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OFFICE OF THE CITY MANAGER

NO. LTC # 231-2007

LETTER TO COMMISSION

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: October 15, 2007

SUBJECT: **UNDERGROUND ELECTRIC STATUS**

A handwritten signature in blue ink, appearing to be 'Jorge M. Gonzalez', written over the 'FROM' line.

On Friday, September 28, 2007, the City convened a meeting of representatives from Palm Hibiscus Island, Sunset Islands 3 & 4 and the Venetian Islands to discuss with FPL representatives and City staff, process and procedural issues related to underground electric conversion projects. Attached is the meeting sign in sheet and the materials distributed during the meeting for discussion among the participants.

The intended purpose of the meeting was to reach a consensus view on how to proceed with underground projects and the relative roles anticipated of each of the interested parties. The meeting was very helpful to clarify responsibilities, expectations and most importantly changed circumstances over the past six months that have affected the underground electric conversion process.

Over the past six months, two changes have occurred that will affect how underground electric projects are approached. FPL has transitioned its underground design responsibilities internally into a new statewide division that will perform design and construction services for underground electric conversions. All municipal electric conversion projects will be handled by this new division. This is an addition of resources at FPL, as the previous design unit consisted of one individual. This change has also introduced new design requirements and has solidified the role which FPL will take in an underground conversion process.

Also in the last six month period, new PSC rules have been promulgated that affect the manner in which underground electric conversion projects are undertaken. These rules specifically deal with the level of financial contribution which FPL will assume in an underground electric conversion project and the conditions that must be met by local governments in order to secure FPL financial participation. The Public Service Commission has set the maximum FPL construction cost participation at 25% for the cost of the electric conversion and enacted rules that apply to eligibility for the funds. While there was clear understanding of the rules, documents and document timing that are necessary to be executed in order to proceed with underground electric projects, the most significant new piece of information was in the role that the City of Miami Beach must consider in order to facilitate underground electric conversion projects.

In earlier discussions regarding underground, the role of the City had been defined as a facilitator and a conduit for funds to assist homeowner associations in accomplishing underground electric conversion projects. It was anticipated that the City would have a limited role in project management and coordination of the utility relocations and that most of the construction coordination work would be undertaken directly by FPL for all of the utility relocations. As a result of the meeting on the 28<sup>th</sup>, it is very clear that the role expectation for the City of Miami Beach if projects are to proceed will need to be significantly altered.

FPL's position is that the City is the only client that they will contract with and that the responsibility for coordination of the three underground utility relocations ultimately must be born by the City. While technically the City might attempt to engage a homeowners association to fill this role, it is an unreasonable burden upon those associations, both in time, expense and technical expertise.

Over the next few weeks, the Administration will be outlining the options and policy questions that must now be considered by the City if an underground electric conversion project is to be undertaken. Among many issues to be considered are the necessity of expending funds to coordinate a Special Assessment Project before a funding source has been identified and approved, how to address the staff time and resources necessary to undertake this new project management responsibility and how or if it is appropriate to coordinate any underground electric conversion project construction with other right-of-way improvements that might be anticipated in a respective neighborhood.

The City has agreed to convene another meeting with interested homeowners associations in the next few weeks to review the issues and status as the role of the City appears to be changed rather substantially, some level of City Commission discussion approval and authority is likely to be needed in the near future.

  
JMGRCM/sam

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Attachments

Underground Mtg. 9/28/07

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DRAFT PROCESS STEPS FOR CONVERSION OF ABOVE GROUND  
UNDERGROUND ELECTRIC FACILITIES

