



AGENDA
CITY OF LAKE WORTH BEACH
UTILITY CITY COMMISSION MEETING (REVISED)
CITY HALL COMMISSION CHAMBER
TUESDAY, APRIL 30, 2024 - 6:00 PM

ROLL CALL:

AGENDA - Additions / Deletions / Reordering:

PRESENTATIONS: (there is no public comment on Presentation items)

- A. Water Utility update by Sam Heady, Water Utility Director
- B. Electric Utility Update by Ed Liberty, Electric Utility Director
- C. [Electric Utility Rates Comparison Presentation by Craig Shepard, Leidos Project Manager](#)
- D. [Solar Energy Loan Fund Quarterly Report by Pierre Cantave, SELF Loan Officer](#)

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:

APPROVAL OF MINUTES:

- A. [February 27, 2024](#)

CONSENT AGENDA: (public comment allowed during Public Participation of Non-Agendaed items)

- A. [Engineer Neutral Engagement Agreement with Siemens Industry Inc. and Quaker Lane Associates](#)

UNFINISHED BUSINESS:

- A. [Purchased Power Cost Adjustment Update \(PCA\)](#)
- B. [Resolution No. 10-2024 – revision of Rate Stabilization Fund Resolution 31-2023](#)
- C. [Resolution No. 11-2024 -- revision of Purchased Power Cost Adjustment \(PCA\) & PCA Calculation](#)
- D. [Exercise of City's extension rights under the OUC Supplemental Energy and Capacity Agreement](#)
- E. [FMPA Solar Project Update by Susan Schumann, FMPA Manager of Public Relations and External Affairs and Ed Liberty, Electric Utility Director](#)

NEW BUSINESS:

- A. [First Amendment to the Agreement with ENCO Utility Services, LLC](#)
- B. [Resolution No. 14-2024 -- Fiscal Year 2024 Second Budget Amendment accompanying ENCO contract](#)
- C. [Task Order No. 7 with WGI, Inc. for Design Surveying services to support new feeder engineering design connecting Main Yard to the new 6th Ave. South substation](#)

- D. [Hooper Corp. Work Order #1 to provide construction services for the relocation of the Main-Canal 138kV Transmission Line](#)
- E. [Agreement with E-Source Companies, LLC for consulting services related to Advanced Metering Infrastructure \(AMI\) and Meter Data Management \(MDM\)](#)
- F. [Agreement for Legal Services with Traub, Lieberman, Straus & Shrewsberry, LLP generally related to assisting the City with regards to April 2024 damage to the City's sewage pipe/force main](#)

ADJOURNMENT:

The City Commission has adopted Rules of Decorum for Citizen Participation (See Resolution No. 81-2022). The Rules of Decorum are posted within the City Hall Chambers, City Hall Conference Room, posted online at: <https://lakeworthbeachfl.gov/government/virtual-meetings/>, and available through the City Clerk's office. Compliance with the Rules of Decorum is expected and appreciated.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105)

CITY OF LAKE WORTH BEACH, FLORIDA

Electric Utility Comparison of Rates

PRESENTED BY: Craig Shepard, Project Manager

April 30, 2024



City of Lake Worth Beach Electric Utility Rates

- ▶ The City of Lake Worth Beach has been reducing electric rates based on decreases in purchased power costs.
- ▶ The neighboring Investor Owned Utility has announced a \$14 per 1,000 kWh reduction in May and has an approved base rate increase in January 2025.
- ▶ Lake Worth Beach residential rate for March 2024 for 1,000 kWh was about \$33 less than the neighboring IOU.
- ▶ Lake Worth Beach residential rates are significantly below the neighboring IOU, even with the IOU reduction in May.
- ▶ Lake Worth Beach residential rates are well below the Florida municipal average and Florida IOU average.
- ▶ Lake Worth Beach commercial rates are competitive with other Florida electric utilities.

Lake Worth Beach Residential Rate

| | | | <u>Rate</u> | <u>1000 kWh</u> |
|-----------------|-----------------|----------|-------------|-----------------|
| Customer Charge | | (\$) | \$11.08 | \$11.08 |
| Energy Charge | First 1,000 kWh | (\$/kWh) | \$0.07245 | \$72.45 |
| Energy Charge | Additional kWh | (\$/kWh) | \$0.09345 | - |
| PCA | First 1,000 kWh | (\$/kWh) | \$0.02438 | \$24.38 |
| PCA | Additional kWh | (\$/kWh) | \$0.03438 | - |
| TOTAL | | | | <u>\$107.91</u> |

Effective March 2024

Source: lakeworthbeachfl.gov

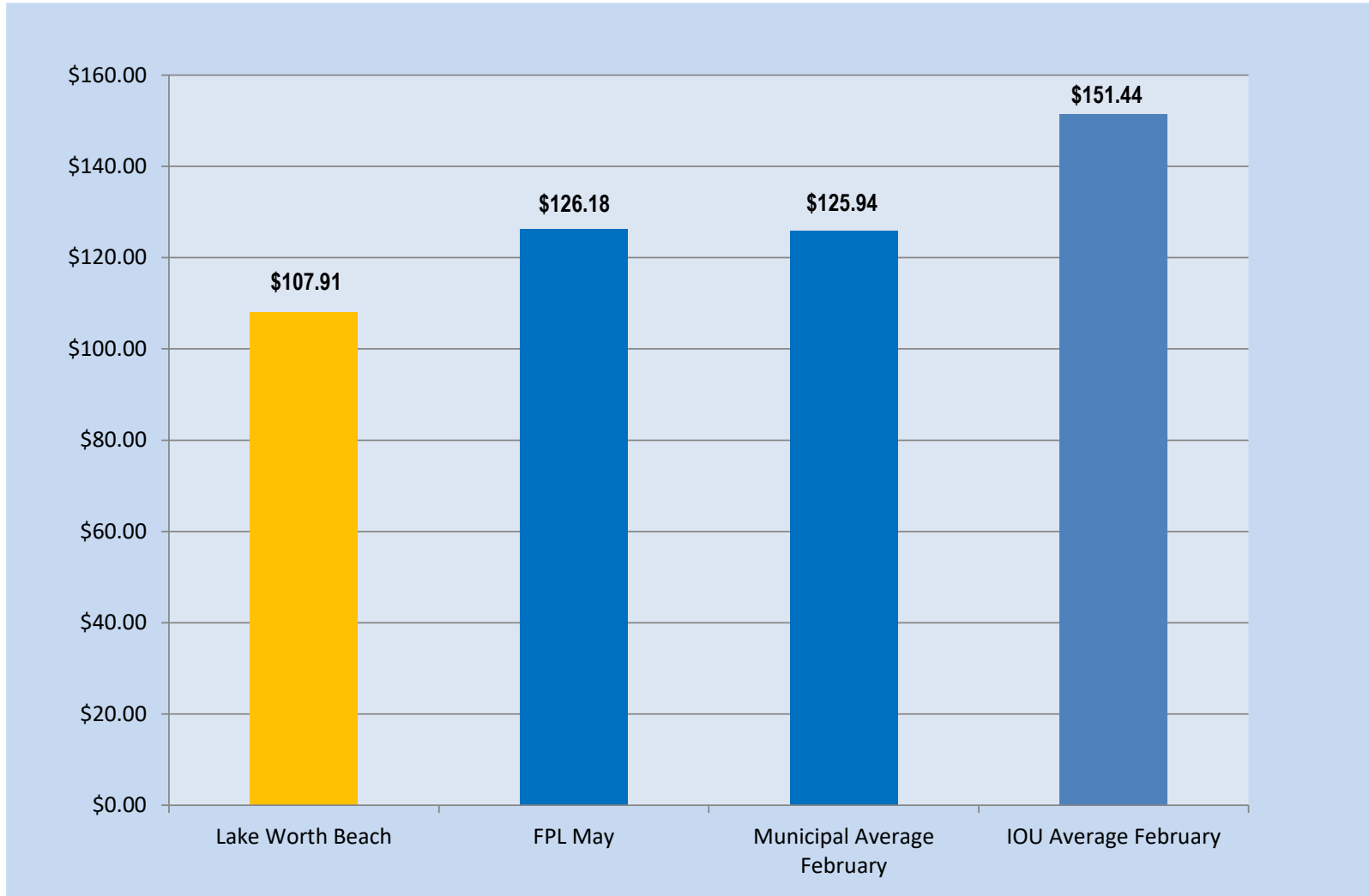
FPL Residential Rate – May 2024

| | | | <u>Rate</u> | <u>1000 kWh</u> |
|----------------------|-----------------|----------|-------------|-----------------|
| Customer Charge | | (\$) | \$9.55 | \$9.55 |
| Energy Charge | First 1,000 kWh | (\$/kWh) | \$0.07117 | \$71.17 |
| Energy Charge | Additional kWh | (\$/kWh) | \$0.08116 | - |
| Fuel | First 1,000 kWh | (\$/kWh) | \$0.02649 | \$26.49 |
| Fuel | Additional kWh | (\$/kWh) | \$0.03649 | - |
| Conservation Charge | | (\$/kWh) | \$0.00124 | \$1.24 |
| Capacity Charge | | (\$/kWh) | \$0.00170 | \$1.70 |
| Environmental Charge | | (\$/kWh) | \$0.00332 | \$3.32 |
| Storm Charge | | (\$/kWh) | \$0.00557 | <u>\$5.57</u> |
| Subtotal | | | | \$119.04 |
| Franchise Fee | | | 6.0% | <u>\$7.14</u> |
| TOTAL | | | | \$126.18 |

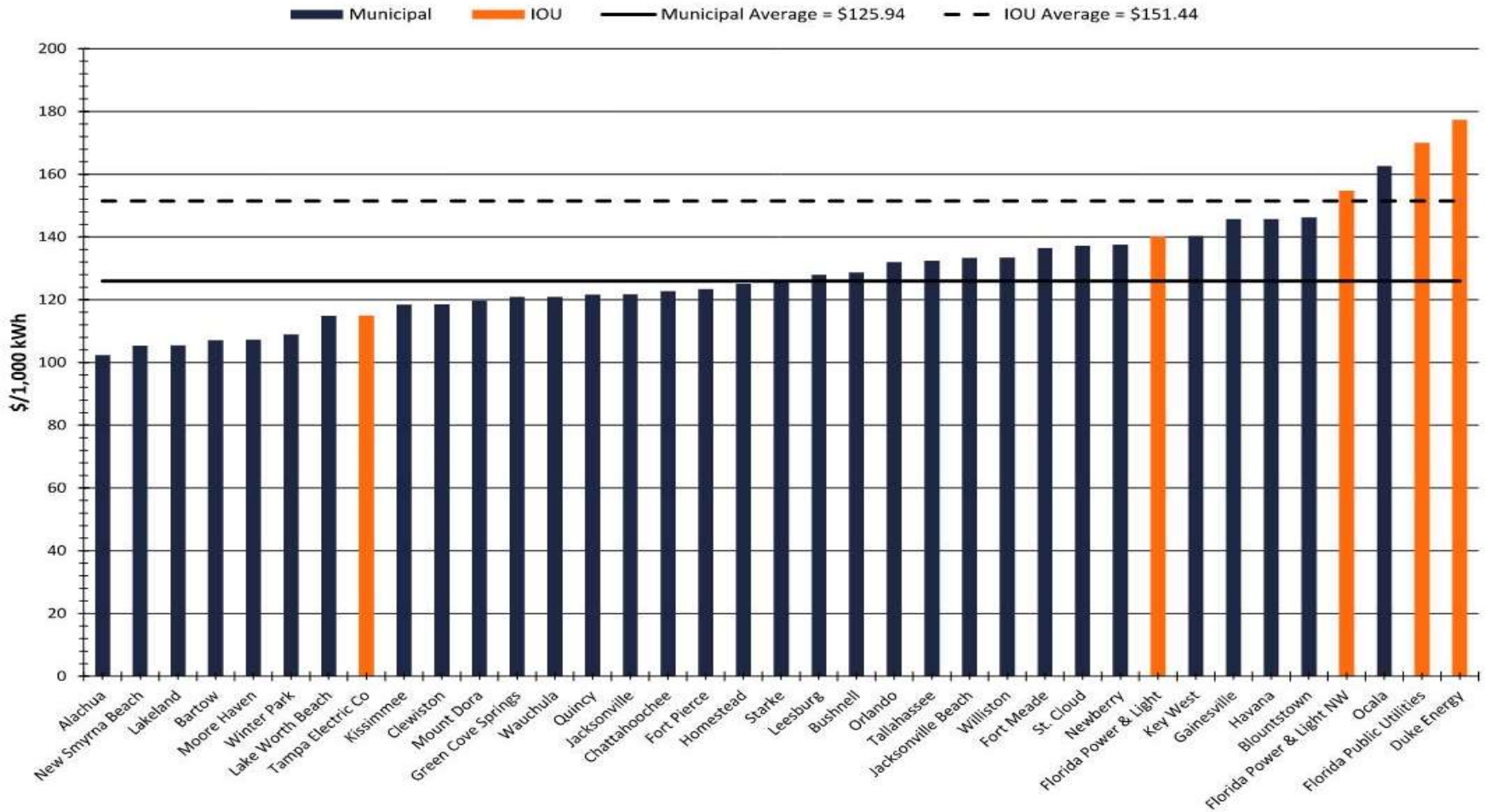
Effective May 2024. Includes fuel charge reduction of \$7.70 per 1,000 kWh and storm charge reduction of \$6.65 per 1,000 kWh.

Source: fpl.com

Residential Comparison 1000 kWh



Comparison of Residential Bills 1000 kWh February 2024



Recommendations

- ▶ Continue to Review and Revise Purchased Cost Adjustment (PCA) based on Costs
- ▶ Continue to Review Rate Stabilization Fund
- ▶ Continue to Review Storm Fund
- ▶ Continue to Review Revenues and Expenses and Revise Base Rates as Necessary

Questions / Comments

POINTS OF CONTACT

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Selvin H. Dottin

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QUARTERLY REPORT

(September 1, 2023, through February 29, 2024)

April 18, 2024



Background:

SELF's Agreement with the City of Lake Worth Beach/Utility was approved in the Spring of 2023, with official notice provided to SELF on June 1, 2023. Please reference earlier Reports regarding the 90-Day Ramp Up period between June 1 and August 31, 2023, and the Target Market Assessment. SELF also hired **Pierre Cantave** to serve as our Lake Worth Beach Loan Officer on August 28, 2023, and we officially launched our lending programs in the LWB Utility Service Area on **September 1, 2023**. The subsequent Performance Measures (Exhibit A) and Timeline (Exhibit B) were established accordingly to assist all parties with future Reporting dates.



This Report covers the period September 1 - November 30, 2023 (Q1) and December 1, 2023 - February 29, 2024 (Q2), and summarizes SELF's many activities, accomplishments, progress, and results during the first six (6) months of program development. SELF has also been making major investments in additional team members, fintech platform, website, marketing, and other new tools, plus we have positioned the organization to secure substantial new resources from the historic Climate Bill (aka Greenhouse Gas Reduction Fund). SELF is striving to increase operational efficiency, enhance consumer experience and available tools, and maximize opportunities for program development, collaboration, grants, and low-cost capital from multiple sources.

