensor's right to use the Grounding Equipment for any purpose. The License is made subject to any and all matters of record, any and all matters that would be disclosed by an accurate inspection, the rights of any owner of real property where any of the Grounding Equipment is located and the conditions or limitations of any real property rights associated with the locations where any of such Grounding Equipment may exist from time to time.

3. Access to Grounding Equipment. Licensor grants and conveys to Licensee, for the duration of the Term, the right to access the Grounding Equipment over and across property owned by any of the Licensors for maintenance, replacement and repair of the Grounding Equipment at reasonable times. In the event of entry onto property owned by any Licensor for access to the Grounding Equipment for repair or otherwise, in the event of any alteration of such property of Licensor, Licensee shall restore such property to its condition prior to such entry. In no circumstances will any work on the Grounding Equipment by Licensor cause any interruption in the communication through the Fiber Optic System.

4. No Expense to Licensor. During the entire Term, Licensor shall have absolutely no cost, obligation, responsibility or liability whatsoever relating to the Grounding Equipment, and no

obligation to Licensee to repair or maintain the Fiber Optic System. Without limiting the generality of the foregoing, Licensor shall have no obligations to Licensee for repairing or maintaining any portion of the Grounding Equipment or any systems with respect thereto. All sums due to Licensor shall be paid by Licensee to Licensor without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction whatsoever and Licensee shall pay any and all applicable sales and use tax, local surtaxes, any and any ad valorem taxes on the Grounding Equipment, or arising due to the License on the real property where the Grounding Equipment may exist from time to time, and any documentary stamp tax or other taxes on any fees payable to Licensor hereunder or the grant of rights described in this Agreement.

5. Use. Use of the Grounding Equipment is not exclusive to Licensee, but Licensee may use the Grounding Equipment for grounding the electric facilities of the Vero Beach Electric Utility and for no other purpose whatsoever. Licensee shall not use the Grounding Equipment in such a manner as to materially interfere with the operation, maintenance, repair or replacement of the Fiber Optic System. Licensee covenants that it shall comply with the provisions of all recorded covenants, conditions and restrictions, if any, and all building, zoning, fire and other governmental laws, ordinances, regulations and rules applicable to the Grounding Equipment and the real property where the Grounding Equipment may exist.

6. Term. This Agreement shall commence on the Effective Date of this Agreement and shall continue for an initial term of five (5) years, unless earlier terminated as provided in this Agreement. Unless earlier terminated as provided in this Agreement, Licensee, at its sole option, may extend this Agreement, after the initial term, for up to five (5) successive five-year terms by providing notice to Licensor not less than eighteen (18) months prior to expiration of the initial term or any extension term, as the case may be. The initial term of five (5) years, together with any extensions as provided herein, may be referred to this this Agreement and the "**Term**."

7. Termination Upon Abandonment or Termination of the Franchise Ordinance. The Parties acknowledge that technology may change the methods for the delivery of electric power in the future. Accordingly, if Licensee abandons the Grounding Equipment or ceases to use the Grounding Equipment in the Vero Beach Electric Utility, and such abandonment or cessation of use continues for a period of not less than two (2) consecutive years, then this Agreement and the License shall be deemed terminated. In addition, if the Franchise Ordinance between the City and Licensee described in the Asset Purchase and Sale Agreement (such Franchise Ordinance, together with any replacements, extensions or modifications thereof is described in this Agreement collectively as the "**Franchise Ordinance**") terminates or is not renewed for any reason then this Agreement shall terminate automatically contemporaneously with the termination of the Franchise Ordinance.

8. Fees. The fee (the **"Fee"**) to be paid under this Agreement shall be paid in a single installment in the sum of Ten and 00/100 Dollars ($10.00), plus any and all applicable sales and use tax, local surtaxes, and any documentary stamp tax or other taxes on the Fee, or rights granted to Licensee by this Agreement, and shall be paid to Licensor upon execution of this Agreement.

9. Representations and Warranties.

(a) Licensor represents and warrants to Licensee as follows:

(i) Licensor has full power and authority to enter into this Agreement.

(ii) The persons executing and delivering this Agreement on Licensors' behalf are acting pursuant to proper authorization and this Agreement is the valid, binding and enforceable obligation of Licensor enforceable against Licensor in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

(b) Licensee represents and warrants to Licensor as follows:

(i) Licensee is a corporation duly incorporated, validly existing and having active status under the laws of the State of Florida, with the necessary corporate power and authority to enter into this Agreement.