1. Homeowners Association or neighborhood (HOA) submits a petition to the City's Public Works Department with the signatures of a majority of the property owners within the proposed area to be considered for an underground conversion project indicating their support
2. City Commission adopts a resolution accepting the petition and authorizing the HOA to proceed with the underground conversion process
3. City forwards petition to FPL, AT&T and Atlantic Broadband (the Utilities), requesting a non-binding ball park estimate of construction costs
4. The Utilities provide ball park estimates and City meets with the HOA and Utilities to review process and costs
5. HOA makes deposit with FPL to start design
6. HOA works with FPL to locate transformers and other above ground appurtenances in the right of way (ROW)
7. FPL completes design and submits to City for review
8. HOA makes deposit to AT&T and Atlantic Broadband to design their facilities
9. All Utilities' plans and specifications are submitted to City for review and approval
10. HOA makes final deposit, if necessary, to Utilities to develop binding estimate for construction
11. Upon receipt of binding estimates from Utilities, HOA enters into an agreement with City to act as the City's project manager for the undergrounding project. HOA acknowledges that it is requesting a Special Assessment District be created to fund the project and it also acknowledges liability and responsibility for managing the project, including responsibility for any financial liabilities and/or deposits that may be required prior to the Special Assessment District being created. Agreement also specifies that the City will enter into certain agreements with FPL, and perhaps other parties, to allow for the undergrounding project to occur within the City ROW.
12. City uses binding estimates to prepare resolution for Commission approval initiating the establishment of a special assessment district pursuant to Chapter 170, Florida Statutes
13. City prepares a preliminary assessment role and adopts a resolution setting date for final consideration of assessment role. 30 day notice provided to all affected properties
14. HOA votes on the assessments proposed during 30 day notice period
15. City approves final assessment
16. City Commission meets as Equalizing Board to hear any appeals to assessments levied and finalizes assessments
17. City Commission authorizes special assessment bond for project financing
18. City executes any required agreements with Utilities for placement of facilities on City ROW
19. HOA draws down on City bond fund to pay utilities, since FPL requires payment in advance.
20. Construction commences

**INSTALLATION OF UNDERGROUND ELECTRIC DISTRIBUTION FACILITIES  
FOR THE CONVERSION OF OVERHEAD ELECTRIC DISTRIBUTION FACILITIES**

**SECTION 12.1 DEFINITIONS**

APPLICANT - Any person, corporation, or entity capable of complying with the requirements of this tariff that has made a written request for underground electric distribution facilities in accordance with this tariff.

CONVERSION - Any installation of underground electric distribution facilities where the underground facilities will be substituted for existing overhead electric distribution facilities, including relocations.

CONTRIBUTION-IN-AID-OF-CONSTRUCTION (CIAC) - The CIAC to be paid by an Applicant under this tariff section shall be the result of the following formula:

CIAC =

- The estimated cost to install the requested underground facilities;
- + The estimated cost to remove the existing overhead facilities;
- + The net book value of the existing overhead facilities;
- + The net present value of the estimated operational costs of underground facilities over 30 years;
- + The net present value of the estimated average storm restoration costs of underground facilities over 30 years;
- The estimated cost that would be incurred to install new overhead facilities, in lieu of underground, to replace the existing overhead facilities (the "Hypothetical Overhead Facilities");
- The estimated salvage value of the existing overhead facilities to be removed;
- The net present value of the estimated operational costs of the overhead facilities over 30 years;
- The net present value of the estimated average storm restoration costs of overhead facilities over 30 years.

GAF Waiver

For Applicants entering into an Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver with the Company, the otherwise applicable CIAC amount, as calculated above, shall be reduced by the GAF Waiver. If the Applicant elects to construct and install all or part of the underground facilities, then for purposes of calculating the GAF Waiver amount only, the otherwise applicable CIAC shall be adjusted to add FPL's estimated cost for the Applicant-performed work. The amount of the GAF Waiver shall be calculated as follows:

GAF Waiver =

- 25% x the otherwise applicable CIAC;
  - + 75% x (the net present value of the estimated average storm restoration costs of underground facilities over 30 years less the net present value of the estimated average storm restoration costs of overhead facilities over 30 years).
- Note: The final term avoids double-counting the estimated average storm restoration costs embedded in the otherwise applicable CIAC.

DISTRIBUTION SYSTEM - Electric service facilities consisting of primary and secondary conductors, service drops, service laterals, conduits, transformers and necessary accessories and appurtenances for the furnishing of electric power at utilization voltage.

SERVICE FACILITIES - The entire length of conductors between the distribution source, including any conduit and or risers at a pole or other structure or from transformers, from which only one point of service will result, and the first point of connection to the service entrance conductors at a weatherhead, in a terminal, or meter box outside the building wall; the terminal or meter box; and the meter.