Here are SELF's three (3) primary lending programs. SELF is focusing on the Green Home Loans program; but we are also exploring opportunities for landlord loans (SEER), developer loans (SAGE), and water/sewer loans.

SUMMARY:

To successfully launch and evolve SELF's multiple lending programs in the LWB Utility service area, SELF has focused on Community Outreach, Contractor Recruitment, Networking, and Intergovernmental Coordination. Performance measures are referenced throughout each section.

LOAN PROGRAMS:

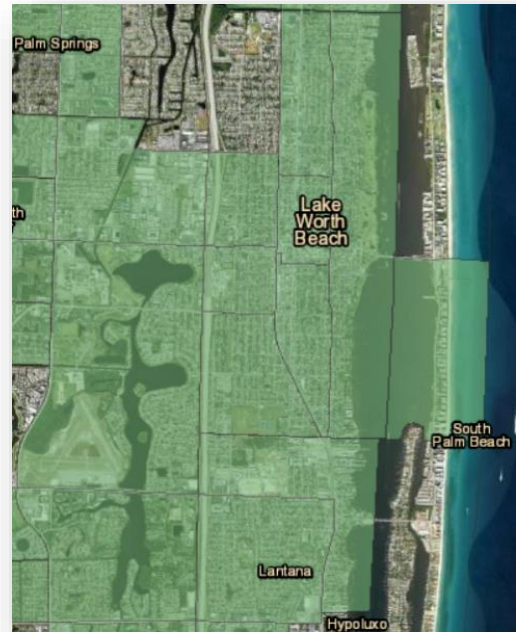
- HOMEOWNERS: (Green Home Loans)**
Unsecured loans for repairs and upgrades to single-family homes and misc. residential units.
- LANDLORDS: (SEER Loans)**
Unsecured Energy Efficiency and Resiliency Rehab Loans for Affordable Rental & workforce housing
- DEVELOPERS: (SAGE Loans)**
Predevelopment and Gap Funding for Green Affordable and Workforce Housing (New Construction and Rehabs)

Note: KIVA crowdfunded loans, water/sewer loans, and disability loans are all included in GHL.

COMMUNITY OUTREACH:

Pierre has been very active with a broad array of community outreach efforts and one-on-one meetings, with particular emphasis on Low- and Moderate-Income (LMI) areas identified in the Target Market Assessment for the LWB Utility Service Area. SELF utilizes CDFI mapping tools to help pinpoint LMI census tracts, and the SELF team has regular boots on the ground to better understand the local landscape, people, and community needs.

In Q1 and Q2, SELF participated in six (6) community events and reached an estimated sixty-six (66) participants, which is already beyond the minimum performance standard for the first full year. SELF will continue to aggressively work on Community Outreach and is prepared to far exceed our minimum performance goals.



Below are highlights of the community outreach events attended during Q1 and Q2:

| <u>Event</u> | <u>Attendees</u> |
|--|------------------|
| <ul style="list-style-type: none"> • Greater Lake Worth Beach/Lantana Chamber of Commerce Expanded awareness within the local business community. | 14 |
| <ul style="list-style-type: none"> • Neighborhood Association President's Council Conducted informative sessions to members and attendees. | 13 |
| <ul style="list-style-type: none"> • Whispering Palms Neighborhood Association Conducted informative sessions to members and attendees. | 9 |
| <ul style="list-style-type: none"> • Palm Beach Mobile Home Park Presented SELF's programs to the management team, with plans for a follow-up community-wide meeting to address resident inquiries. | 2 |
| <ul style="list-style-type: none"> • Energy Audits Presented information about SELF's lending programs to energy audit clients and explored potential home improvement projects through phone outreach. | 44 |
| <ul style="list-style-type: none"> • Lake Worth Beach Public Forum Engaged with community members and officials to expanded awareness of SELF's programs. | 30 |
| <ul style="list-style-type: none"> • Turkey Giveaway with Commissioner Malega and Arms of Hope Actively participated in the Turkey Giveaway organized in collaboration with Commissioner Malega and Arms of Hope, strengthening our ties with local organizations and residents. | 200+ |

Here are multiple pictures from these community outreach events:



SELF also actively participates in several LWB Facebook groups to promote our lending programs and services within the community, with an estimated reach of 23,000 accounts. SELF also posts regularly on LinkedIn and other social media platforms, including the following example focused on contractor recruitment.

SELF has also developed community outreach and marketing materials in English, Spanish, and Creole.

SELF also hired a national consulting firm with expertise in community outreach in underserved communities, and their final report is anticipated in the Summer of 2024. These expert recommendations will assist SELF with more detailed strategies for marketing and community engagement.



SELF's Lake Worth Beach Loan Officer also participated in the Southeast Florida Regional Climate Leadership Summit, including speaking about "Financing Residential Energy Efficiency" along with Henry McCoy, Director, Office of State and Community Energy Programs, for the United States Department of Energy.



CONTRACTOR RECRUITMENT:

Local contractor recruitment is a critical building block for SELF's Lake Worth Beach satellite office because these local companies typically generate about 80% of our leads. SELF contractors say they generally must walk away from up to 40% of their potential business because homeowners do not qualify for traditional financing, which is consistent with recent surveys (see below).

**"42% of Americans Were Denied a Financial Product — Like a Credit Card or Personal Loan — in the Past Year Because of Their Credit Score"
(Lending Tree Survey, Aug. 2022)**

SELF fills this financial gap for both homeowners and contractors by approving loans based on the applicant(s) ability to pay, not credit scores. We also eliminate unnecessary dealer fees, which are often 20-30%, which makes participating contractors more competitive and provides end users with more competitive pricing. SELF has also developed a Contractor Tool Kit and is aggressively calling and recruiting local contractors and businesses.

To date, SELF has brought on seven (7) Lake Worth Beach based companies to the SELF contractors' network with a desire to recruit a minimum of 25 companies in Year One. SELF also completed its first training session with new contractors and Pierre is in regular contact with participating contractors thereafter to assist local clients and build the pipeline of loans. SELF will continue to prioritize contractor recruitment with an emphasis on minority owned contractors. We are also looking forward to further assistance from LWB for contractor recruiting and events.

Green Home Loans:

SELF is pleased to report that we completed our first four (4) Green Home Loans in the Lake Worth Beach/Utility Service Area and financed \$44,158.27 for sustainable home improvement projects. SELF also financed additional projects outside of the LWB Utility Service Area for multiple local contractors who use SELF's financing programs to expand their businesses.

All the projects financed by SELF in Q1 and Q2 were evenly split into Resilience (roofs) and Energy Efficiency (Vapor Barrier) products, with fifty percent (50%) of the projects were for households classified as Low- and Moderate- Income (LMI) as per the U.S. Census and HUD. The demographic

characteristics were 100% Caucasian; 25% Women; 25% Veterans, 25% disabled; and 50% seniors. SELF has a laser focus on LMI and BIPOC communities and we look forward to continued collaboration with the City and Utility staff and elected officials to expand these efforts.

CLIENT TESTIMONIAL:

“First time dealing with a new roof replacement and Pierre from the Lake Worth Beach Office made the whole process seamless from the initial application to final inspections and contractor payouts.”

Ryan Oberlander/Lake Worth Beach

WATER/SEWER LOANS:

SELF's Water and Sewer loan program offers residents vital financing solutions for Equitable Clean Water infrastructure, including septic to sewer conversions, connections to central water, and lateral line and lead pipe replacement. These loans empower property owners to undertake essential upgrades related to water and sewer infrastructure, and help with clean water, public safety, water conservation, and overall efficiencies. Through facilitation by Ed Liberty, we've initiated discussions with Sam Head, Water Utilities Director of Lake Worth Beach.

SEER/SAGE PROGRAMS:

SELF also remains dedicated to its broader mission of fostering sustainable communities and promoting affordable housing initiatives in Lake Worth Beach, including additional lending programs for landlords and small affordable housing developers. To that end, Pierre had productive discussions with Mayor Resch and Commissioner Malega and an introductory meeting with Joan Oliva, Executive Director of LWB CRA.

SELF is actively engaged in several important SEER and SAGE projects, including:

1. Potentially underwriting a commercial loan for Lakeside Point Gardens, which would address critical upgrades such as replacing outdated electrical panels dating back to the late 1960s. This effort, championed by the HOA/COA, aims to improve safety, and minimize power disruptions for residents. We're grateful to Utility Director Liberty and Commissioner Malega for this referral. This project remains active.
2. Discussions with Lynda Charles, VP of Community Partners, regarding a 6-unit affordable housing project developed by CPSF in Lake Worth Beach. We are exploring potential financing and project management options.

3. Discussions with Chris Raley, President of Sustainable Construction Group, regarding the Sunset Drive Project to develop sustainable town homes. This project is in the early stages and remains active.
4. Responded to a referral from Commissioner Malega to assist a landlord with financing for impact windows on a multi-family unit property, enhancing safety and energy efficiency.

Greenhouse Gas Reduction Fund (GGRF):

Several has \$400,000,000 of grants and low-cost capital pending from the historic Climate Bill, including partnerships with the Coalition for Green Capital (CGC), Climate United, and the Opportunity Finance Network (OFN). SELF is also the lead applicant for Florida’s Solar for All proposal, in partnership with the Nature Conservancy and Florida Solar United Neighbors.

This funding will allow SELF to dramatically scale its existing energy efficiency and net-zero programs for LMI homeowners, small-scale landlords, and emerging developers. SELF will also soon launch new initiatives that benefit communities, such as retrofitting churches and financing clean transportation, solidifying its position as a one-stop shop for transitioning communities to an equitable clean energy economy.

Our vision entails the development of comprehensive solar programs covering single-family, multifamily, and community solar projects. By expanding access to clean energy and reducing energy costs, we aim to enhance energy resilience for residents throughout Lake Worth Beach. SELF is committed to close collaboration with local stakeholders, city officials, and community organizations to ensure that these initiatives are tailored to meet the specific needs and priorities of Lake Worth Beach residents. Through strategic partnerships and community engagement, we aim to leverage the #GGRF resources to empower residents and foster sustainable development within the community.

EXHIBIT A: SUMMARY TABLE OF PERFORMANCE MEASURES

Below are the performance measures and results through February 29, 2024.

| # | Performance Measures | Year 1 Target | Q1 & Q2 Results | YTD Results |
|---|--------------------------------|---------------|-----------------|-------------|
| A | # of Community Events | 6 | 6 | 6 |
| B | # of Participants | 25 | 66 | 66 |
| C | # of Green Home Loans | 10-20 | 4 | 4 |
| D | Amount of Financing Available* | \$500,000 | \$500,000 | \$500,000 |

* SELF has already secured sufficient low-cost loan capital from faith-based investors, banks, and impact investors to meet the Year 1 Target, and we have hundreds of millions of dollars of additional low-cost loan capital and grants pending in the historic climate bill and through the Annual CDFI Fund application.

EXHIBIT B: TIMELINE

Please see the following **CALENDAR** of Reports and Reporting Dates.

| Year | Months | Report/Date of Submittal |
|------|--------------------------|--|
| 2023 | Jun through Aug | 90-Day Report (December 2023) |
| | Jun through Aug | Target Market Assessment (December 2023) |
| | September 1, 2023 | Official Program Launch Date |
| | Sep through Nov | Q1 |
| 2024 | Dec through Feb | Q2 (April 2024) |
| | Mar through May | Q3 (June 2024) |
| | Jun through Aug | Q4/First Year Report (September 2024) |
| | Sep through Nov | Q1 (January 2025) – Year Two (2) begins |
| 2025 | Dec through Feb | Q2 (March 2025) |
| | Mar through May | Q3 (June 2025) |
| | Jun through Aug | Q4/Second Year Report (September 2025) |
| | Sep through Nov | Q1 (January 2026) – Year Three (3) begins |
| 2026 | Dec through Feb | Q2 (March 2026) |
| | Mar through May | Q3 (June 2026) |
| | Jun through Aug | Q4/Third Year Report (September 2026) |

Conclusion:

SELF has made solid progress in the first six (6) months of program development, including extensive community outreach, contractor recruitment, intergovernmental coordination, networking, and much more. We are pleased to have completed our first 4 Green Home Loans and we are excited about several of the pending SEER and SAGE loans.

We remain deeply committed to supporting sustainable development and economic empowerment in Lake Worth Beach, and our recent initiatives reflect our ongoing efforts to build strong relationships, expand our network of contractors, and leverage collaborative opportunities for the benefit of the community – most notably the historic Climate Bill.

As we look ahead, we are excited about the potential for continued growth, impact, and positive change in Lake Worth Beach. We are grateful for the continued support and collaboration of the City of Lake Worth Beach and Utility and look forward to furthering our shared goals together.

Thank you for your attention to this report. Should you have any questions or require additional information, please do not hesitate to contact me.

Solar and Energy Loan Fund (SELF)

CLIMATE EQUITY LOANS THAT TRANSFORM LIVES




America's First Green Bank – CDFI

SELF is a 501.C.3 organization established in 2010, and certified as a CDFI in 2012.
Currently serving FL, GA, AL, and SC.



4/17/2024



Rebuild and empower underserved communities by providing access to affordable financing for sustainable property improvements, including energy efficiency; renewable energy (i.e., solar PV); climate resilience; water/sewer; health and safety; disabilities, and more.

SELF's MISSION



UNDERWRITING METHODOLOGY

GREEN FINANCIAL INCLUSION

“42% of Americans Were Denied a Financial Product — Like a Credit Card or Personal Loan — in the Past Year Because of Their Credit Score” (*Lending Tree Survey, Aug. 2022*)

KEY QUESTION: How do we achieve Environmental Resilience for all when 42% of Americans cannot access traditional financing?

SELF REPLICATED AND EXPANDED GLOBAL MICROLENDING MODELS TO FILL THIS “GREEN” FINANCIAL GAP IN AMERICA, BY BUILDING SELF’S PROPRIETARY UNDERWRITING PROCESS (AND FINTECH PLATFORM) BASED ON THE APPLICANT(S)’ ABILITY TO PAY, NOT CREDIT SCORES.

LOAN PROGRAMS:



HOMEOWNERS: (Green Home Loans)

Unsecured loans for repairs and upgrades to single-family homes and misc. residential units.