(ii) The person executing and delivering this Agreement on Licensee's behalf is acting pursuant to proper authorization, and this Agreement is the valid, binding and enforceable obligation of Licensee enforceable against Licensee in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereinafter in effect relating to creditors' rights generally, and general equitable principles (whether considered in a proceeding in equity or at law).

10. Acceptance of Condition of Grounding Equipment, Assumption of Risk; and Indemnification. Licensee agrees as follows:

(a) Except as specifically provided in this Agreement, Licensee acknowledges and agrees that Licensor has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future of, as to, concerning or with respect to the Grounding Equipment and that the rights granted with respect to the Grounding Equipment provided for in this Agreement are made on an "as is" condition and basis and with all faults. Without in any way limiting the generality of the foregoing, the grant of rights contemplated hereby is without any warranty other than Licensor's express representations and warranties in this Agreement; and Licensor and Licensor's elected and appointed officials, officers, directors, employees, and affiliates (collectively the "**Licensor's Related Parties**") have made no, and expressly and specifically disclaim, and Licensee accepts that Licensor and the Licensor's Related Parties have disclaimed, any and all representations, guaranties or warranties, express or implied, or arising by operation of law (except for the representations and warranties, if any, expressly made by Licensor in this Agreement), of or relating to: (i) the use, expenses, operation, characteristics or condition of the Grounding Equipment, or any portion thereof,

including, without limitation, warranties of suitability, habitability, merchantability, design or fitness for any specific or particular purpose, or good and workmanlike construction; (ii) the environmental condition of the Grounding Equipment or the real property where the Grounding Equipment may exist, or the compliance of any portion of the Grounding Equipment with any or all Environmental Laws; or (iii) the soil conditions, drainage, flooding characteristics, accessibility or other conditions existing in, on or under any portion of the real property where the Grounding Equipment may exist. Licensee acknowledges and agrees that it is not relying on any representations or statements (oral or written) which may have been made or may be made by Licensor or any of the Licensor's Related Parties (except for Licensor's representations and warranties expressly set forth in this Agreement), and is relying solely upon Licensee's or Licensee's representatives' own physical inspections and other investigations by Licensee or Licensee's representatives of or related to the Grounding Equipment. Licensee acknowledges that any condition of the Grounding Equipment, whether apparent or latent, which Licensee discovers or desires to correct or improve on or after the Effective Date shall be subject to Licensor's review and approval rights, as set forth in this Agreement, and shall be at Licensee's sole expense.

(b) Licensee recognizes and hereby expressly and fully assumes all risks, known and unknown, that arise or might arise incidental to or in any way connected with the condition or use of the Grounding Equipment or access to the Grounding Equipment. This assumption of risk by Licensee is made for and on behalf of Licensee and Licensee's successors, and permitted assigns.

(c) Licensee agrees to indemnify, defend and hold harmless Licensor and Licensor's Related Parties against any and all claims, including costs and expenses, of any kind or nature, including, without limitation, costs of investigation, attorneys' fees, paralegal fees, experts' fees and costs through regulatory proceedings, trial and review or appeal, including but not limited to claims for personal injury, death of persons and property damage, or other liability to the extent arising from Licensee's use, improvement, operation, condition or maintenance of the Grounding Equipment, provided however that this indemnity shall not apply to the negligence or willful misconduct of the Licensor and/or the Licensor's Related Parties as determined by a court of competent jurisdiction.

(d) Licensee's obligations under this Section 12 shall survive the termination of this Agreement.

11. Construction, Mechanics and Materialmen's Liens; Notice of Work. Licensee will make no alteration, change, improvement or addition to the Grounding Equipment without the prior written consent of Licensor which will not be unreasonably withheld, conditioned or delayed. Licensee will be responsible for payment of any and all work performed on Licensee's behalf on the Grounding Equipment. In no event will Licensor be responsible for payment of any work relating to the Grounding Equipment, or any interest therein, be subject to any lien for payment of any construction or similar work performed by or for Licensee on or for the Grounding Equipment. Further, Licensee shall promptly notify the contractor performing any such work or alterations on the Grounding Equipment at Licensee's request or making such improvements to the Grounding Equipment at Licensee's request of this provision exculpating Licensor of responsibility for payment and liens. Notwithstanding the foregoing, if any mechanic's lien or other lien, attachment, judgment, execution, writ, charge or encumbrance is filed or recorded against any property of Licensor as a result of any work performed relating to the Grounding Equipment by or