(Continued on Sheet No. 6.301)

## FLORIDA POWER &amp; LIGHT COMPANY

(Continued from Sheet No. 6.300)

## SECTION 12.2 GENERAL

12.2.1 Application

This tariff section applies to all requests for underground electric distribution facilities where the facilities requested will be substituted for existing overhead electric distribution facilities. Any person, corporation, or entity capable of complying with the requirements of this tariff may submit a request as follows. Requests shall be in writing and must specify in detail the overhead electric distribution facilities to be converted or the area to be served by underground electric distribution facilities in lieu of presently existing overhead electric distribution facilities serving said area. Upon receipt of a written request, FPL will determine the feasibility of converting the existing facilities, any necessary revisions to this written request, and the non-refundable deposit amount necessary to secure a binding cost estimate and notify the applicant of said amount.

12.2.2 Contribution-in-Aid-Of-Construction (CIAC)

Upon the payment of a non-refundable deposit by an Applicant, FPL shall prepare a binding cost estimate specifying the contribution in aid of construction (CIAC) required for the installation of the requested underground distribution facilities, where the installation of such facilities is feasible, and provide said estimate to the Applicant upon completion of the estimate along with either an Underground Facilities Conversion Agreement or an Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver. The CIAC amount to be collected pursuant to a binding cost estimate from an Applicant shall not be increased by more than 10 percent of the binding cost estimate to account for actual costs incurred in excess of the binding cost estimate. However, the CIAC may be subject to increase or refund if the project scope is enlarged or reduced at the request of the Applicant, or the CIAC is found to have a material error prior to the commencement of construction. The binding cost estimate provided to an Applicant shall be considered expired if the Applicant does not enter into either an Underground Facilities Conversion Agreement or an Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver and pay the CIAC amount specified for the installation of the requested underground electric distribution facilities within 180 days of delivery of the binding cost estimate to the Applicant by FPL.

(Continued on Sheet No. 6.310)

(Continued from Sheet No. 6.301)

**12.2.3 Non-Refundable Deposits**

The non-refundable deposit for a binding cost estimate for conversion to a direct buried cable in conduit underground electric distribution system shall be determined by multiplying the number of pole line feet of existing overhead electric distribution facilities to be converted by \$1.20. The deposit must be paid to FPL to initiate the estimating process. The deposit will not be refundable, however, it will be applied in the calculation of the CIAC required for the installation of underground distribution facilities. The deposit and the preparation of a binding cost estimate are a prerequisite to the execution of either an Underground Facilities Conversion Agreement or an Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver. If the request for underground electric distribution facilities involves the conversion of less than 250 pole line feet of existing overhead facilities, then no deposit will be required for a binding cost estimate, provided, however, that all other requirements of this tariff shall still apply.

**12.2.4 Non-Binding Cost Estimates**

Any person, corporation, or entity may request a non-binding cost estimate free of charge. The non-binding cost estimate shall be an order of magnitude estimate to assist the requestor in determining whether to go forward with a binding cost estimate. Neither an Underground Facilities Conversion Agreement nor an Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver may be executed on the basis of a non-binding cost estimate.

**12.2.5 Underground Facilities Conversion Agreement**

Any Applicant seeking the installation of underground distribution facilities pursuant to a written request hereunder shall execute either the Underground Facilities Conversion Agreement set forth in this tariff at Sheet No. 9.720 or, if applicable, the Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver set forth in this tariff at Sheet No. 9.725. The applicable Agreement must be executed and the CIAC paid by the Applicant within 180 days of the delivery of the binding cost estimate to the Applicant. Failure to execute the applicable Agreement and pay the CIAC specified in the Agreement within the 180 day time limit, or termination of the Agreement, shall result in the expiration of the binding cost estimate. Any subsequent request for underground facilities will require the payment of a new deposit and the presentation of a new binding cost estimate. For good cause FPL may extend the 180 day time limit. Upon execution of either the Underground Facilities Conversion Agreement or the Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver, payment in full of the CIAC specified in the binding cost estimate, and compliance with the requirements of this tariff, FPL shall proceed to convert the facilities identified in a timely manner. However, new service extensions, maintenance and reliability projects, and service restorations shall take precedence over facilities conversions.