LANDLORDS: (SEER Loans)

Unsecured Energy Efficiency and Resiliency Rehab Loans for Affordable Rental & workforce housing



DEVELOPERS: (SAGE Loans)

Predevelopment and Gap Funding for Green Affordable and Workforce Housing (New Construction and Rehabs)



*AS A MISSION-DRIVEN
COMMUNITY LENDER, SELF
IS COMMITTED TO CREATING
SAFE, HEALTHY, AND
ENVIRONMENTALLY-
RESILIENT HOUSING TO
ENSURE LONG-TERM
SUSTAINABILITY THROUGH
ACCESS TO FAIR AND
EQUITABLE CAPITAL*

SUSTAINABLE BUILDING PRACTICES

“Climate Resilience”

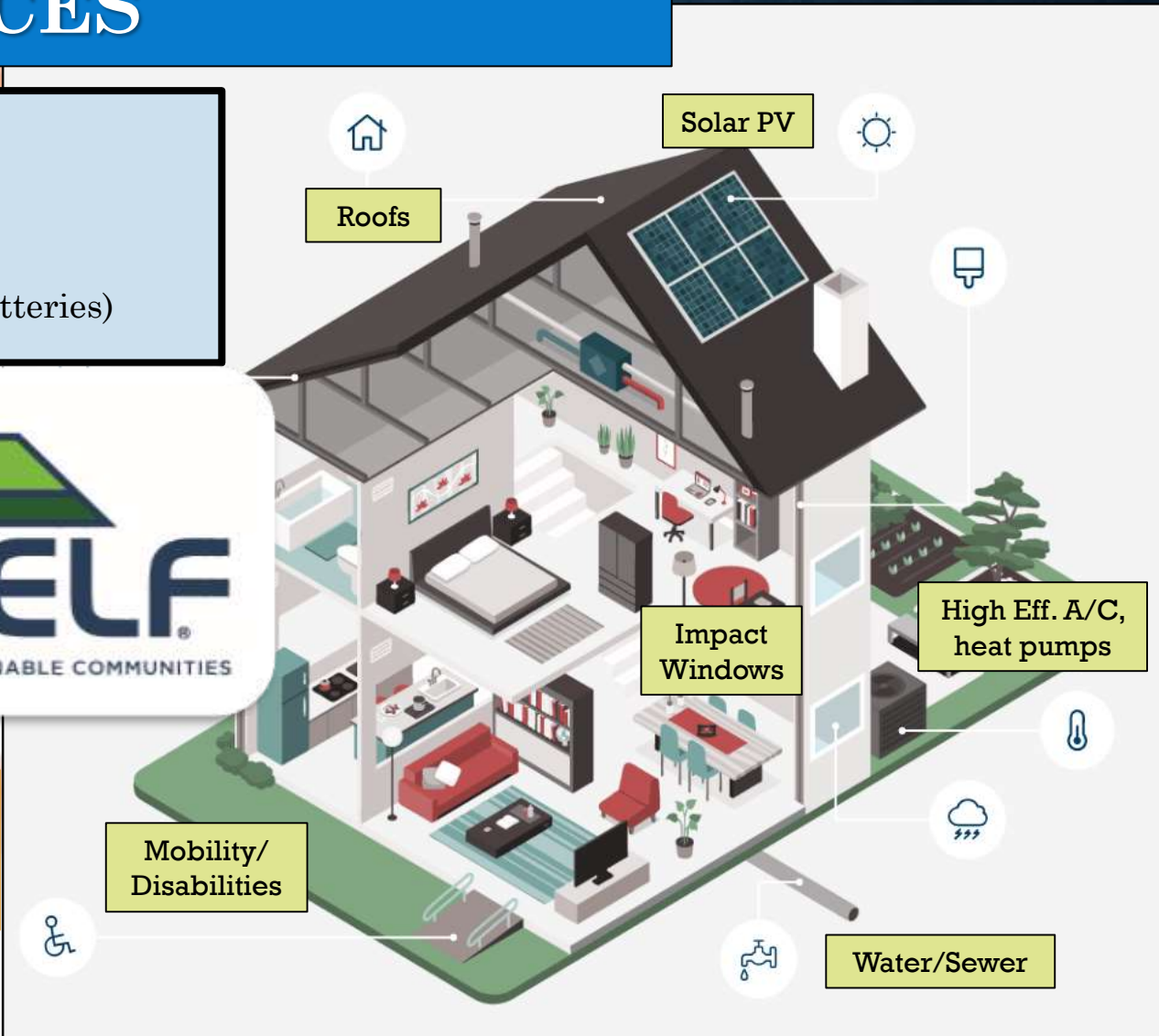
1. Heat Waves (High Efficiency HVAC)
2. Wind (Roofs, Impact Windows)
3. Emergency Base Load Power (Solar PV/Batteries)



“First time dealing with a new roof replacement and Pierre from the Lake Worth Beach Office made the whole process seamless from the initial application to final inspections and contractor payouts.”

Ryan Oblander/Lake Worth Beach

Local Testimonial



OVERALL RESULTS

\$50+ million raised;
leveraging \$90
million in total

\$34 million of home-
improvement projects
(3,400 Households =
Assisted 10,000± people).

74% of SELF's clients
have been low- and
moderate-income
(LMI), as per HUD
and CDFI Guidelines

Average Default Rate
is approximately 2±%

Expanded throughout
Florida + Alabama,
Georgia, and South
Carolina.

SELF has 1,200+
companies 4-state
Contractor Network
(Green Jobs)

SELF is a national leader in Climate Equity with an impressive 74% LMI penetration rate which is nearly 4x the national average for green banks (20+%)

LAKE WORTH BEACH/UTILITY AREA

FIRST AND SECOND QUARTER UPDATE



90-Day Ramp-Up, **Establish SELF's satellite program in LWB.** Launch and Evolve new lending programs via City/Utility staff and elected officials, recruiting local contractors, networking, and attended community events. Please reference Quarterly Report.

LWB Satellite Office: Primary Lending Program Activities

GREEN HOME LOANS:

Completed four (4) projects totaling \$44,158.27 for sustainable projects in Lake Worth Beach/Utility Service Area, with 50% serving Low- and Moderate-Income households.

SEER (Landlord loans)/**SAGE** (Developer loans): SELF's low-cost financing fosters affordable housing retrofits and new resilient and sustainable construction in Lake Worth Beach. Local **projects** (one active) include electrical upgrades and affordable housing initiatives, promoting community safety and energy efficiency.

WATER/SEWER LOANS: funds water and sewer connections, and replaces old lateral lines and lead pipes. **Discussions initiated** with Lake Worth Beach Water Utilities Director to enhance collaboration and address community needs.



HUGE NEWS!!!

The historic "Climate Bill", aka **Greenhouse Gas Reduction Fund** (GGRF), rolled out \$27 Billion nationally, and SELF has secured several hundred million dollars of grants and low-cost loan capital. GGRF resources are focused on Low-Income and Disadvantaged Communities (LIDAC) and will become available in the coming months/years!

THANK YOU



CONTACT INFORMATION:

Website: SolarEnergyLoanFund.org

HQ: 2400 Rhode Island Ave., Fort Pierce, FL 34950

LWB Office: 1900 2nd Avenue N, Lake Worth Beach, FL 33461

Tel. # (561) 407-0183

Email: pierrec@solarenergyloanfund.org



**MINUTES
CITY OF LAKE WORTH BEACH
UTILITY CITY COMMISSION MEETING
CITY HALL COMMISSION CHAMBER
TUESDAY, FEBRUARY 27, 2024 - 6:00 PM**

The meeting was called to order by Mayor Betty Resch on the above date at 6:03 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

ROLL CALL: (0:14) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy, Commissioners Sarah Malega, Kimberly Stokes and Reinaldo Diaz. Also present were Interim City Manager Jamie Brown, Assistant City Attorney Christy L. Goddeau and Deputy City Clerk Shayla Ellis.

PLEDGE OF ALLEGIANCE: (0:33) led by Mayor Betty Resch.

AGENDA - Additions/Deletions/Reordering:

There were no changes to the agenda.

PRESENTATIONS: (there is no public comment on Presentation items)

- A. Presentation regarding human, environmental and economic reasons for best city lighting practices by Mario Motta, MD, FACC, brought forward by Commissioner Stokes (0:55)
- B. Electric Utility Update by Ed Liberty, Electric Utility Director (16:12)
- C. Water Utility Update by Vaughn Hayduk, Assistant Water Utility Director (37:32)

PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA: (45:51)

APPROVAL OF MINUTES: (46:06)

Action: Motion made by Commissioner Stokes and seconded by Commissioner Diaz to approve the following minutes:

- A. January 30, 2024

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

CONSENT AGENDA: (public comment allowed during Public Participation of Non-Agendaed items)

There were no items on the Consent Agenda.

UNFINISHED BUSINESS:

There were no unfinished business items.

NEW BUSINESS:

- A. Hooper Corp. Work Order No. 1 to provide construction services for the Undergrounding of

Overhead conductors at the 10th Ave. N., and Boutwell Road intersection (46:15)

Action: Motion made by Vice Mayor McVoy and seconded by Commissioner Malega to approve Work Order No. 1 with Hooper Corp. to provide construction services for the Undergrounding of Overhead conductors at the 10th Ave. N., and Boutwell Road intersection.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

B. Ratification of emergency procurement for Amendment #1 to Work Order #3 with Nucat Corporation for Main Yard Transformer Repairs (56:30)

Action: Motion made by Commissioner Malega and seconded by Vice Mayor McVoy to ratify the emergency procurement for Amendment #1 to Work Order #3 with Nucat Corporation for Main Yard Transformer Repairs.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

C. Work Order #12 for Globaltech, Inc. to install new water quality analyzers and tank mixers (58:20)

Action: Motion made by Commissioner Malega and seconded by Commissioner Diaz to approve Work Order #12 for Globaltech, Inc. to install new water quality analyzers and tank mixers.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

D. Purchase Order for a Wilo Sewage Pump from PSI Technologies, Inc. for the Regional Master Pump Station (58:37)

Action: Motion made by Commissioner Diaz and seconded by Vice Mayor McVoy to approve the Purchase Order for a Wilo Sewage Pump from PSI Technologies, Inc. for the Regional Master Pump Station.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

E. Purchase authorization of new Backhoe for Water Utilities Distribution Department from Case Power & Equipment, Inc. (58:50)

Action: Motion made by Commissioner Diaz and seconded by Commissioner Malega to approve the Purchase authorization of new Backhoe for Water Utilities Distribution Department from Case Power & Equipment, Inc.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

F. Task Order #6 with KC Holdings Inc. for Environmental Protection Agency (EPA) Community Change Grant Services (59:09)

Action: Motion made by Commissioner Malega and seconded by Commissioner Diaz to approve Task Order #6 with KC Holdings Inc. for Environmental Protection Agency (EPA) Community Change Grant Services.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz.
NAYS: None.

G. Task Order No. 6 with Kimley-Horn to conduct a comprehensive assessment of SCADA, telemetry, computer systems, and cybersecurity measures (1:18:33)

Action: Motion made by Commissioner Diaz and seconded by Vice Mayor McVoy to approve Task Order No. 6 with Kimley-Horn to conduct a comprehensive assessment of SCADA, telemetry, computer systems, and cybersecurity measures.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz.
NAYS: None.

H. Change Order 1 to contract with Energy Erectors, Inc. for increased costs due to permitting delays of the Canal 138 kV Transmission Switchyard Project (1:18:52)

Action: Motion made by Commissioner Diaz and seconded by Vice Mayor McVoy to approve Change Order 1 to contract with Energy Erectors, Inc. for increased costs due to permitting delays of the Canal 138 kV Transmission Switchyard Project.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz.
NAYS: None.

ADJOURNMENT: (1:20:17)

Action: Motion made by Commissioners Stokes and seconded by Vice Mayor McVoy to adjourn the meeting at 7:23 PM.

Vote: Voice vote showed: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz.
NAYS: None.

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

Minutes Approved: March 26, 2024

Item time stamps correspond to the meeting recording on YouTube.

STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: City Attorney

TITLE:

Engineer Neutral Engagement Agreement with Siemens Industry Inc. and Quaker Lane Associates

SUMMARY:

The Engineer Neutral Engagement Agreement with Siemens Industry Inc. and Quaker Lane Associates will provide a third-party professional engineer to determine if the City's AMI System has reached substantial completion under the City's Energy Savings Agreement with Siemens.

BACKGROUND AND JUSTIFICATION:

In September 2015, the City and Siemens entered the Energy Savings Agreement for Siemens to install and implement certain energy savings (facility improvement measures) including a new, turn-key Advanced Meter Infrastructure (AMI) System to be utilized with the City's water and electric utility systems. A dispute concerning whether the AMI System ever reached substantial completion has arisen between the City and Siemens. The City and Siemens attempted to mediate the dispute; however, the dispute remains without resolution. Under the Energy Savings Agreement, the City and Siemens must utilize a third-party professional engineer to resolve the dispute. The City and Siemens have agreed to utilize the firm of Quaker Lane Associates to review the dispute. Specifically, Michael Wiebe will be the primary professional engineer deciding the dispute with assistance from other associates from Quaker Lane Associates.

The anticipated cost of the services of Quaker Lane Associates is not expected to exceed \$100,000.

MOTION:

Move to approve/disapprove the Engineer Neutral Engagement Agreement with Siemens Industry Inc. and Quaker Lane Associates

ATTACHMENT(S):

Engineer Neutral Engagement Agreement with Siemens Industry Inc. and Quaker Lane Associates
Fiscal Impact Analysis

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

| Fiscal Years | 2024 | 2025 | 2026 | 2027 | 2028 |
|---|-------------|-------------|-------------|-------------|-------------|
| Inflows/Revenues | | | | | |
| Appropriated (Budgeted) | 0 | 0 | 0 | 0 | 0 |
| Program Income | 0 | 0 | 0 | 0 | 0 |
| Grants | 0 | 0 | 0 | 0 | 0 |
| In Kind | 0 | 0 | 0 | 0 | 0 |
| Outflows/Expenditures | | | | | |
| Appropriated (Budgeted) | \$100,000 | 0 | 0 | 0 | 0 |
| Operating | 0 | 0 | 0 | 0 | 0 |
| Capital | 0 | 0 | 0 | 0 | 0 |
| Net Fiscal Impact <i>(If not budgeted)</i> | 0 | 0 | 0 | 0 | 0 |
| No. of Addn'l Full-Time Employee Positions | 0 | 0 | 0 | 0 | 0 |

| Contract Award - Existing Appropriation (Budgeted) | |
|--|-----------------------|
| | Expenditure |
| Department | Electric |
| Division | Meter Shop |
| GL Description | Professional Services |
| GL Account Number | 401-6035-531.31-90 |
| Project Number | N/A |
| Requested Funds | \$100,000 |
| Remaining Balance | \$36,236.19 |
| Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.) | Current Revenue |

ENGINEER NEUTRAL ENGAGEMENT AGREEMENT

This Engineer Neutral Engagement Agreement (“Engineer Neutral Agreement”) is made as of April _____, 2024 between and among Siemens Industry, Inc. (“Siemens”), the City of Lake Worth (the “City”) (Siemens and the City are sometimes referred to individually as a “Party” and collectively as the “Parties”), and third-party neutral engineer Quaker Lane Associates (“Engineer”).