for Licensee or for materials delivered to any property of any Licensor at Licensee's direction, Licensee shall, within sixty (60) days following written notice of any such lien, cause same to be paid, discharged or otherwise removed of record. In the event that Licensee fails to remove any such mechanics or materialmen's lien relating to Licensee's work relating to the Grounding Equipment, the Licensor may cause such lien to be removed and Licensee shall reimburse Licensor for all reasonable costs and expenses, including attorney's or paralegal fees incurred by Licensor within forty-five (45) days following receipt of Licensor's written invoice and supporting documentation.

12. Insurance. Licensor understands that Licensee self-insures, and that prior to accessing or using the Grounding Equipment, Licensee will provide each Licensor with a letter of such self-insurance. In the event that Licensee ceases to self-insure, then, during the Term of this Agreement, and thereafter so long as Licensee operates, uses or maintains any portion of the Grounding Equipment:

(a) Licensee shall procure and maintain, at Licensee's sole cost and expense, commercial general liability insurance providing coverage which protects Licensee and Licensor and the Licensor's Related Parties from and against any and all claims and liabilities for bodily injury, death and property damage arising from operations, Grounding Equipment liability, and fire with respect to the Grounding Equipment. Such insurance shall provide minimum coverage of $1,000,000.00 per occurrence and $2,000,000.00 aggregate. Licensee shall be and remain liable for and pay all deductibles and other amounts not covered, paid or reimbursed under the insurance policies.

(b) Licensee shall procure and maintain, at Licensee's sole cost and expense, workers' compensation insurance, as required by applicable law, and employers' liability insurance, with coverage amounts with a limit of (i) One Million Dollars ($1,000,000) for bodily injury per accident, (ii) One Million Dollars ($1,000,000) for bodily injury by disease per policy and (iii) One Million Dollars ($1,000,000) for bodily injury by disease per employee.

(c) Licensee shall procure and maintain, at Licensee's sole cost and expense, insurance with respect to the Grounding Equipment against loss or damage by perils customarily included under standard "all risk" (including windstorm) policies, in an amount equal to one hundred percent (100%) of the then full replacement value (without deducting depreciation) of such buildings, improvements, equipment and machinery, including the cost of removal of debris and Licensor shall be named as additional insured. Licensee has the right to self-insure this exposure.

(d) The certificate of insurance required herein for commercial general liability insurance, including, without limitation, all renewals, shall include a blanket additional insured endorsement and provide for at least thirty (30) days advance notice to Licensor of any non-renewal or cancellation. Licensee shall provide Licensor with a copy of certificates of insurance stating that the coverage as required herein is in full force and effect no later than the Effective Date. Licensee shall cause certificates of insurance or a self-insured letter in conformance with the requirements hereof to be promptly provided to Licensor for each subsequent policy renewal.

(e) Licensee's insurance in all instances shall be primary and any insurance that may be maintained by Licensor shall be in excess of and shall not contribute with Licensee's insurance. All insurance policies shall be issued by a company or companies licensed to do business in the State of Florida.

(f) Licensor shall have the right to periodically review the adequacy of the required insurance, its forms and types, the amounts of coverage and, notwithstanding any other provision of this Agreement, unilaterally modify the insurance requirements of this Section 12 by giving notice of such modification to Licensee. Such modification shall be as found reasonably necessary in the sole discretion of Licensor. Factors which may be considered by Licensor include, without limitation, changes in generally accepted insurance industry standards and practices, changes in use of the Grounding Equipment, changes in risk exposure, measurable changes in local and national economic indicators and changes in Licensor's policies and procedures.

(g) Licensee understands and acknowledges that the responsibility and obligation to provide and maintain insurance in the forms, types and coverages required herein are solely Licensee's responsibilities and obligations which continue for the entire Term of this Agreement, and until such time as Licensee no longer operates or enters the Grounding Equipment, whichever date is later.