**12.2.6 Simultaneous Conversion of Other Pole Licensees**

Before the initiation of any project to provide underground electric distribution facilities pursuant to either an Underground Facilities Conversion Agreement or an the Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver the Applicant shall have executed agreements with all affected pole licensees (e.g. telephone, cable TV, etc.) for the simultaneous conversion of those pole licensees' facilities and provide FPL with an executed copy of the Agreement(s). Such agreements shall specifically acknowledge that the affected pole licensees will coordinate their conversion with FPL and other licensees in a timely manner so as to not create unnecessary delays. Failure to present FPL with executed copies of any necessary agreements with affected pole licensees within 180 days after delivery of the binding cost estimate to the Applicant shall result in the expiration of the binding cost estimate, the return of any CIAC paid, and the termination of any Underground Facilities Conversion Agreement or Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver entered into between the Applicant and FPL.

**12.2.7 Easements**

Before the initiation of any project to provide underground electric distribution facilities pursuant to either an Underground Facilities Conversion Agreement or an Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver, the Applicant shall provide FPL, at no cost to FPL, all easements, including legal descriptions of such easements and all survey work associated with producing legal descriptions of such easements, specified as necessary by FPL to accommodate the requested underground facilities along with an opinion of title that the easements are valid. Failure to provide the easements in the manner set forth above within 180 days after the delivery of the binding cost estimate to the Applicant shall result in the expiration of the binding cost estimate, the return of any CIAC paid, and the termination of any Underground Facilities Conversion Agreement or Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver entered into between the Applicant and FPL.

(Continued on Sheet No. 6.320)

(Continued from Sheet No. 6.310)

**12.2.8 Affected Customer Services**

The Applicant shall be responsible for the costs associated with any modifications to the service facilities of customers affected by the conversion of FPL distribution facilities which are made necessary as a result of the conversion. The Applicant shall be responsible for arranging the conversion of affected residential overhead customer service facilities by providing, at no cost to FPL:

- a) any necessary rearranging of the customer's existing electric service entrance facilities to accommodate an underground service lateral through the use of a licensed electrical contractor, in accordance with all local ordinances, codes, and FPL specifications; and
- b) a suitable trench, install FPL provided conduit according to FPL specifications to a point designated by FPL, and perform the backfilling and any landscape, pavement or other similar repairs

FPL shall be responsible for the installation of the service lateral cable, the cost of which shall be included in the Applicant's binding cost estimate. In the event a customer does not allow the Applicant to convert the customer's affected overhead services, or the Applicant fails to comply with the above requirements in a timely manner consistent with FPL's conversion construction schedule, then the Applicant shall pay FPL, in addition to the CIAC specified in the binding cost estimate, the costs associated with maintaining service to said customer through an overhead service drop. The cost for maintaining an overhead service drop from an underground system shall be:

- a) the sum of \$789 for residential dwellings containing less than five individual units; or,
- b) the estimated cost to maintain service for residential dwellings containing five or more individual units.

For existing residential underground service laterals affected by a conversion the Applicant shall be responsible for the trenching, backfilling and any landscape, pavement or other similar repairs and installation of FPL provided conduit, according to FPL specifications, necessary to bring existing underground service laterals of affected customers to an FPL designated handhole or transformer. FPL will install the necessary cable, the cost of which shall be included in the binding cost estimate. However, in the event that a customer owned service lateral fails on connection to the underground distribution system the customer will be responsible for the replacement of their service lateral or compliance with section 10.5 of FPL's tariff.

The Applicant's responsibilities for modifications to the service facilities of non-residential customers affected by the conversion of FPL distribution facilities which are made necessary as a result of the conversion will be specified in an attachment to any Underground Facilities Conversion Agreement or Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver.