Recitals

WHEREAS, the City and Siemens are parties to a September 15, 2015 Energy Services Agreement (“Energy Savings Agreement” or “ESA”), under which Siemens agreed to implement several Facility Improvement Measures, including an Advanced Meter Infrastructure System;

WHEREAS, a dispute concerning whether the Advanced Meter Infrastructure System is Substantially Complete under Article 3.3 of the ESA has arisen between the City and Siemens;

WHEREAS, Article 3.3.2 provides of the ESA: “Any disputes concerning the Interim or Substantial Completion of the Work will be resolved in accordance with the Dispute Resolution Procedures;

WHEREAS, Article 2.6.1 of the ESA requires the Parties to “use good faith efforts” to resolve disputed within thirty (30) days of notice of a dispute;

WHEREAS, Article 2.6.2 of the ESA provides that: “Disputes not resolved after good faith negotiation will be resolved according to the procedures attached to this Agreement and made a part hereof as Exhibit P”;

WHEREAS, Exhibit P of the ESA provides, in relevant part, that: “Any unresolved disputes concerning Substantial Completion ... of the Work will be resolved by submitting to a third party professional engineer selected in accordance” with the procedure outlined in Exhibit P;

WHEREAS, Siemens and the City wish to jointly retain Engineer as the third-party neutral engineer in accordance with Article 3.3.2, Article 2.6.2, and Exhibit P of the ESA;

WHEREAS, Engineer wishes to accept his appointment as the third-party neutral engineer Article 2.6.2 and Exhibit P of the ESA;

NOW, THEREFORE, in consideration of the promises and covenants made below, Siemens, the City, and Engineer agree as follows:

Agreement Terms

1. **Joint Retention of Engineer.** Engineer agrees to serve as the third-party neutral engineer in accordance with Article 2.6.2 and Exhibit P of the ESA. Engineer’s fee is \$795.00 per hour for time spent in study, conference, and hearings. Other Quaker Lane Associates staff members may be utilized to assist Engineer as appropriate. Siemens and the City agree that Engineer’s fees will be split evenly between them, be invoiced separately and will be paid within thirty (30) days of

each of Siemens' and the City's receipt of the Engineer's invoice issued to them for services provided in the previous month. Engineer understands that Siemens and the City retain Engineer jointly. Engineer understands that it is to serve as an unbiased neutral, third-party decision-maker, owing impartiality to both Siemens and the City.

2. Scope of Engagement. Engineer is retained to consider the Parties' submissions and other pertinent information, as contemplated in the following Paragraphs, and apply the facts of this dispute, his experience and expertise to decide whether, and only whether, the Advanced Meter Infrastructure System that Siemens installed under the ESA is Substantially Complete under Article 3.3 of the ESA. Engineer is not retained to provide design or engineering services or offer professional advice as part of a design professional – client relationship. Engineer is not retained to decide disputes arising under the ESA, except those identified in this Article 2.

3. Submission Schedule. The Parties shall make the following submissions, along with all supporting documents and/or expert report(s), to Engineer, with a copy to the other Party, on or before the deadlines listed below:

- (a) July 22, 2021 – Siemens' detailed statement of claim in support of its position;
- (b) July 22, 2024 – The City's detailed statement of claim in support of its position;
- (c) Siemens shall be entitled to submit a reply within 30 days after the City submits its detailed statement of claim; and
- (d) The City shall be entitled to submit a surreply within 30 days after Siemens' submits a reply, if a reply is submitted.

4. Post-Submission Proceedings. Following the close of submissions under the Submission Schedule in Paragraph 3 above, and/or at such earlier time(s) determined by Engineer, Engineer may submit, at Engineer's discretion, written requests for information and/or documents to the City and/or Siemens with a copy to the other Party, which requests shall be answered by the responding Party in writing with a copy to the other Party within the time specified by Engineer in the request. Further processes and procedures will be determined, as necessary, after the close of the period allowed by Engineer for the Parties to submit written responses to Engineer's request(s).

5. Transmittal of Documents. Documents and information to be exchanged between the Parties may be transmitted by email, cloud service, or other electronic means to their respective legal counsel and submissions to Engineer may be transmitted by email, cloud service, or other electronic means to Engineer with copy to legal counsel for the non-submitting Party. Any document transmitted electronically by 11:59 p.m. shall be considered exchanged or submitted on that date. Engineer may grant any reasonable requests for extensions of time to exchange or submit documents, which requests should be made before expiration of the deadline. Engineer may also, upon a showing of good cause or *sua sponte*, extend any deadlines if necessary to facilitate the dispute resolution process.

6. Final Decision. Following the exchange of information and positions described above, or at such earlier time determined by the Engineer and the Parties, the Parties and Engineer will discuss and agree upon the form of Engineer's final decision.

7. No Conflicts. Engineer has investigated and is not aware of any conflicts that would prevent Engineer from serving as third-party neutral engineer under this Engineer Neutral Agreement and has disclosed to the Parties all potential conflicts of which Engineer is aware.
8. Communications With Engineer. Both Parties will be included on all communications with Engineer, unless otherwise agreed by both Parties and Engineer.
9. Confidentiality/Nondisclosure. Subject to Florida's Public Records Act (as set forth below), Engineer will treat as confidential, privileged, and proprietary all documents and information disclosed to Engineer in connection with the performance of this Engineer Neutral Agreement which are marked as "Proprietary and Confidential" and agrees to maintain as confidential any such information, communication, or documentation received by Engineer (collectively, the "Confidential Information"). Engineer shall receive, keep, and maintain the Confidential Information in strict confidence, shall use Confidential Information solely for the purpose of performing the services under this Engineer Neutral Agreement, and shall not disclose or use the same except as expressly provided herein. Engineer may disclose the Confidential Information (a) to such of its own officers, directors, employees, and agents as have a need (and only to the extent such persons have a need) to know such information in connection with the proper performance of the services, (b) to such of its subcontractors, vendors, suppliers and the officers, directors, employees, and agents of any of them as have a need (and only to the extent such persons have a need) to know such information in connection with the proper performance of the services, and (c) with the disclosing Party's prior written consent (Engineer and all persons to whom Engineer is authorized to disclose Confidential Information are referred to collectively in this Paragraph 9 as the "Authorized Recipients"). The Authorized Recipients may use the Confidential Information solely for the purpose of performing the services under this Engineer Neutral Agreement. If Engineer discloses any Confidential Information to any other Authorized Recipient, Engineer shall ensure that each such person is made aware of, and observes and complies with, the obligations of confidentiality, non-disclosure, and use of Confidential Information as provided herein.
10. Engineer Not a Party. Siemens and the City agree that, notwithstanding any other provision to the contrary in this, or any other agreement, the Engineer shall not be named as a defendant or party in any action whatsoever arising out of or relating to the ESA. Siemens and the City shall require each and every witness, expert, or other person that such Parties will involve in any action whatsoever arising out of or related to the ESA be bound by the foregoing. Subject to the City's right to sovereign immunity and the monetary limits set forth in Section 768.28, Florida Statutes, should Engineer (or his firm) be named, then the breaching Party agrees to indemnify Engineer (and his firm) for legal fees, experts' fees, and expenses in defending such action.
11. Counterparts. This Engineer Neutral Agreement may be signed in any number of counterparts electronically or digitally, and all such counterparts shall be deemed the one and same instrument. A faxed or e-mailed signature shall have the same effect as an original.
12. Governing Law and Venue. The validity of this Engineer Neutral Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and exclusive venue for any disputes arising out of or related to this Engineer Neutral Agreement shall be in Palm Beach County, Florida.

13. Palm Beach County Inspector General. In accordance with Palm Beach County ordinance number 2011-009, the Parties acknowledge that this Engineer Neutral Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The Parties have reviewed Palm Beach County ordinance number 2011-009 and are aware of their rights and/or obligations under such ordinance.

14. Florida's Public Records Act. The Parties shall comply with Florida's Public Records Act Chapter 119, Florida Statutes, and, if the Engineer is deemed to be acting on behalf of the City as provided under section 119.011(2), the Engineer specifically agrees to:

(a) Keep and maintain public records required by the City to perform the services under this Engineer Neutral Agreement.

(b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that said public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Engineer Neutral Agreement term and following completion of the Engineer Neutral Agreement, if the Engineer does not transfer the records to the City.

(d) Upon the completion of the Engineer Neutral Agreement, transfer, at no cost, to the City all public records in possession of the Engineer or keep and maintain public records required by the City to perform the services. If the Engineer transfers all public records to the City upon completion of the Engineer Neutral Agreement, the Engineer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Engineer keeps and maintains public records upon completion of the Engineer Neutral Agreement, the Engineer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE ENGINEER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ENGINEER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS ENGINEER NEUTRAL AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, CITYCLERK@LAKEWORTHBEACHFL.GOV OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.

15. Public Entity Crimes, E-Verify, and Scrutinized Companies.

(a) As provided in Sections 287.132-133, Florida Statutes, as amended from time to time, by entering into the Engineer Neutral Agreement, the Engineer certifies that it, its affiliates, suppliers, subcontractors and any other contractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services

within the thirty-six (36) months immediately preceding the date hereof.

(b) If applicable to the Engineer, pursuant to Section 448.095(5), Florida Statutes, the Engineer, and any subcontractor thereof, shall register with and use the E-Verify system to verify the work authorization status of all new employees of the Engineer and the subcontractor.

(c) As provided in Section 287.135, Florida Statutes, as amended from time to time, by entering into the Engineer Neutral Agreement, the Engineer certifies that it is not participating in a boycott of Israel.

16. Maximum Not To Exceed. The Parties anticipate that the maximum cost to the City for the services to be provided under this Engineer Neutral Agreement **shall not exceed Fifty Thousand Dollars (\$50,000)**. If the Parties anticipate the foregoing amount to be exceeded, the City will be required to obtain City Commission approval of an amendment to this Engineer Neutral Agreement, which amendment may take up to thirty (30) days for approval.

IN WITNESS WHEREOF the parties hereto have made and executed this Engineer Neutral Agreement on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney
Director

APPROVED FOR FINANCIAL SUFFICIENCY

By: _____
Yannick Ngendahayo, Financial Services

[SIGNATORY]
Siemens Industry, Inc.
Date: _____

[SIGNATORY]
Quaker Lane Associates
Date: _____

STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: Electric Utility

TITLE:

Purchased Power Cost Adjustment Update (PCA)

SUMMARY:

Monthly update for the Purchased Power Cost Adjustment in Electric Utility Rates

BACKGROUND AND JUSTIFICATION:

The City's electric utility provides electricity to its customers using a variety of electric production resources. Among them are the City's entitlements in various Florida Municipal Power Agency (FMPA) St. Lucie and Stanton 1 Projects, the City's own solar farm atop City's closed landfill, the City's power plant, and a contract with Orlando Utilities Commission for supplemental energy and capacity (the "OUC Agreement").

As determined during the electric utility rate making process certain electric utility expenses largely related to the purchase of electric capacity, debt service, operations and maintenance, general fund transfer, and City shared internal service costs are recovered via the Base Energy Charge on customers' bills and are not included in the Purchased Power Cost Adjustment (PCA).

Expenses largely related to the purchase of electric energy from the aforementioned electric production resources, as well as the electric energy and capacity purchases under the OUC Agreement, and electric transmission costs, are recovered or returned via the Purchased Power Cost Adjustment (PCA) on customers' bills. As per City Resolution 92-2021 the PCA "shall be established for a projected 3-month period for energy sales during that period...".

In order to establish the PCA, City's Electric Utility Staff provides a projection to the City Commission of the PCA for the upcoming 3-month period.

Staff develops its estimates of future purchased power costs using widely published and publicly available values for natural gas futures contracts for the applicable months. City does not actually purchase natural gas futures contracts, it merely used published prices as a forecasting tool.

Based on the balance of the Rate Stabilization Fund and the PCA Balance, Staff recommends no change in the PCA at this time.

MOTION:

Move to approve/disapprove Staff's recommendation of no change to the PCA at this time.

ATTACHMENT(S):

PCA Updated Slides

| Actual Invoices | | | | | | | |
|--|--------------|-------------|----------------|------------------|-----------------|------------------------|------------|
| Month | PCA Revenues | OUC | Stanton Energy | FPL Transmission | Power Plant Gas | Total PCA Expenditures | Difference |
| PCA balance after creation of Rate Stabilization Fund / Storm Fund & Retroactive payment for Solar I cancellation payment from March '23 ----->>>> | | | | | | | \$732,451 |
| Sep-23 | \$1,599,657 | \$1,105,761 | \$193,712 | \$293,299 | \$0 | \$1,592,772 | \$6,885 |
| Oct-23 | \$1,508,742 | \$960,029 | \$82,049 | \$245,514 | \$0 | \$1,287,593 | \$221,149 |
| Nov-23 | \$1,374,662 | \$671,450 | \$111,685 | \$215,275 | \$0 | \$998,410 | \$376,253 |
| Dec-23 | \$1,211,190 | \$548,688 | \$107,600 | \$206,150 | \$0 | \$862,438 | \$348,752 |
| Jan-24 | \$1,026,739 | \$783,756 | \$83,459 | \$218,139 | \$0 | \$1,085,353 | -\$58,614 |
| Feb-24 | \$978,222 | \$297,967 | \$93,115 | \$266,411 | \$0 | \$657,493 | \$320,729 |
| Mar-24 | \$889,150 | \$751,530 | \$73,502 | \$325,202 | \$0 | \$1,150,234 | -\$261,084 |
| TOTALS | \$8,588,362 | \$5,119,180 | \$745,122 | \$1,769,989 | \$0 | \$5,826,565 | \$686,521 |

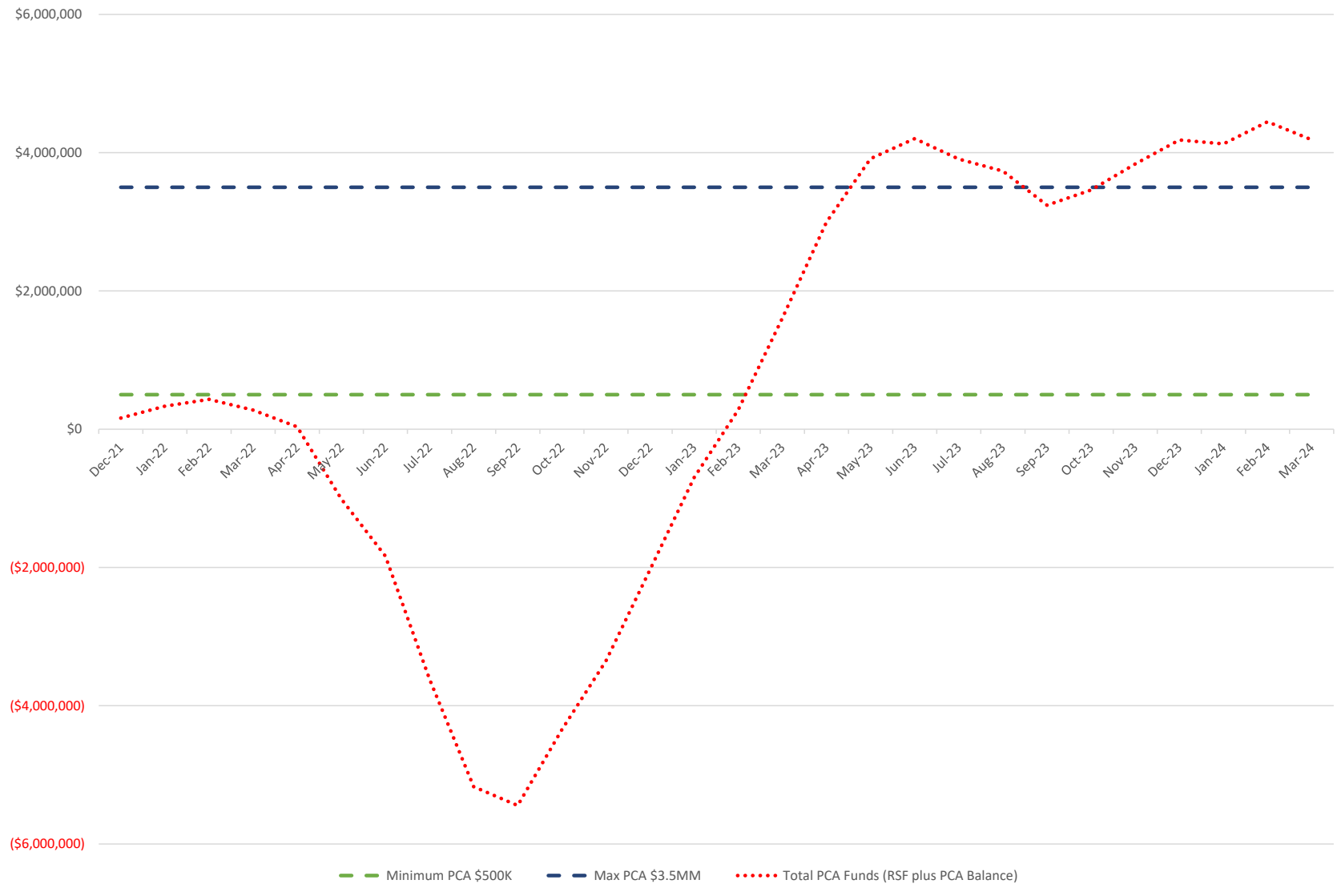
FMPA Solar I cancellation payment to LWB from FMPA of \$301,412.18 retroactively credited to PCA revenues (reflected in March '23)