(h) In the event that Licensee fails for any reason to procure or maintain insurance in the forms, types or coverages required and to name Licensor as an additional insured on the certificates of insurance, Licensee shall cure such material breach within fifteen (15) calendar days after Licensee is given notice of such breach. Should Licensee fail to cure the breach within such period or such other time as may be agreed to by the Parties in writing, Licensor in Licensor's sole discretion may, but is not obligated to, secure replacement insurance coverage at Licensee's sole expense. Should Licensor elect to secure replacement insurance, Licensee shall thereafter reimburse Licensor within fifteen (15) calendar days of Licensor's providing to Licensee an invoice for the costs and premiums incurred by Licensor for the replacement insurance coverage, plus an administrative charge of ten percent (10%) or $250.00, whichever is greater. Licensee shall continue to be responsible for the payment of all deductibles applicable to the insurance policies and all losses incurred with respect to any lapse in coverage. Should Licensee subsequently obtain the required insurance, Licensee shall remain responsible for and reimburse Licensor for all costs and expenses to Licensor for the insurance premiums incurred by Licensor and the administrative charges set forth in this Section 12(h).

(i) Licensee's obligations under this Section 12 shall survive the termination or expiration of this Agreement.

13. No Consequential Damages. Notwithstanding any other provisions in this Agreement to the contrary, neither Licensor (and none of Licensor's elected officials, directors, officers, employees, or lenders) nor Licensee (and none of Licensee's elected officials, directors, officers, employees, or lenders) shall be liable to the other Party for consequential, incidental, exemplary, punitive, anticipatory profits or indirect loss or damage of any nature, including, without limitation, loss of profit, loss of use, loss of operating time, loss of revenue, increased costs of producing revenues, cost of capital or loss of goodwill whether arising in tort, contract, warranty,

strict liability, by operation of law or otherwise, even if by such Party's, its representatives', agents', contractors', subcontractors', invitees' or licensees' negligence or fault, in connection with this Agreement, except to the extent claimed by third parties. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, sole remedy provisions and limitations on liability expressed in this Agreement shall survive termination or expiration of this Agreement and shall extend to the parent, affiliates, and subsidiaries of each Party and their respective, partners, directors, officers, and employees and elected officials.

14. Removal or Sale of Grounding Equipment. Licensor may modify or abandon the Grounding Equipment as a part of a modification, relocation or other change to the Fiber Optic System. If Licensor permanently ceases to use the Fiber Optic System, or any portion thereof, and the Grounding Equipment is at that time reasonably needed in the Vero Beach Electric Utility, then Licensor will, upon request of Licensee, convey all its right, title and interest, if any, in or to the Grounding Equipment to Licensee, and Licensee will pay Licensor the fair market value of the Grounding Equipment to be conveyed to Licensee. Licensee will enter into a written agreement in connection with the conveyance of the Grounding Equipment whereby Licensee will agree to assume any and all responsibilities of Licensor associated with the Grounding Equipment and will indemnify Licensor from and against any losses associated therewith. In the event Licensor conveys title to the Grounding Equipment to a third party, the transferee shall be required to accept such conveyance subject to this Agreement.

15. Assignment. Licensor acknowledges that the License and Licensee's interests hereunder may be subject to the encumbrance of Licensee's pre-existing mortgage with Deutsche Bank Trust Company Americas. Licensee shall not otherwise mortgage or assign its License granted pursuant to this Agreement without the prior written consent of Licensor, and such consent may be withheld in Licensor's unfettered discretion unless such proposed assignment is to the purchaser of all or substantially all of the assets of Florida Power & Light Company, as a part of a bona fide sale by Florida Power & Light Company to a third party purchaser for value and in such event Licensor's consent will not be unreasonably withheld or delayed. Notwithstanding any assignment of this Agreement, Licensee will not be released from any of its obligations hereunder unless such assignee executes an assignment and assumption agreement in form reasonably acceptable to Licensor agreeing to be bound by the terms of this Agreement and Licensor determines in its reasonable discretion that such assignee is creditworthy. Further, any assignment in violation of this Section 16 shall be deemed void and a breach of this Agreement by Licensee.

16. Default and Remedies.

(a) **Licensee Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by Licensee**" under this Agreement by Licensee:

(i) The failure by Licensee to make any payment of the Fee or any other payment required to be made by Licensee hereunder, as and when due, which failure continues for a period of ten (10) days following notice given by Licensor to Licensee.