**12.2.9 Other Terms and Conditions**

Through the execution of either the Underground Facilities Conversion Agreement set forth in this tariff at Sheet No. 9.720 or the Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver set forth in this tariff at Sheet No. 9.725 the Applicant agrees to the following:

- a) The Applicant shall be responsible for all restoration of, repair of, or compensation for, property affected, damaged, or destroyed, to accommodate the installation of underground distribution facilities and the removal of FPL's overhead distribution facilities;
- b) subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations, the Applicant shall indemnify FPL from any claim, suit, or other proceeding, which seeks the restoration of, or repair of, or compensation for, property affected, damaged, or destroyed, to remove existing facilities or to accommodate the installation of underground distribution facilities arising from or brought as a result of the installation of underground distribution facilities;
- c) the Applicant shall clear easements provided to FPL of trees, tree stumps and other obstructions that conflict with construction or installation of underground distribution facilities in a timely manner consistent with FPL's construction schedule.

(Continued on Sheet No. 6.330)

(Continued from Sheet No. 6.320)

12.2.10 Type of System Provided

An underground distribution system will be provided in accordance with FPL's current design and construction standards.

12.2.11 Design and Ownership

FPL will design, install, own, and maintain the electric distribution facilities up to the designated point of delivery except as otherwise noted. The Applicant may, subject to a contractual agreement with FPL, construct and install all or a portion of the underground distribution facilities provided that:

- a) such work meets FPL's construction standards;
- b) FPL will own and maintain the completed distribution facilities;
- c) the construction and installation of underground distribution facilities by the Applicant is not expected to cause the general body of ratepayers to incur greater costs;
- d) the Applicant agrees to pay FPL's current applicable hourly rate for engineering personnel for all time spent for (i) reviewing and inspecting the Applicant's work done, and (ii) developing any separate cost estimate(s) that are either requested by the Applicant to reflect only FPL's portion of the work or are required by FPL to reflect both the Applicant's and FPL's portions of the work for the purpose of a GAF Waiver calculation pursuant to an Underground Facilities Conversion Agreement – Governmental Adjustment Factor Waiver; and
- e) the Applicant agrees to rectify any deficiencies found by FPL prior to the connection of any Customers to the underground electric distribution system and the removal of the overhead electric distribution facilities.

12.2.12 Relocation

Where underground electric facilities are requested as part of, or for the purpose of, relocation, the requirements of this tariff shall apply. As applicable, the Underground Facilities Conversion Agreement or the Underground Facilities Conversion Agreement - Governmental Adjustment Factor Waiver shall be executed as an addendum to the relocation agreement between FPL and the Applicant. In the event of any conflict between the relocation agreement and this tariff, the tariff shall control. Furthermore, where the regulations of the Federal or State Department of Transportation (DOT) prevent pre-payment of deposits and other conversion costs, the Federal or State DOT may pay the CIAC after the work has been performed.

**UNDERGROUND FACILITIES CONVERSION AGREEMENT –  
GOVERNMENTAL ADJUSTMENT FACTOR WAIVER**

This Agreement, which is available to customers that sign the Agreement on or before October 30, 2008, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between \_\_\_\_\_ (“Local Government Applicant”), a Florida municipal corporation or county with an address of \_\_\_\_\_ and FLORIDA POWER & LIGHT COMPANY (“FPL”), a Florida corporation with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

WHEREAS, the Local Government Applicant has requested that FPL convert certain overhead electric distribution facilities located within the following boundaries (the “Conversion”):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(collectively, the “Existing Overhead Facilities”) to underground facilities, including transformers, switch cabinets and other appurtenant facilities installed above ground as set forth in Attachment A hereof (collectively, the “Underground Facilities”).

NOW THEREFORE, in consideration of the foregoing premises and the covenants and agreements set forth herein, and other consideration the sufficiency of which is hereby acknowledged, the parties intending to be legally bound, hereby covenant and agree as follows:

1. **Governmental Adjustment Factor Waiver (“GAF Waiver”) Eligibility Criteria.** The Local Government Applicant represents and warrants that it meets the following eligibility criteria for the Conversion:
  - a. In order for the Conversion to incorporate a sufficient amount of overhead facilities to provide electrical continuity, the Conversion must include a minimum of approximately 3 pole line miles or approximately 200 detached dwelling units within contiguous or closely proximate geographic areas (the “Conversion Area”). The Conversion may be completed in mutually agreed upon phases, with the project size minimums applying to the aggregate project – provided that any necessary subsequent phase begins within a 1 year period from completion of the prior phase and the minimums are met within, at most, 3 phases; and
  - b. The Local Government Applicant must require all customers within the Conversion Area who currently have overhead service directly from the Existing Overhead Facilities to convert their service entrances to underground within 6 months of completion of the Underground Facilities installation or each phase thereof; and
  - c. The Local Government Applicant must be willing and able to execute a right of way (“ROW”) agreement with FPL if the Local Government Applicant requests that facilities be placed in the ROW; and
  - d. For any affected laterals, the complete lateral must be converted, including all stages of any multi-stage lateral; and
  - e. There are no state or federal funds available to the Local Government Applicant to cover any portion of the cost of the Conversion.