Total balance includes \$1MM transfer to RSF as approved by Commission at the 1/30/24 meeting

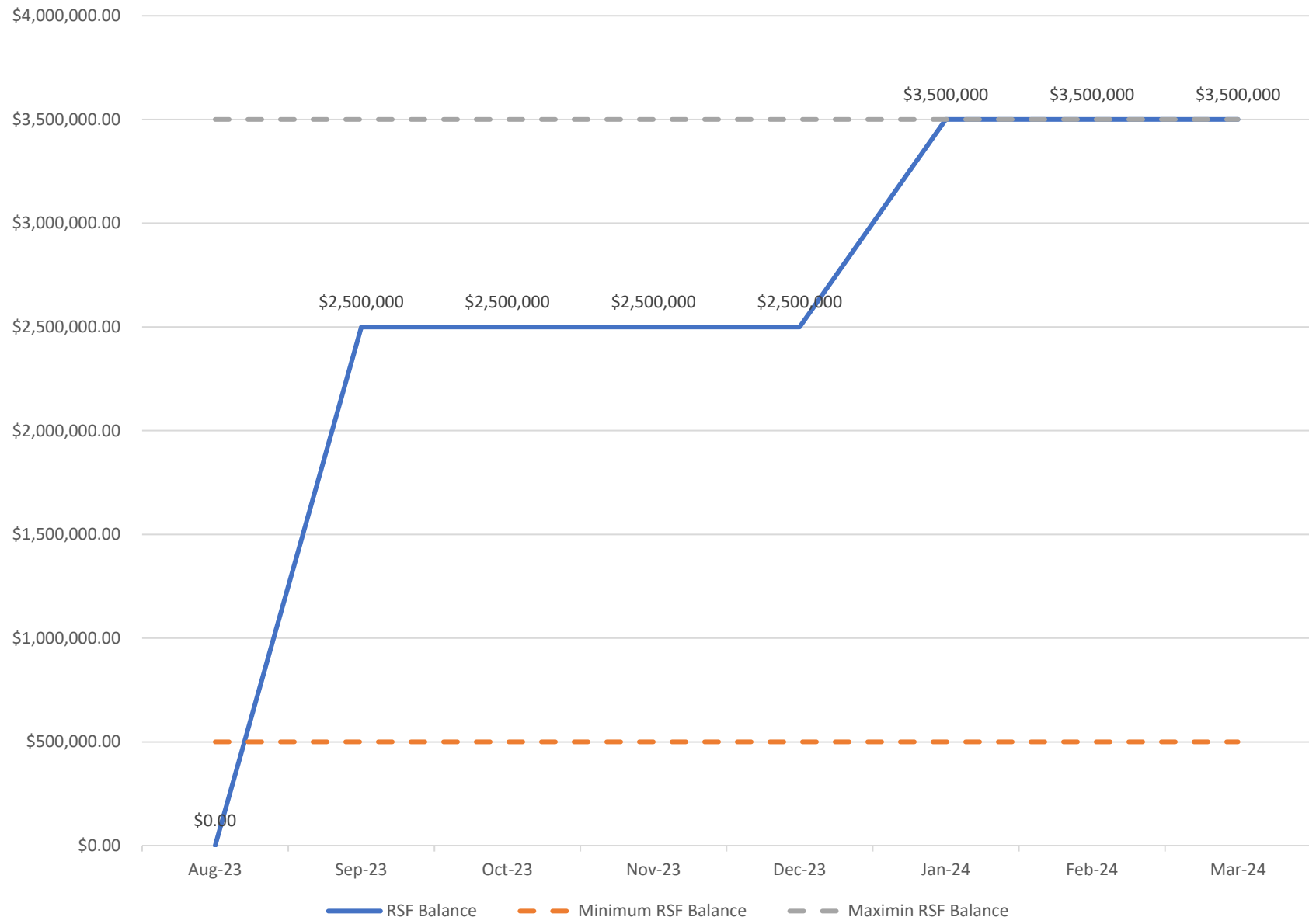
PCA Review Oct 22 - Feb 24

| | PCA \$/MWhr | | | Sales (MWhr) | | PCA Expense (\$) | | PCA Revenue (\$) | | Monthly Balance (\$) |
|---------------------|--------------------------|-----------------------------------|--------------------------------------|---------------------|-----------------------|-----------------------|--------------------|------------------------|---------------------|------------------------|
| | PCA Projection (\$/MWhr) | PCA Charge to Customers (\$/MWhr) | Actual PCA Expense Incurred (\$/MWh) | Projected MWh Sales | Energy Sales Receipts | Projected PCA Expense | Actual PCA Expense | Projected PCA revenues | Actual PCA Revenues | PCA Revenue vs Expense |
| Oct 22 PCA \$/MWh | \$38.96 | \$60.92 | \$38.47 | 45,573 | 43,063 | \$1,775,541 | \$1,656,627 | \$2,776,289.07 | \$2,754,939 | \$1,098,312 |
| Nov 22 PCA \$/MWh | \$33.06 | \$60.92 | \$36.32 | 33,529 | 36,153 | \$1,108,437 | \$1,313,150 | \$2,042,566.60 | \$2,305,698 | \$992,548 |
| Dec 22 PCA \$/MWh | \$29.97 | \$60.92 | \$26.69 | 35,793 | 35,541 | \$1,072,766 | \$948,626 | \$2,180,502.81 | \$2,267,120 | \$1,318,494 |
| Jan 23 PCA \$/MWh | \$30.44 | \$60.92 | \$23.56 | 32,861 | 33,374 | \$1,000,344 | \$786,317 | \$2,001,892.12 | \$2,123,484 | \$1,337,167 |
| Feb 23 PCA \$/MWh | \$33.08 | \$60.92 | \$30.23 | 28,320 | 29,313 | \$936,685 | \$886,202 | \$1,725,254.40 | \$1,864,011 | \$977,809 |
| Mar 23 PCA \$/MWh | \$41.55 | \$60.92 | \$28.79 | 30,894 | 36,387 | \$1,283,666 | \$1,047,496 | \$1,882,062.48 | \$2,376,106 | \$1,328,610 |
| April 23 PCA \$/MWh | \$25.92 | \$60.92 | \$27.66 | 36,886 | 32,851 | \$956,104 | \$908,816 | \$2,247,095.12 | \$2,295,461 | \$1,386,645 |
| May 23 PCA \$/MWh | \$35.58 | \$53.63 | \$31.05 | 34,740 | 36,934 | \$1,235,877 | \$1,146,676 | \$1,863,106.20 | \$2,064,788 | \$918,112 |
| June 23 PCA \$/MWh | \$33.03 | \$31.33 | \$27.08 | 41,479 | 40,984 | \$1,370,203 | \$1,109,974 | \$1,299,537.07 | \$1,398,726 | \$288,752 |
| July 23 PCA \$/MWh | \$46.56 | \$31.33 | \$41.25 | 45,370 | 44,049 | \$2,112,400 | \$1,817,096 | \$1,421,442.10 | \$1,522,057 | -\$295,039 |
| Aug 23 PCA \$/MWh | \$49.96 | \$31.33 | \$39.41 | 48,178 | 46,774 | \$2,406,901 | \$1,843,451 | \$1,509,416.74 | \$1,667,765 | -\$175,686 |
| Sept 23 PCA \$/MWh | \$48.22 | \$31.33 | \$34.28 | 47,862 | 46,468 | \$2,307,918 | \$1,592,772 | \$1,499,516.46 | \$1,599,657 | \$6,885 |
| Oct 23 PCA \$/MWh | \$29.14 | \$31.33 | \$29.23 | 43,925 | 44,043 | \$1,279,900 | \$1,287,593 | \$1,376,170.25 | \$1,508,742 | \$221,149 |
| Nov 23 PCA \$/MWh | \$30.87 | \$31.33 | \$24.56 | 36,877 | 40,654 | \$1,138,302 | \$998,410 | \$1,155,356.41 | \$1,374,662 | \$376,252 |
| Dec 23 PCA \$/MWh | \$22.29 | \$31.33 | \$23.59 | 36,252 | 36,553 | \$807,882 | \$862,438 | \$1,135,775.16 | \$1,211,190 | \$348,752 |
| Jan 24 PCA \$/MWh | \$23.62 | \$31.33 | \$34.08 | 35,042 | 31,849 | \$827,836 | \$1,085,353 | \$1,097,865.86 | \$1,026,739 | -\$58,614 |
| Feb 24 PCA \$/MWh | \$31.56 | \$31.33 | \$21.68 | 30,778 | 30,334 | \$971,236 | \$657,493 | \$964,274.74 | \$978,222 | \$320,729 |
| Mar 24 PCA \$/MWh | \$28.32 | \$24.38 | \$33.77 | 38,206 | 34,058 | \$1,082,070 | \$1,150,234 | \$931,462.28 | \$889,150 | -\$261,084 |

Total PCA Funds as of March 31 2024 - \$4,186,520 (\$3.5 MM in RSF)



Rate Stabilization Fund Balance as of March ' 24 - \$3,500,000

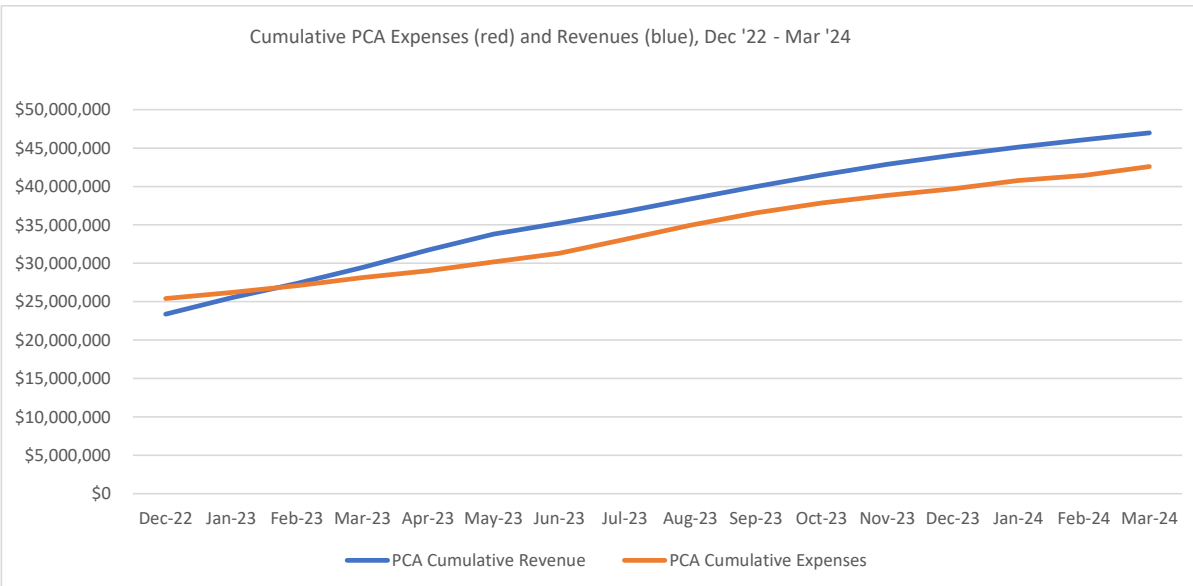
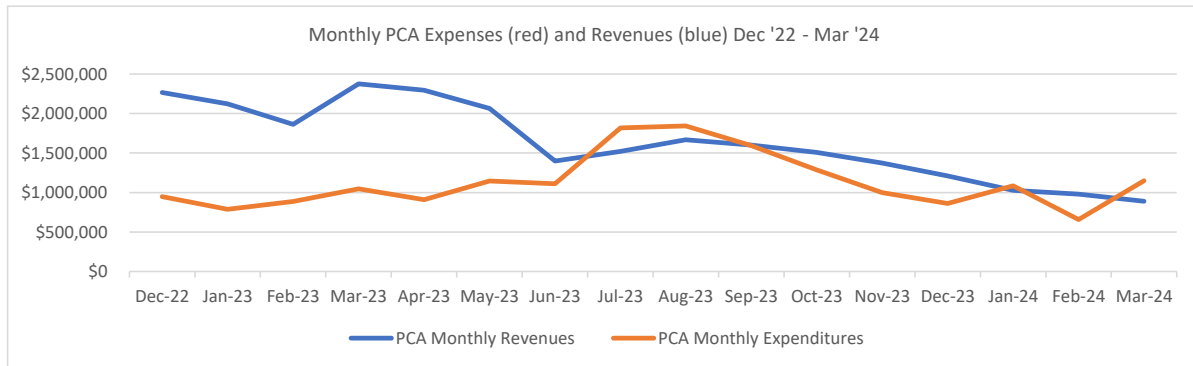