(ii) Failure by Licensee to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by Licensee, where

such failure shall continue for a period of forty-five (45) days after notice thereof given by Licensor to Licensee. In the event the default cannot reasonably be cured within such forty-five (45) day period, Licensee shall not be in default if Agreement commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion. Notwithstanding the foregoing, if Licensor reasonably expects the default by Licensee to interfere with the regular operation of the Fiber Optic System, Licensee shall only be entitled to a notice of two (2) days to cure such default.

(iii) (A) The making by Licensee of any general arrangement or general assignment for the benefit of creditors; (B) Licensee becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against Licensee, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of Licensee's assets or of Licensee's interest in this Agreement, where possession is not restored to Licensee within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of Licensee's assets or of Licensee's interest in this Agreement, where such seizure is not discharged within sixty (60) days.

(b) **Licensor Events of Default.** The occurrence of any one or more of the following events shall constitute an "**Event of Default by Licensor**" under this Agreement by Licensor:

(i) Failure by Licensor to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by Licensor, where such failure shall continue for a period of forty-five (45) days after notice thereof is given by Licensee to Licensor. In the event the default cannot reasonably be cured within such forty-five (45) day period, Licensor shall not be in default if Licensor commences the cure within the forty-five (45) day period and thereafter diligently prosecutes the cure to completion.

(ii) (A) The making by Licensor of any general arrangement or general assignment for the benefit of creditors; (B) Licensor becomes a debtor as defined in 11 U.S.C. 101 or any successor statute thereto (unless, in the case of a petition filed against Licensor, the same is dismissed within sixty (60) days); (C) the appointment of a trustee or receiver to take possession of substantially all of Licensor 's assets, where possession is not restored to Licensor within sixty (60) days; or (D) the attachment, execution or other judicial seizure of substantially all of Licensor's assets, where such seizure is not discharged within sixty (60) days.

(c) **Remedies.** If an Event of Default by Licensee or an Event of Default by Licensor occurs hereunder, the non-defaulting Party shall have the right at its option and without further notice, but subject to the limitations set forth in the last sentence of this subsection, to exercise any remedy available at law or in equity, including, without limitation, a suit for specific performance of any obligations set forth in this Agreement or any appropriate injunctive or other equitable relief, or for damages resulting from such event of default. The Parties agree that remedies at law may be inadequate to protect against any actual or threatened breach of this Agreement. In the

event of any breach or threatened breach, either Party shall have the right to apply for the entry of an immediate order to restrain or enjoin the breach and otherwise specifically enforce the provisions of this Agreement. If an Event of Default by Licensee occurs, Licensor may, in addition to any other remedies set forth in this Agreement or available under applicable law, accelerate any and all unpaid Fee due under this Agreement for the entire remaining Term, which amount shall be due and payable immediately. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, in no event shall any Event of Default by Licensee or Event of Default by Licensor, terminate, or entitle any Party to terminate, rescind or cancel this Agreement or the rights granted hereunder. In the event that Licensee, by failing or neglecting to do or perform any act or thing herein provided by it to be done or performed, shall be in default under this Agreement, then Licensor may, but shall not be required to, do or perform or cause to be done or performed such act or thing, and Licensee shall repay to Licensor on demand the entire expense incurred within forty-five (45) days following receipt of Licensor's invoice and supporting documentation thereof. Any act or thing done by Licensor pursuant to the provisions of this subsection shall not be or be construed as a waiver of any such Event of Default by Licensee, or as a waiver of any covenant, term or condition herein contained or the performance thereof, or of any other right or remedy of Licensor, hereunder or otherwise. Licensor's liability under this Agreement shall be at all times limited to the fair market value of Licensor's interest in the Grounding Equipment. All amounts payable by Licensee to Licensor under this Agreement, if not paid when the amounts become due under this Agreement, shall bear interest from the date they become due until paid at the highest rate allowed by law.

17. Condemnation. If the Grounding Equipment or any portion thereof are taken under the power of eminent domain, or sold under the threat of the exercise of such power (all of which are herein called "**condemnation**"), this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever first occurs. If so much of the Grounding Equipment is taken under the power of eminent domain such that the Grounding Equipment is no longer suitable for its intended use or suitable access cannot be provided to the Grounding Equipment, Licensee may, at Licensee's option, to be exercised in writing only within ten (10) days after Licensor shall have given Licensee notice of such taking (or in the absence of such notice, within ten (10) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. If Licensee does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Grounding Equipment remaining. Any award for the taking of all or any part of the Grounding Equipment under the power of eminent domain or any payment made under threat of the exercise of such power shall be the property of Licensor; provided, however, that Licensee shall be entitled to any award for loss of Licensee's License.