Special Circumstances. Conversions which do not meet the project size minimums described in section 1.a are eligible for the GAF Waiver in the following special circumstances:

  - i. 100% of the Existing Overhead Facilities within the Local Government Applicant’s corporate limits are to be converted, but are less than the pole line mileage or dwelling unit minimums; or
  - ii. A single lateral that serves at least one Critical Infrastructure Facility as determined by the appropriate local agency with the mutual agreement of FPL; or
  - iii. An island or peninsula where 100% of the Existing Overhead Facilities are to be converted; or

(Continued on Sheet No. 9.726)

(Continued from Sheet No. 9.725)

- iv. When the aggregate size of the first 3 phases of a project would satisfy the minimum size criteria but, for mutually-agreed engineering or logistical reasons, those phases are non-contiguous; provided that (a) the next (4<sup>th</sup>) phase must be adjacent to one or more of the first 3 phases such that the combined contiguous area meets the minimum size criteria, and (b) this 4<sup>th</sup> phase begins within 1 year from completion of the 3<sup>rd</sup> phase.
2. **Contribution-in-Aid-of-Construction (CIAC).** The Local Government Applicant shall pay FPL a CIAC as required by FPL's Electric Tariff and Section 25-6.115 of the Florida Administrative Code with the Otherwise Applicable CIAC amount reduced by the GAF Waiver.
    - i. Otherwise Applicable CIAC           \$ \_\_\_\_\_
    - ii. GAF Waiver                               \$ \_\_\_\_\_
    - iii. **CIAC Due**                               \$ \_\_\_\_\_

In the event the actual cost of the Conversion exceeds the estimate, the Otherwise Applicable CIAC shall be adjusted by the lesser of (a) the difference between the actual cost of the Conversion and the estimate, or (b) 10% of the Otherwise Applicable CIAC identified above. The GAF Waiver shall also be adjusted accordingly and the Local Government Applicant shall pay FPL the resulting difference in the amount of the CIAC Due.

3. **Applicant-Installed Facilities.** The Local Government Applicant may, upon entering into an applicant-installed facilities agreement satisfactory to FPL, construct and install all or a portion of the Underground Facilities. Such work must meet FPL's construction standards and FPL will own and maintain the completed facilities. The Local Government Applicant agrees to rectify any deficiencies, found by FPL, prior to the connection of any customers to the Underground Facilities and the removal of the Existing Overhead Facilities.
4. **Compliance with Tariff.** The Local Government Applicant agrees to comply with and abide by the requirements, terms, and conditions of FPL's Electric Tariff.
5. **Timing of Conversion.** Upon compliance by the Local Government Applicant with the requirements, terms, and conditions of FPL's Electric Tariff, this Agreement and any other applicable agreements, FPL will proceed in a timely manner with the Conversion in accordance with the construction drawings and specifications set forth in Attachment A hereof.
6. **Relocation.** In the event that the Underground Facilities are part of, or are for the purposes of, relocation, then this Agreement shall be an addendum to the relocation agreement between FPL and the Local Government Applicant. In the event of any conflict between the relocation agreement and this Agreement or the Electric Tariff, this Agreement and the Electric Tariff shall control.
7. **Term.** This Agreement shall remain in effect for as long as FPL or any successor or assign owns or operates the Underground Facilities.
8. **GAF Waiver Repayment.** If the Local Government Applicant does not satisfy the relevant eligibility criteria, the Local Government Applicant shall repay the GAF Waiver within 30 days of written notice from FPL of such failure. Additionally, if at any point within 30 years of completion of the Underground Facilities installation, the Local Government Applicant elects to have electric service within the Conversion Area supplied by a provider other than FPL, the Local Government Applicant shall repay FPL a pro-rata share of the GAF Waiver. The pro-rata share (which shall reflect partial years) shall be determined as follows:

$$\text{GAF Waiver} * [(30 - \text{years since the Underground Facilities completion date}) / 30]$$