PCA Table & Graphs

Retroactive \$314K cancellation payment from FMPA Solar I cancellation (Reflected in March '23)

| Month | PCA Monthly Revenues | PCA Monthly Expenditures | Difference |
|--------|----------------------|--------------------------|-------------|
| Dec-22 | \$2,267,120 | \$948,626 | \$1,318,494 |
| Jan-23 | \$2,123,484 | \$786,317 | \$1,337,167 |
| Feb-23 | \$1,864,011 | \$886,202 | \$977,809 |
| Mar-23 | \$2,376,106 | \$1,047,496 | \$1,328,610 |
| Apr-23 | \$2,295,461 | \$908,816 | \$1,386,645 |
| May-23 | \$2,064,788 | \$1,146,676 | \$918,112 |
| Jun-23 | \$1,398,725 | \$1,109,974 | \$288,751 |
| Jul-23 | \$1,522,057 | \$1,817,096 | (\$295,039) |
| Aug-23 | \$1,667,765 | \$1,843,451 | (\$175,686) |
| Sep-23 | \$1,599,657 | \$1,592,772 | \$6,885 |
| Oct-23 | \$1,508,742 | \$1,287,593 | \$221,149 |
| Nov-23 | \$1,374,662 | \$998,410 | \$376,252 |
| Dec-23 | \$1,211,190 | \$862,438 | \$348,752 |
| Jan-24 | \$1,026,739 | \$1,085,353 | (\$58,614) |
| Feb-24 | \$978,222 | \$657,493 | \$320,729 |
| Mar-24 | \$889,150 | \$1,150,234 | (\$261,084) |
| TOTALS | \$47,278,290 | \$42,591,771 | \$4,686,519 |

| PCA Cumulative Revenue | PCA Cumulative Expenses |
|------------------------|-------------------------|
| \$23,377,531 | \$25,411,450 |
| \$25,501,015 | \$26,197,767 |
| \$27,365,026 | \$27,083,969 |
| \$29,439,720 | \$28,131,465 |
| \$31,735,181 | \$29,040,281 |
| \$33,799,969 | \$30,186,957 |
| \$35,198,694 | \$31,296,931 |
| \$36,720,751 | \$33,114,027 |
| \$38,388,517 | \$34,957,478 |
| \$39,988,173 | \$36,550,250 |
| \$41,496,915 | \$37,837,843 |
| \$42,871,577 | \$38,836,253 |
| \$44,082,767 | \$39,698,691 |
| \$45,109,506 | \$40,784,044 |
| \$46,087,728 | \$41,441,537 |
| \$46,976,878 | \$42,591,771 |



STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: Electric Utility

TITLE:

Resolution No. 10-2024 – revision of Rate Stabilization Fund Resolution 31-2023

SUMMARY:

Revision of Resolution 31-2023, which was approved on September 26, 2023, and established the Rate Stabilization Fund (RSF)

BACKGROUND AND JUSTIFICATION:

As a result of sudden increases in the costs of natural gas in 2022-2023 and other factors impacting the power costs, the City of Lake Worth Beach established the “Electric Utility Rate Stabilization Fund” to maintain rates competitive with other utilities, mitigate against potential increased costs of purchased power, and provide rate stability for the customers of the Electric Utility.

This revision of Resolution 31-2023 will set forth additional standards and guidelines for The Fund as it relates to excess PCA revenues

If during a fiscal year, the RSF falls to an amount less than 10% of the expected annual purchased power costs, the City Commission shall consider increasing the PCA charge to increase the amount in the RSF. If during a fiscal year, the RSF increases to an amount of more than 25% of the expected annual purchased power costs, the City Commission shall consider reducing the PCA to decrease the amount in the RSF

Prior to increasing or decreasing the PCA, the City Commission will consider the status of excess PCA revenues with a desired target amount that will trigger transfers into the RSF.

MOTION:

Move to approve/disapprove Resolution No. 10-2024 – revision of Rate Stabilization Fund Resolution 31-2023

ATTACHMENT(S):

Fiscal Impact Analysis - NA
Resolution 10-2024
Resolution 31-2023

RESOLUTION NO. 10-2024 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, REVISING RESOLUTION 31-2023, WHICH ESTABLISHED A RATE STABILIZATION FUND, AUTHORIZED AN INITIAL TRANSFER, AND SET GENERAL GUIDELINES FOR THE RATE STABILIZATION FUND, TO SET FORTH ADDITIONAL STANDARDS AND GUIDELINES FOR THE RATE STABILIZATION FUND AND RELATED ELECTRIC UTILITY OPERATIONS ACCOUNT; AND, PROVIDING FOR REPEAL OF CONFLICTS AND AN EFFECTIVE DATE

WHEREAS, the Electric Utility of the City of Lake Worth Beach desires to maintain rates competitive with other utilities, mitigate against potential increased costs of purchased power, and provide rate stability for the customers of the Electric Utility; and

WHEREAS, the City set forth the current electric utility rates and charges in Resolution No. 92-2021, which includes a variable rate to be charged to each customer for the City's purchased power costs entitled the "Purchased Power Adjustment" ("PCA") as further defined in Resolution No. 92-2021; and

WHEREAS, Resolution No. 92-2021 also set forth a calculation for the PCA based on a projected three (3) month period inclusive of the projected purchased power costs, a true-up of recovery of the PCA from the prior three (3) month period, and any amounts transferred from the Rate Stabilization Fund; and

WHEREAS, due to sudden increases in the costs of natural gas in 2022-2023 and other factors impacting the City's power costs, the City Commission in Resolution No. 31-2023 created the Rate Stabilization Fund ("The Fund"); authorized the transfer of excess PCA charges received from customers to the Fund; and, set general guidelines for the Fund; and

WHEREAS, the Electric Utility deposits all excess revenue from its customers into its Electric Utility operations account ("The Account"), which account includes excess revenue received from customers when the PCA charged exceeds the City's actual purchased power costs; and

WHEREAS, the City desires to revise Resolution No. 31-2023 to set forth additional standards and guidelines for The Fund as it relates to excess PCA revenue which may be in the Account; and

WHEREAS, the City Commission finds establishing this Resolution serves a valid public purpose.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. The foregoing recitals are incorporated into this Resolution as true and correct findings of the City Commission.

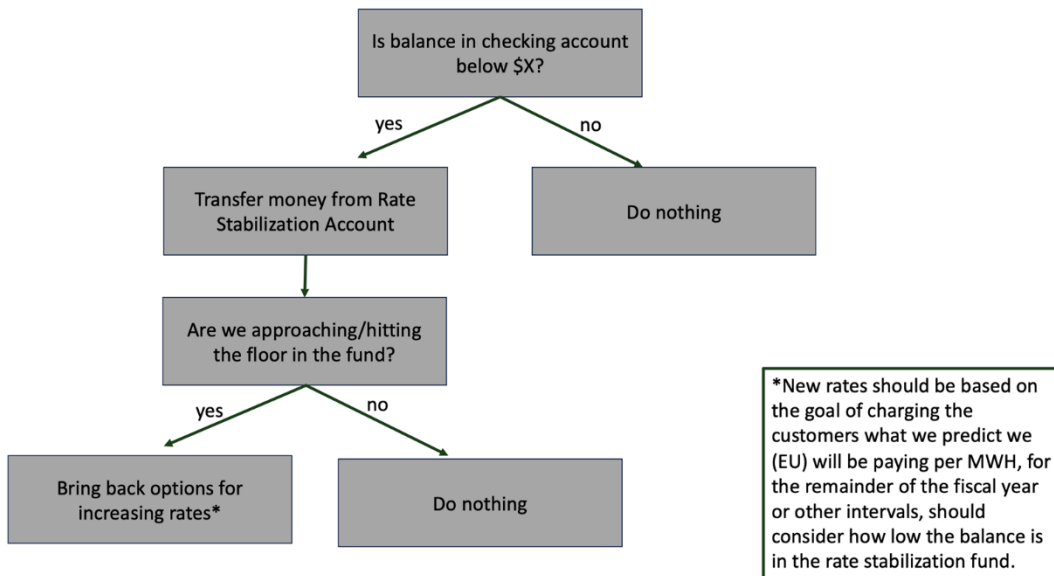
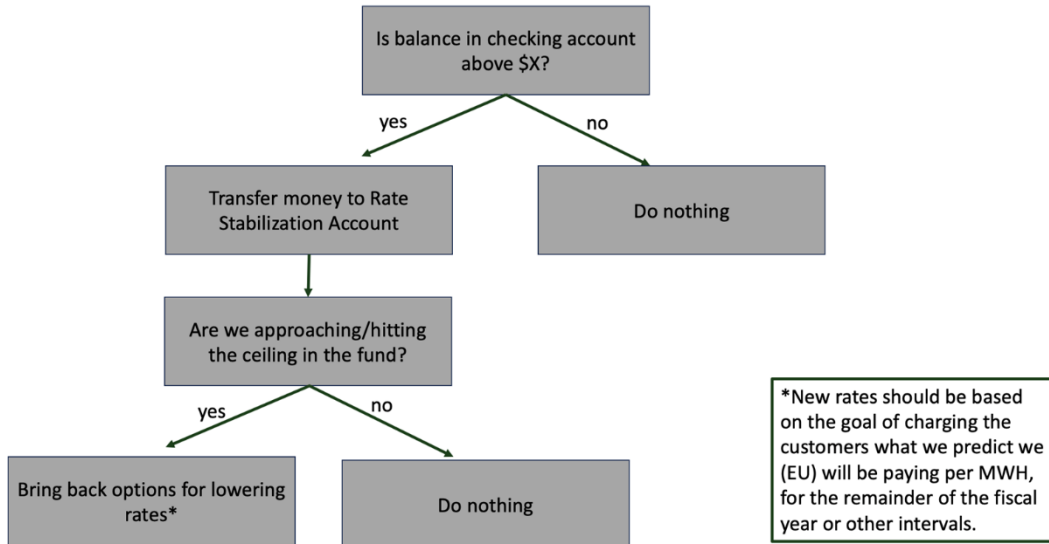
Section 2. Section 3 of Resolution No. 31-2023 is hereby amended to read as follows: The City Commission shall have the sole authority to direct the deposit or withdrawal of funds

from The Fund. The Fund shall be administered by the Electric Utility and Financial Services Department. As directed in each fiscal year budget, the Electric Utility and Financial Services Department shall administer The Account. However, since funds in The Account are derived from PCA revenues which may exceed the City’s actual purchased power costs, The Account and The Fund shall be considered together when making decisions with regards to the PCA and The Fund. Accordingly, the general guidelines for The Fund are as follows:

1. The Fund shall not be used for any purpose except for mitigating cost increases due to fluctuations in power costs or other electric utility emergencies that would otherwise be passed along to the customers in the form of a sudden electric utility rate increase.
2. Subject to the ultimate approval of the City Commission, the Electric Utility and Financial Services Department will propose to appropriate to The Fund each year an amount of not less than 10% of the expected annual purchased power costs or an amount not greater than 25% of the expected annual purchased power costs.
3. If during a fiscal year, The Fund falls to an amount less than 10% of the expected annual purchased power costs, the City Commission shall consider increasing the PCA charge to increase the amount in The Fund. If during a fiscal year, The Fund increases to an amount of more than 25% of the expected annual purchased power costs, the City Commission shall consider reducing the PCA to decrease the amount in The Fund.
4. Prior to increasing or decreasing the PCA, the City Commission will consider the status of The Account. The City Commission’s desired target for the Account is \$ (“The Account Target”).
5. On at least a quarterly basis, the Electric Utility in conjunction with the Financial Services Department shall provide a status of The Fund and The Account to the City Commission and a recommendation regarding any proposed changes to The Fund and/or The Account (as it relates to The Fund).
6. For consistency, the Electric Utility’s and Financial Services Department’s status of The Fund and The Account shall be presented as follows:

| | Quarter No. _____ | |
|-----|---|-----------|
| 1. | Actual Purchased Power Costs (\$) | |
| 2. | Actual Revenues Received (\$) | |
| 3. | Difference in The Account (Line 2 – Line 1) (\$) | |
| | | |
| 4. | Prior Balance of The Account (\$) | |
| 5. | Total excess/deficiency in The Account (Line 3 + Line 4) (\$) | |
| 6. | The Account Target (from above) (\$) | |
| 7. | Proposed Transfer (\$) (Line 5 +/- Line 6) | |
| | | |
| | The Rate Stabilization Fund (The Fund) | |
| 8. | Current Balance of The Fund | |
| 9. | Amount transferred to/from The Fund (Line 7) (\$) | |
| 10. | New Total of The Fund (Line 8 + Line 9) | |
| | | |
| | The Fund Minimum | 500,000 |
| | The Fund Maximum | 3,500,000 |

Further, in considering the recommendation of the Electric Utility and the Financial Services Department, the following flow charts are provided to assist in the City Commission’s decision (The Account is referred to as the “checking account”; “\$X” is The Account Target; and, “rates” are the PCA charged):



Finally, in determining any changes to the PCA charged the City’s customers (the rates in the flow charts above), the City’s projections shall be utilized and provided in the following format:

| Projections | | | | |
|---------------------------------|-----------|-----------|-----------|------------|
| | Q2 | Q3 | Q4 | Q2-Q4 |
| A: Projected Power Costs (\$) | 2,508,142 | 3,195,733 | 4,895,682 | 10,599,557 |
| D: Projected Retail Sales (MWH) | 100,192 | 108,296 | 134,442 | 342,930 |
| Projected Cost/MWH (A/D) | 25.03 | 29.51 | 36.41 | 30.91 |
| No change in rate | 31.33 | 31.33 | 31.33 | 31.33 |
| Projected difference | 630,873 | 197,181 | -683,614 | 144439.9 |

Section 4. All resolutions or parts of resolutions are hereby amended to the extent that they are in conflict with this Resolution.

Section 5. This Resolution shall become effective immediately upon passage.

The passage of this resolution was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

- Mayor Betty Resch
- Vice Mayor Sarah Malega
- Commissioner Christopher McVoy
- Commissioner Mimi May
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this resolution duly passed and adopted on this _____ day of _____, 2024.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

RESOLUTION NO. 31-2023 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, ESTABLISHING A RATE STABILIZATION FUND TO STABILIZE ELECTRIC UTILITY RATES FROM SUDDEN FLUCTUATIONS; AUTHORIZING THE TRANSFER OF EXCESS POWER COST ADJUSTMENT REVENUES TO THE RATE STABILIZATION FUND; SETTING GENERAL GUIDELINES FOR THE RATE STABILIZATION FUND; AND, PROVIDING FOR REPEAL OF CONFLICTS AND AN EFFECTIVE DATE

WHEREAS, the Electric Utility of the City of Lake Worth Beach desires to maintain rates competitive with other utilities, mitigate against potential increased costs of purchased power, and provide rate stability for the customers of the Electric Utility; and

WHEREAS, due to sudden increases in the costs of natural gas in 2022-2023 and other factors impacting the City's power costs, the City is in need of a fund to assist in stabilizing the rates paid by the Electric Utility customers, which fund can assist in reducing the impact of sudden changes in the City's power costs; and

WHEREAS, consistent with the desires of the Electric Utility Department, the Financial Services Department, and the City Commission, the City seeks to establish an Electric Utility Rate Stabilization Fund; and

WHEREAS, the City Commission finds establishing a Rate Stabilization Funds serves a valid public purpose.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. The City hereby establishes a Rate Stabilization Fund ("The Fund") for the purpose of maintaining rate competitiveness and rate stability by mitigating cost increases due to fluctuations in power costs or other emergencies that would otherwise be passed along to the customers of the Electric Utility.

Section 2. The City Commission authorizes the transfer of \$2,500,000 from the Electric Utility's excess Power Cost Adjustment (PCA) revenues as of August 2023 into The Fund.