18. Severability. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (a) such portion or provision shall be deemed separate and independent, (b) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling or adjudication, and (c) the remainder of this Agreement shall remain in full force and effect.

19. Repair Obligations. Licensor shall have absolutely no obligations of any kind for the repair or maintenance of any part of the Grounding Equipment or any improvement or equipment related thereto. During the Term, Licensee shall repair any damage or casualty to and maintain the Grounding Equipment.

20. Termination. On the Expiration Date, or earlier termination of this Agreement, Licensee shall peaceably and quietly deliver possession of the Grounding Equipment to Licensor. Licensee agrees that, upon expiration or termination of this Agreement, Licensee will, within ten (10) business days of request by Licensor, execute and deliver to Licensor a release of this Agreement in recordable form. The foregoing provisions shall survive expiration or earlier termination of this Agreement.

21. Waivers. Any waiver by any Party with respect to this Agreement must be in writing, signed by the Party granting the waiver, and shall be limited to the express terms set forth in the waiver.

22. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

23. Binding Effect. This Agreement shall bind the Parties, and their respective successors and permitted assigns.

24. Force Majeure. In the event that either Licensor or Licensee is unable to fulfill, or shall be delayed or restricted in the fulfillment of any obligation, or the curing of a default, under any provision of this Agreement due to reasons outside of its reasonable control, or not wholly or mainly within such Party's reasonable control, including strike, lock-out, war, acts of military authority, acts of terrorism, sabotage, rebellion or civil commotion, fire or explosion, flood, wind, storm, hurricane, water, earthquake, acts of God or other casualty or by reason of any statute or law or any regulation or order passed or made, or by reason of any order or direction of any administrator, controller, board or any governmental department or officer or other authority (other than, in the case of Licensor claiming relief under this Section 25, any statute or law or any regulation or order passed or made, or by reason of any order or direction of, any administrator, controller, board or any governmental department or officer or other authority of Licensor), and whether of the foregoing character or not, such Party shall, so long as any such impediment exists, be relieved from the fulfillment of such obligation and the other Party shall not be entitled to compensation for any damage, inconvenience, nuisance or discomfort thereby occasioned or to terminate this Agreement.

25. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument.

26. Attorneys' Fees. In the event Licensee or Licensor defaults in the performance of any of the terms, covenants, conditions, agreements, or provisions contained in this Agreement and Licensor or Licensee employs attorneys and brings suit in connection with the enforcement of this Agreement or any provision hereof or the exercise of any of its remedies hereunder, then the prevailing Party in any suit so instituted shall be promptly reimbursed by the other Party for all reasonable attorneys' fees and expenses so incurred, including, without limitation, any such fees

and expenses incurred in appellate, bankruptcy and post-judgment proceedings. Any monetary judgment rendered in any litigation concerning this Agreement shall bear interest at the highest rate allowed by applicable law. The foregoing provisions shall survive expiration or earlier termination of this Agreement.

27. Notices. Every notice, approval, consent or other communication required or permitted under this Agreement shall be in writing, shall be deemed to have been duly given on the date of receipt, and shall be deemed delivered if either served personally on the Party to whom notice is to be given, or sent to the Party to whom notice is to be given, by overnight courier or by first class registered or certified mail (return receipt requested), postage prepaid, and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by notice given to the other Party in the manner provided in this Section.

To Licensor:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Manager
With a required copy to:	City of Vero Beach 1053 20th Place Vero Beach, FL 32960 Attention: City Attorney
To Licensee:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Corporate Real Estate
With a required copy to:	Florida Power & Light Company 700 Universe Boulevard Juno Beach, Florida 33408 Attention: Law Department

28. Recording. A memorandum of this Agreement executed by Licensor and Licensee may be recorded in the public records.

29. No Personal Liability. Excluding any successor-in-interest to Licensor or Licensee under this Agreement, notwithstanding anything to the contrary in this Agreement, no present or future parent, subsidiary, affiliate, member, principal, shareholder, manager, officer, official, director, or employee of Licensee or Licensor will be personally liable, directly or indirectly, under or in connection with this Agreement, or any document, instrument or certificate securing or otherwise executed in connection with this Agreement, or any amendments or modifications to any of the foregoing made at any time or times, or with respect to any matter, condition, injury or loss related to this Agreement, and each of the Parties, on behalf of itself and each of its successors and assignees, waives and does hereby waive any such personal liability.