(Continued on Sheet No. 9.727)

(Continued from Sheet No. 9.726)

- 9. **Termination Prior to the Conversion Completion.** Failure by the Local Government Applicant to comply with any of the requirements, terms, or conditions of this Agreement or FPL's Electric Tariff shall result in termination of this Agreement. The Local Government Applicant may terminate this Agreement at any time prior to the start of the Conversion and the CIAC paid by the Local Government Applicant will be refunded to the Local Government Applicant; provided however, that the refund of the CIAC shall be offset by any costs incurred by FPL in performing under the Agreement up to the date of termination.
- 10. **Assignment.** The Local Government Applicant shall not assign this Agreement without the written consent of FPL.
- 11. **Adoption and Recording.** This Agreement shall be adopted by the Local Government Applicant and maintained in the official records of the Local Government Applicant for the duration of the term of this Agreement. This Agreement also shall be recorded in the Official Records of the County in which the Underground Facilities are located, in the place and in the manner in which deeds are typically recorded.
- 12. **Conflict between Terms of Franchise Agreement.** In the event of a conflict between the terms of this Agreement and any permit or franchise agreement entered into by Local Government Applicant and FPL, the terms of this Agreement shall control.

IN WITNESS WHEREOF, FPL and the Local Government Applicant have executed this Agreement on the date first set forth above.

**LOCAL GOVERNMENT APPLICANT**

**FPL**

Signed \_\_\_\_\_

Signed \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Signed \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Terms and Conditions

Signed \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form and Legal Sufficiency

Signed \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

**UNDERGROUND FACILITIES CONVERSION AGREEMENT**

This Agreement, made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_ (hereinafter called the Applicant) and FLORIDA POWER & LIGHT COMPANY, a corporation organized under the laws of the State of Florida (hereinafter called FPL) is for the provision of underground electric distribution facilities by FPL in place of existing overhead electric distribution facilities pursuant to the Applicant's request for such facilities. In consideration of the premises, covenants and agreements set forth herein, FPL and the Applicant agree as follows:

1. The Applicant shall pay FPL a Contribution in Aid Of Construction (CIAC) in the amount of \$\_\_\_\_\_. In the event the actual cost of the project contracted for herein, exceeds the CIAC identified above, the Applicant shall pay an additional contribution equal to the lesser of the difference between the actual cost of the project and the CIAC identified above, or 10% of the CIAC identified above.
2. Pursuant to this agreement, the Applicant agrees to comply with and abide by the requirements, terms, and conditions of FPL's Electric Tariff as those requirements, terms, and conditions are set forth in said Tariff.
3. Upon compliance with the requirements, terms, and conditions of FPL's Electric Tariff, FPL will proceed in a timely manner with the conversion of the existing overhead distribution facilities to an underground configuration in accordance with the construction drawings and specifications set forth in Attachment A hereof.
4. In the event that the underground facilities to be installed, as specified in Attachment A, are part of, or are for the purposes of, relocation, then this Agreement shall be an addendum to the relocation agreement between FPL and the Applicant. In the event of any conflict between the relocation agreement and this Agreement or the Electric Tariff, this Agreement and the Electric Tariff shall control.
5. Failure by the Applicant to comply with any of the requirements, terms, or conditions of this agreement or FPL's Electric Tariff shall result in termination of this agreement. The Applicant may terminate this agreement at any time prior to the start of construction and the CIAC paid by the Applicant will be refunded to the Applicant, provided however, that the refund of the CIAC shall be offset by any costs incurred by FPL in performing under the agreement up to the date of termination.
6. This agreement is not assignable.

**IN WITNESS WHEREOF**, FPL and the Applicant have executed this Agreement for the provision of electric underground distribution facilities to be effective as of the date first above written.

**APPLICANT**

**FPL**

Signed \_\_\_\_\_

Signed \_\_\_\_\_

Name \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_