Section 3. The City Commission shall have the sole authority to direct the deposit or withdrawal of funds from The Fund. The Fund shall be administered by the Electric Utility and Financial Services Department. The general guidelines for The Fund are as follows:

1. The Fund shall not be used for any purpose except for mitigating cost increases due to fluctuations in power costs or other electric utility emergencies that would otherwise be passed along to the customers in the form of a sudden electric utility rate increase.

2. Subject to the ultimate approval of the City Commission, the Electric Utility and Financial Services Department will propose to appropriate each year from the electric fund an amount of not less than 10% of the expected annual PCA expense or an amount not greater than 25% of the expected annual PCA expense to The Fund.
3. If during a fiscal year, The Fund falls to an amount less than 10% of the annual PCA expense, the City Commission shall consider increasing the electric utility rates to increase the amount in The Fund. If during a fiscal year, The Fund increases to an amount of more than 25% of the annual PCA expense, the City Commission shall consider reducing electric utility rates to decrease the amount in The Fund.
4. On at least a quarterly basis, the Electric Utility in conjunction with the Financial Services Department shall provide a status of The Fund to the City Commission and a recommendation regarding any proposed changes to The Fund.

Section 4. All resolutions or parts of resolutions are hereby amended to the extent that they are in conflict with this Resolution.

Section 5. This Resolution shall become effective immediately upon passage.

The passage of this resolution was moved by Vice Mayor McVoy, seconded by Commissioner Malega, and upon being put to a vote, the vote was as follows:

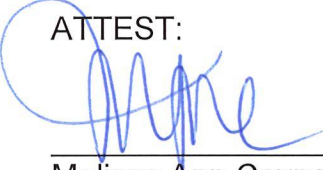
| | |
|------------------------------|-----|
| Mayor Betty Resch | AYE |
| Vice Mayor Christopher McVoy | AYE |
| Commissioner Sarah Malega | AYE |
| Commissioner Kimberly Stokes | AYE |
| Commissioner Reinaldo Diaz | AYE |

The Mayor thereupon declared this resolution duly passed and adopted on the 26th day of September 2023.

LAKE WORTH BEACH CITY COMMISSION

By: 
Betty Resch, Mayor

ATTEST:


Melissa Ann Coyne, MMC, City Clerk



STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: Electric Utility

TITLE:

Resolution No. 11-2024 -- revision of Purchased Power Cost Adjustment (PCA) & PCA Calculation

SUMMARY:

The City desires to revise the definition of the PCA and PCA calculation as set forth in Resolution No. 92-2021 to clarify the definition of the PCA and the PCA calculation based on the establishment of The Rate Stabilization Fund.

BACKGROUND AND JUSTIFICATION:

Expenses largely related to the purchase of electric energy as well as the electric energy and capacity purchases under the OUC Agreement, and electric transmission costs, are recovered or returned via the Purchased Power Cost Adjustment (PCA) on customers' bills per City Resolution 92-2021. The City desires to revise the Purchased Power Cost adjustment definition and calculation within Resolution 92-2021 based on the establishment of the Rate Stabilization Fund (RSF) and the PCA operating accounts. Currently Section 3 of City's Resolution 92-2021 defines the Purchased Power Cost Adjustment (PCA) and formula for calculation as follows:

$$PCA = (A + B + C) / D$$

Where:

A = The projected purchased power costs for the projected 3-month period comprised of costs such as the FMPA Stanton 1 variable costs, the FMPA Municipal Solar Project power costs, supplemental purchased power capacity; energy and directly related costs, Lake Worth Beach electric utility power plant generating fuel; and transmission costs:

B = A true-up amount representing the over or under recovery of purchased power costs from the prior period

C = The amount transferred to or from the Rate Stabilization Fund for the projected period

D = The projected total retail sales in MWh for the projected 3-month period

The revision to Section 3 of City's Resolution 92-2021 would define the Purchased Power Cost Adjustment (PCA) and formula for calculation as follows:

Purchased Power Cost Adjustment (PCA): The PCA shall be established for a projected three (3) month period for energy sales during that period as follows:

$$PCA = A / D$$

Where:

A = The projected purchased power costs for the projected three (3) month period comprised of costs such as the FMPA Stanton 1 variable costs, the FMPA Municipal Solar Project power costs,

supplemental purchased power capacity, energy and directly related costs, Lake Worth Beach electric utility power generating fuel, and transmission costs.

D = The projected total retail sales in MWh for the projected three (3) month period.

Depending on the status of The Fund and related operations account, the PCA may be further decreased or increased by the City Commission. Changes to the PCA by the City Commission is authorized by motion.

All future rate resolutions for the Electric Utility shall incorporate the above revisions for the PCA (unless further amended by the City Commission).

MOTION:

Move to approve/disapprove Resolution 11-2024, revising the Purchased Power Cost Adjustment (PCA) & PCA Calculation.

ATTACHMENT(S):

Fiscal Impact Analysis - NA
Resolution 11-2024
Resolution 92-2021

RESOLUTION NO. 11-2024 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, REVISING RESOLUTION 92-2021, REGARDING THE ELECTRIC UTILITY RATES AND CHARGES, TO REVISE THE PURCHASED POWER COST ADJUSTMENT DEFINITION AND CALCULATION BASED ON THE ESTABLISHMENT OF THE RATE STABILIZATION FUND AND GUIDELINES FOR THE RATE STABILIZATION FUND AND THE ELECTRIC UTILITY OPERATIONS ACCOUNT; AND, PROVIDING FOR REPEAL OF CONFLICTS AND AN EFFECTIVE DATE

WHEREAS, the Electric Utility of the City of Lake Worth Beach desires to maintain rates competitive with other utilities, mitigate against potential increased costs of purchased power, and provide rate stability for the customers of the Electric Utility; and

WHEREAS, the City set forth the current electric utility rates and charges in Resolution No. 92-2021, which includes a variable rate to be charged to each customer for the City's purchased power costs entitled the "Purchased Power Adjustment" ("PCA") as further defined in Resolution No. 92-2021; and

WHEREAS, Resolution No. 92-2021 also set forth a calculation for the PCA based on a projected three (3) month period inclusive of the projected purchased power costs, a true-up of recovery of the PCA from the prior three (3) month period, and any amounts transferred from the Rate Stabilization Fund; and

WHEREAS, due to sudden increases in the costs of natural gas in 2022-2023 and other factors impacting the City's power costs, the City in Resolution No. 31-2023 created the Rate Stabilization Fund ("The Fund"); authorized the transfer of excess PCA charges received from customers to The Fund; and, set general guidelines for The Fund; and

WHEREAS, the City desires to revise the definition of the PCA and PCA calculation as set forth in Resolution No. 92-201 to clarify the definition of the PCA and the PCA calculation based on the establishment of The Fund and guidelines for The Fund; and

WHEREAS, the City Commission finds establishing this Resolution serves a valid public purpose.

NOW THEREFORE BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. The foregoing recitals are adopted by reference as true and correct findings of the City Commission.

Section 2. The City hereby revises Resolution No. 92-2021 as follows:

- A. Section 1, entitled, "Definitions", is revised to clarify the definition of "Power Cost Adjustment" (PCA) to state:

"Purchased Power Cost Adjustment" or "Power Cost Adjustment" (PCA) is a variable rate set forth herein and reflects the City's cost of providing electricity as affected by the price of fuel and the purchase price of power supply. The PCA is set forth in each of the below rate schedules as a rate per kWh. The PCA may be adjusted by the City Commission due to an increase or decrease in the cost to purchase or supply power to customers. The

PCA is shown on the customer’s bill as a separate charge. The City has established a Rate Stabilization Fund (“The Fund”) in an effort to minimize significant increases in the PCA (e.g., sudden spike in fuel costs) and the direct impact thereof on each customer’s bill. Depending on the status of The Fund and the related operations account, the PCA may be further decreased or increased by the City Commission.

B. Section 3, entitled, “Purchased Power Cost Adjustment (PCA)”, is revised to state:

Purchased Power Cost Adjustment (PCA): The PCA shall be established for a projected three (3) month period for energy sales during that period as follows:

$$PCA = A / D$$

where:

A = The projected purchased power costs for the projected three (3) month period comprised of costs such as the FMPA Stanton 1 variable costs, the FMPA Municipal Solar Project power costs, supplemental purchased power capacity, energy and directly related costs, Lake Worth Beach electric utility power generating fuel, and transmission costs.

D = The projected total retail sales in MWh for the projected three (3) month period.

Depending on the status of The Fund and related operations account, the PCA may be further decreased or increased by the City Commission. **Changes to the PCA by the City Commission is authorized by motion.**

All future rate resolutions for the Electric Utility shall incorporate the above revisions for the PCA (unless further amended by the City Commission).

Section 3. All resolutions or parts of resolutions are hereby amended to the extent that they are in conflict with this Resolution.

Section 4. This Resolution shall become effective immediately upon passage.

The passage of this resolution was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

- Mayor Betty Resch
- Vice Mayor Sarah Malega
- Commissioner Christopher McVoy
- Commissioner Mimi May
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this resolution duly passed and adopted on the ____ day of _____ 2024.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

RESOLUTION NO. 92-2021 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, PROVIDING FOR RATES, FEES AND CHARGES, AND REGULATIONS FOR ALL ELECTRICITY SOLD BY THE CITY OF LAKE WORTH BEACH, FLORIDA FOR USE OF ELECTRIC LIGHT AND POWER SYSTEM; REPEALING ALL RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth Beach, Florida, is authorized and required to fix uniform and adequate rates for its service; and

WHEREAS, the rates set forth herein are just and equitable and serve a valid public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA as follows:

Section 1. Definitions: For the purpose of this resolution, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural in the present tense include the future, words in the plural include the singular, and words in the singular include the plural.

- A. "Shall" is always mandatory and not merely directory.
- B. "Net Metering Accounts" are those customer accounts with the City's Electric Utility where the customer has applied to the City's Electric Utility; installed a Customer-Owned Renewable Generation System (as defined in the Net Metering Program Rules and Regulations); executed a City Interconnection Agreement; has been approved by the Electric Utility for interconnection with the City's electric system; and, remains in compliance with the City's Net Metering Program. All rates applicable to Net Metering Accounts are governed by Resolution No. 45-2019 (as may be amended from time to time).
- C. "Purchased Power Cost Adjustment (PCA)" The cost of electricity is affected by the price of fuel and the purchase price of power supply. The PCA is an adjustment charge caused by an increased or decreased in the cost to purchase or supply power to customers. It is shown on the customer's bill as a credit or a surcharge to the price per kilowatt-hour. The customer's utility bill may have a credit, as the cost of power supply decreases, or it may have a surcharge when the costs increase.

Section 2. The following schedules shall be the rates charged and the regulations imposed by the City of Lake Worth Beach, Florida, on all electric power sold by the City of Lake Worth Beach, Florida for lighting, heating and power purposes, to wit:

A. Regular Residential Electric (Schedule R-S)

1. Designation: Regular Residential Electric
2. Applicable: For domestic electric purposes in private residences and individually metered apartments. Residential rates shall apply for electric energy used in commonly-owned facilities in condominiums and cooperative apartment buildings, subject to the following criteria:
 - a. 100% of the energy is used exclusively for the co-owner's benefit.
 - b. None of the energy is used in any endeavor which sells or rents a commodity or provides service for a fee.
 - c. Each point of delivery will be separately metered and billed.
 - d. A responsible legal entity is established as the customer to whom the City of Lake Worth Beach can render its bills for said service.
 - e. A cooperative or condominium requesting residential rates shall apply for the rate and establish the above criteria.
3. Limitations: Auxiliary and stand-by generation or resale of the electric energy not permitted hereunder. Recognized rooming houses, tourist homes and dwellings accommodating more than four paying guests supplied through a single meter will not be served under this schedule.
4. Service: Single phase, 60 cycles at available standard voltage. Three phase service may be furnished but only under special arrangements and at the option of the City of Lake Worth Beach.
5. Monthly Rates:
 - a. Customer Charge: A fixed charge based on the cost of preparing and delivering a bill, which will be applied to each electric account receiving a bill. \$10.55 per month.
 - b. Energy Charge per kWh

| | First 1,000 KWH's | Excess |
|-----------------------|------------------------------|-----------------|
| Base Energy | \$0.06900 | \$0.08900 |
| Power Cost Adjustment | \$0.03490 | \$0.04490 |
| Capacity | N/A | N/A |
| Total | \$0.1039 | \$0.1339 |

6. The rates listed above include all administrative charges from the City of Lake Worth Beach.
7. Purchased Power Cost Adjustment Charge:
 - A. Purchased Power Cost Adjustment Charge will be applied as set forth in Section 3 below.
8. Outside City Limits Surcharge: A surcharge for electric use outside the City of Lake Worth Beach, Florida, municipal limits shall be charged as set forth in Section 4 below.
9. Minimum Bill: The minimum bill for electric use shall be charged at \$35.00 per month.

B. Regular Commercial Service (Schedule C-S)

1. Designation: Regular Commercial Electric.
2. Applicable: For commercial, industrial, and governmental use within the territory served by the Electric Distribution System of the City of Lake Worth Beach, as available and at the option of the City.
3. Limitations: For consumers who own renewable energy facilities (such as wind, solar power or home fuel cells), resale of the electric energy is not permitted hereunder.
4. Service: Single or three phase, 60 cycles and at any available standard voltage, at the option of the City of Lake Worth Beach.
5. Monthly Rates:
 - a. Customer Charge: A fixed charge based on the cost of preparing and delivering a bill which will be applied to each electric account receiving a bill. \$17.00 per month.
 - b. Energy Charge per kWh.

| | All kWhs |
|-----------------------|------------------|
| Base Energy | \$0.08700 |
| Power Cost Adjustment | \$0.03700 |
| Capacity | N/A |
| Total | \$0.12400 |

6. The rates listed above includes all administrative charges from the City of Lake Worth Beach.
7. Purchased Power Cost Adjustment Charge:
 - A. Purchased Power Cost Adjustment Charge will be applied as set forth in Section 3 below.
8. Outside City Limits Surcharge: A surcharge for electric use outside the City of Lake Worth Beach, Florida, municipal limits shall be charged as set forth in Section 4 below.
9. Minimum Bill: The minimum bill for electric use shall be \$50.00 per month for single phase service and \$100.00 per month for poly phase service.

C. Demand Commercial Service (Schedule CD-S)

1. Designation: Demand Commercial Electric
2. Applicable: For customers who qualifies for service under Schedule C-S above and has a peak demand of 25 kW or greater for three (3) consecutive months:
3. Limitations: Auxiliary or stand-by service or resale not permitted hereunder.
4. Service: Single or three phase, 60 cycles and at any available standard voltage, at the option of the City of Lake Worth Beach.
5. Monthly Rates:
 - a. Customer Charge: A fixed charge based on the cost of preparing and delivering a bill, which will be applied to each electric account receiving a bill. \$130.00 per month.
 - b. Energy Charge per KWH

| | All kWhs | Demand - KW |
|-----------------------|------------------|--------------------|
| Base Energy | \$0.05200 | \$12.00 |
| Power Cost Adjustment | \$0.03700 | |
| Capacity Charge | N/A | |
| Total | \$0.08900 | \$12.00 |

6. The rates listed above include all administrative charges from the City of Lake Worth Beach.
7. Billing Demand: The maximum 15 minute measured demand in the month, subject to power factor adjustment.
8. Power Factor Adjustment: When demand is measured with a kW meter and customer's power factor in any month is below 95% the measured demand may be adjusted to 95% power factor.
9. Purchased Power Cost Adjustment Charge:
 - A. Purchased Power Cost Adjustment Charge will be applied as set forth in Section 3 below.
10. Outside City Limits Surcharge: A surcharge for electric use outside the City of Lake Worth Beach, Florida, municipal limits shall be charged as set forth in Section 4 below.
11. Minimum Bill: The minimum bill for electric use shall be \$250.00 per month.