30. Entire Agreement. This Agreement contains the entire agreement between the Parties hereto with respect to the subject matter of this Agreement, and supersedes all previous negotiations leading thereto, and it may be modified only by an agreement in writing executed and delivered by Licensor and Licensee. Any formally executed addendum to or modification of this Agreement shall be expressly deemed incorporated by reference herein unless a contrary intention is clearly stated therein. All exhibits attached to this Agreement are expressly incorporated herein by this reference.

31. Governing Law; Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance and remedies. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF LICENSOR AND LICENSEE, LICENSEE'S USE OF THE GROUNDING EQUIPMENT, OR ANY CLAIM FOR INJURY OR DAMAGE, SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

32. WAIVER OF JURY TRIAL. THE PARTIES HERETO SHALL, AND THEY HEREBY DO, IRREVOCABLY WAIVE TRIAL BY JURY IN ANY AND EVERY ACTION OR PROCEEDING BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF LICENSOR AND LICENSEE, LICENSEE'S USE OF THE GROUNDING EQUIPMENT, AND ANY CLAIM FOR INJURY OR DAMAGE. THE FOREGOING PROVISIONS SHALL SURVIVE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

33. Licensor/Licensee Relationship; and Third Party Beneficiaries. This Agreement creates a Licensor/Licensee relationship, and no other relationship, between the Licensor and Licensee. This Agreement is for the sole benefit of the Parties hereto and, except for assignments permitted hereunder, no other person or entity shall be a third party beneficiary hereunder.

34. No Waiver of Regulatory Authority. Nothing in this Agreement constitutes a waiver of Licensors' regulatory, public safety or other municipal or governmental authority with respect to the Grounding Equipment or any other matter. Further, nothing in this Agreement shall be deemed to waive any Party's right of eminent domain.

35. Sovereign Immunity. Licensors are entities whose limits of liability are set forth in section 768.28, Florida Statutes, and nothing herein shall be construed to extend the liabilities of any Licensor beyond that provided in section 768.28, Florida Statutes. Further, nothing herein is intended as a waiver of any Licensor's sovereign immunity under section 768.28, Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not

limited to, anything which might allow claims otherwise barred by sovereign immunity or operation of law.

36. Time, Interpretation. In computing any period of time pursuant to this Agreement, the day of the act, event, or default from which the designated period of time begins to run shall not be included, but the time shall begin to run on the next succeeding day. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. A legal holiday as used in this Agreement includes days on which banks in Vero Beach, Florida are not open for regular business. Time is of the essence. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof. This Agreement shall not be construed more strongly against or for either Party regardless of the drafter. Unless the context otherwise requires, (a) all references to Sections or Exhibits are to Sections or Exhibits in or to this Agreement, and (b) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter and the term "including" shall mean by way of example and not by way of limitation.

[Remainder of page intentionally blank; Signature pages follows]

City of Vero Beach Execution Pages

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date.

ATTEST:

_____
Tammy K. Bursick
City Clerk

CITY OF VERO BEACH

By:_____
Laura Moss
Mayor

[SEAL]

ADMINISTRATIVE REVIEW

(For Internal Use Only–Sec. 2-77 COVB Code)

Approved as to form and legal sufficiency:

Wayne R. Coment
City Attorney

Approved as conforming to municipal policy:

James R. O'Connor
City Manager

Approved as to technical requirements:

Ted Fletcher
Director of Electric Utility Operations

Approved as to technical requirements:

Cynthia D. Lawson
Director of Finance

Approved as to technical requirements:

Timothy J. McGarry
Director of Planning and Development

Indian River County Execution Page

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date.

ATTEST:

INDIAN RIVER COUNTY,
a political subdivision of the State of Florida

_____ By:_____

[SEAL]

School Board of Indian River County, Florida Execution Page

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date.

ATTEST:	**SCHOOL BOARD OF INDIAN RIVER COUNTY FLORIDA**
_____	By:_____

[SEAL]

Florida Power & Light Company Execution Page

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date specified in this Agreement.

LICENSEE:

FLORIDA POWER & LIGHT COMPANY,
a Florida corporation

By:_____
Name:_____
Title:_____