D. Regular Time of Use Commercial Service (Schedule CT-S)

1. Designation: Time of Use Commercial Service
2. Applicable: For commercial, industrial, and governmental use within the territory served by the Electric Distribution System of the City of Lake Worth Beach, as available and at the option of the City.
3. Limitations: For consumers who own renewable energy facilities (such as wind, solar power or home fuel cells), resale of the electric energy is not permitted hereunder.
4. Service: Single or three phase, 60 cycles and at any available standard voltage, at the option of the City of Lake Worth Beach.
5. Monthly Rates:
 - a. Customer Charge: A fixed charge based on the cost of preparing and delivering a bill which will be applied to each electric account receiving a bill. \$30.00 per month.
 - b. Energy Charge:
 - i. Off Peak \$0.0840 per kWh
 - ii. On Peak \$0.2600 per kWh
 - iii. Determination of Off-Peak Period: October – May: The off-peak period is defined as the hours between 1:00 p.m. and 6:00 a.m., Monday through Friday and all day Saturday and Sunday. In addition, the following holidays will also be considered off-peak: New Year's Day, Memorial Day, Thanksgiving Day, and Christmas Day. June – September: The off-peak period is defined as the hours between 7:00 p.m. and 2:00 p.m., Monday through Friday and all day Saturday and Sunday. In addition, the following holidays will also be considered off-peak: Independence Day and Labor Day. All other hours are considered on peak hours.

6. Term of Contract: One year and thereafter until terminated at the option of either party by the giving of not less than thirty (30) days advance written notice of the effective date of termination.
 7. Purchased Power Cost Adjustment Charge: A Purchased Power Cost Adjustment Charge will be applied as set forth in Section 3 below.
 8. Outside City Limits Surcharge: A surcharge for electric use outside the City of Lake Worth Beach, Florida, municipal limits shall be charged as set forth in Section 4 below.
 9. Minimum Bill: The minimum bill for electric use shall be \$50.00 per month for single phase service and \$100.00 per month for poly phase service.
- E. Time of Use Demand Commercial Service (Schedule CDT-S)
1. Designation: Time of Use Demand Commercial Service
 2. Applicable: For commercial, industrial, and governmental use within the territory served by the Electric Distribution System of the City of Lake Worth Beach, as available and at the option of the City.
 3. Limitations: For consumers who own renewable energy facilities (such as wind, solar power or home fuel cells), resale of the electric energy is not permitted hereunder.
 4. Service: Single or three phase, 60 cycles and at any available standard 416 voltage, at the option of the City of Lake Worth Beach.
 5. Monthly Rates:
 - a. Customer Charge: A fixed charge based on the cost of preparing and delivering a bill which will be applied to each Electric account receiving a bill. \$140.00 per month.
 - b. Energy Charge:
 - i. Off Peak \$0.0620 per kWh
 - ii. On Peak \$0.2400 per kWh
 - iii. Demand Charge: \$7.00 per kW.
 - iv. Billing Demand: The maximum 15 minute measured demand in the month, subject to power factor adjustment.
 - v. Power Factor Adjustment: When demand is measured with a kW 438 meter and customer's power factor in any month is below 95% the measured demand may be adjusted to 95% power factor.
 - vi. Determination of Off-Peak Period: October – May: The off-peak period is defined as the hours between 1:00 p.m. and 6:00 a.m., Monday through Friday and all day Saturday and Sunday. In addition, the following holidays will also be considered off-peak: New Year's Day, Memorial Day, Thanksgiving Day, and Christmas Day.
 - vii. June – September: The off-peak period is defined as the hours between 7:00 p.m. and 2:00 p.m., Monday through Friday and all day Saturday and Sunday. In addition, the following holidays will also be considered off-peak: Independence Day and Labor Day. All other hours are considered on peak hours.
 6. Term of Contract: One year and thereafter until terminated at the option of either party by the giving of not less than thirty (30) days advance written notice of the effective date of termination.
 7. Purchased Power Cost Adjustment Charge: A Purchased Power Cost Adjustment Charge will be applied as set forth in Section 3 below.

8. Outside City Limits Surcharge: A surcharge for electric use outside the City of Lake Worth Beach, Florida, municipal limits shall be charged as set forth in Section 4 below.
9. Minimum Bill: The minimum bill for electric use shall be \$140.00 per month.

F. Electric Vehicle Charging Level II (Schedule EV2-S)

1. Designation: Electric Vehicle Charging Level II
2. Applicable: For City owned public electric vehicle Level II charging stations.
 - a. None of the energy is used in any endeavor which sells or rents a commodity or provides service for a fee.
 - b. Each point of delivery will be separately metered and billed.
 - c. Limitations: Auxiliary and stand-by generation or resale of the electric energy not permitted hereunder.

3. Energy Charge per kWh

| | All KWH's |
|-----------------------|------------------|
| Base Energy | \$0.05148 |
| Power Cost Adjustment | \$0.03578 |
| Capacity | \$0.01020 |
| Total | \$0.09746 |

4. The rates listed above include all administrative charges from the City of Lake Worth Beach.
5. Purchased Power Cost Adjustment Charge:
 - A. Purchased Power Cost Adjustment Charge will be applied as set forth in Section 3 below.
6. Outside City Limits Surcharge: A surcharge for electric use outside the City of Lake Worth Beach, Florida, municipal limits shall be charged as set forth in Section 4 below.

G. Private Area Lighting (Schedule L-P)

1. Designation: Private Area Lighting
2. Applicable: For year-round outdoor security lighting of yards, driveways, walkways, parking lots, parks, and other areas, under the following conditions:
 - a. Lights to be served hereunder shall be at locations that are easily and economically accessible to the City of Lake Worth Beach equipment and personnel for construction and maintenance.
 - b. Original location of lighting fixtures shall be by mutual agreement and shall not be located so as to create a public nuisance.
 - c. Any relocation requested by customer after installation shall be made at customer's expense. All new lighting units provided under this Schedule shall be the high pressure sodium vapor (conservation lighting) type.
3. Limitations:
 - a. Auxiliary and stand-by generation or resale of the electric energy not permitted hereunder.
 - b. The City of Lake Worth Beach, while exercising reasonable diligence at all times to furnish service hereunder, does not guarantee continuous lighting and will not be liable for damages for any interruption, deficiency or failure of service and reserves the right to interrupt service at any time for necessary repairs to lines or equipment.

4. **Service:** Service includes lamp renewals, energy from approximately dusk each day until approximately dawn the following day and maintenance of facilities. The City of Lake Worth Beach will replace all burned out lamps and will maintain its facilities during regular daytime working hours as soon as practicable following notification by the customer that such work is necessary. The City of Lake Worth Beach shall be permitted to enter the customer's premises at all reasonable times for the purpose of inspecting, maintaining, installing and removing any or all of its equipment and facilities. Single phase, 60 cycles at available standard voltage. Three phase service may be furnished but only under special arrangements and at the option of the City of Lake Worth Beach.
5. **Term of Service:** Not less than one (1) year.
6. **Monthly Rates:** A fixed monthly charge based on the number of units installed shall be charged based on the following schedule.
 - a. **Standard Lighting:**

Description Unit Cost per Month

| | |
|---|---------|
| 175 Watt (7,000 Lumen) Mercury –Vapor Street Light Unit on Existing Pole | \$12.21 |
| 400 Watt (20,500 Lumen) Mercury-Vapor Street Light Unit on Existing Pole | \$19.15 |
| 1,000 Watt (55,000 Lumen) Mercury-Vapor Street Light Unit on Existing Pole | \$37.68 |
| 100 Watt (9,500 Lumen) High Pressure Sodium Vapor Street Light Unit on Existing Pole | \$9.93 |
| 250 Watt (27,500 Lumen) High Pressure Sodium Vapor Street Light Unit on Existing Pole | \$14.26 |
| 360 Watt High Pressure Sodium Vapor Street Light Unit on Existing Pole | \$17.05 |
| 400 Watt (50,000 Lumen) High Pressure Sodium Vapor Street Light Unit on existing pole | \$17.15 |
| 48 Watt LED Street Light Unit on Existing Pole | \$9.00 |
| 70 Watt LED Street Light Unit on Existing Pole | \$9.70 |
| 80 Watt LED Street Light Unit on Existing Pole | \$9.70 |
| 101 Watt LED Street Light Unit on Existing Pole | \$16.30 |
| 110 Watt LED Street Light Unit on Existing Pole | \$16.30 |
| 133 Watt LED Street Light Unit on Existing Pole | \$16.30 |
| 150 Watt LED Street Light Unit on Existing Pole | \$16.30 |
| Wood Pole and span of Overhead Conductors or Pole used only for Light | \$10.00 |
| Concrete Pole and Span of Overhead Conductors or Pole used only for Light | \$15.00 |
| Underground Conductors up to 150 feet | \$1.33 |
| Underground Conductors from 150 feet to 300 feet | \$2.68 |

7. **Purchased Power Cost Adjustment Charge:** A Purchased Power Cost Adjustment Charge will be applied as set forth in Section 3 below.
8. **Outside City Limits Surcharge:** A surcharge for electric use outside the City of Lake Worth Beach, Florida, municipal limits shall be charged as set forth in Section 4 below.

H. Street Lighting (Schedule L-S)

1. Designation: Street Lighting
2. Applicable: For lighting of public right-of ways.
3. Limitations:
 - a. Auxiliary and stand-by generation or resale of the electric energy not permitted hereunder.
 - b. The City of Lake Worth Beach, while exercising reasonable diligence at all times to furnish service hereunder, does not guarantee continuous lighting and will not be liable for damages for any interruption, deficiency or failure of service and reserves the right to interrupt service at any time for necessary repairs to lines or equipment.
 - c. Should the City of Lake Worth Beach be required by the customer to replace the street light(s) with a light (or lights) of another type or rating, then the customer may be required to pay the estimated labor, vehicle use and other direct costs involved in replacing the fixtures.
4. Service: Service includes lamp renewals, energy from approximately dusk each day until dawn the following day and maintenance of City of Lake Worth Beach owned street lighting systems.
5. Term of Service: For not less than ten (10) years for City of Lake Worth Beach facilities or customer will be required to pay depreciated cost of installed facilities plus cost of removal.
6. Monthly Rates:
 - a. A fixed monthly charge based on the number of units installed shall be charged based on the following schedule.
 - b. Conservation Lighting:

Description Unit Cost per Month

| | |
|---|---------|
| 100 Watt (9,500 Lumen) High Pressure Sodium Vapor Street Light Unit on Existing Pole | \$7.85 |
| 150 Watt (27,500 Lumen) High Pressure Sodium Vapor Street Light Unit on Existing Pole | \$9.33 |
| 250 Watt (27,500 Lumen) High Pressure Sodium Vapor Street Light Unit on Existing Pole | \$12.26 |
| 360 Watt High Pressure Sodium Vapor Street Light Unit on Existing Pole | \$15.19 |
| 400 Watt (50,000 Lumen) High Pressure Sodium Vapor Street Light Unit on existing pole | \$17.09 |
| 48 Watt LED Street Light Unit on Existing Pole | \$9.00 |
| 70 Watt LED Street Light Unit on Existing Pole | \$9.70 |
| 80 Watt LED Street Light Unit on Existing Pole | \$9.70 |
| 101 Watt LED Street Light Unit on Existing Pole | \$16.30 |
| 110 Watt LED Street Light Unit on Existing Pole | \$16.30 |
| 133 Watt LED Street Light Unit on Existing Pole | \$16.30 |
| 150 Watt LED Street Light Unit on Existing Pole | \$16.30 |

c. Appurtenances:

Description Unit Cost per Month

Wood Pole and span of Overhead Conductors \$10.00 or Pole used only for Light
 Concrete Pole and Span of Overhead Conductors \$15.00 or Pole used only for Light
 Underground Conductors up to 150 feet \$1.33
 Underground Conductors from 150 feet to 300 feet \$2.68

7. Purchased Power Cost Adjustment Charge:
 - A. Purchased Power Cost Adjustment Charge will be applied as set forth in Section 3 below.
8. Outside City Limits Surcharge:
 - A. Surcharge for electric use outside the City of Lake Worth Beach, Florida, municipal limits shall be charged as set forth in Section 4 below.

Section 3. Purchased Power Cost Adjustment (PCA): A Purchased Power Cost Adjustment Charge (PCA) shall be established for a projected 3 month period for energy sales during that period as follows:

$$PCA = (A + B + C) / D$$

where:

A = The projected purchased power costs for the projected 3 month period comprised of costs such as the FMPA Stanton 1 variable costs, the FMPA Municipal Solar Project power costs, supplemental purchased power capacity, energy and directly related costs, Lake Worth Beach electric utility power generating fuel, and transmission costs

B = A true-up amount representing the over or under recovery of purchased power costs from the prior period

C = The amount transferred to or from the Rate Stabilization Fund for the projected period

D = The projected total retail sales in MWh for the projected 3 month period

The purchased power cost adjustment charge will be reconciled quarterly and true'd up between estimated costs and billing units and actual costs and billing units.

Section 4. Surcharge For Service Outside The Municipal Limits: With respect to any residents, premises and/or users outside the corporate limits of the City of Lake Worth Beach, Florida, where such residents, premises and/or users now or hereafter have or use electrical utility service with the electrical system of the City of Lake Worth Beach, they shall be charged a rate for the electricity they use equal to the charge established for service to the residents, premises and/or users within the City of Lake Worth Beach, Florida, plus any applicable taxes or fees that are required in the Code of Ordinances or Resolutions of the specific jurisdiction in which those accounts reside. Such taxes and fees are collected by the City of Lake Worth Beach and remitted directly to the appropriate County or Municipal entity.

Section 5. Nothing in this resolution shall prohibit the City of Lake Worth Beach from entering into an agreement to provide electricity and electric utility services to or within any unit of government or governmental subdivision with terms and conditions other than contained herein.

Section 6. All resolutions or parts of resolutions in conflict herewith are expressly repealed.

Section 7. If any provision of this resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the resolution, which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared severable.

Section 8. This resolution shall be in effect for billings issued on or after January 1, 2022.

The passage of this resolution was moved by Commissioner McVoy, seconded by Commissioner Malega and upon being put to a vote, the vote was as follows:

| | |
|--------------------------------|-----|
| Mayor Betty Resch | AYE |
| Vice Mayor Herman Robinson | AYE |
| Commissioner Sarah Malega | AYE |
| Commissioner Christopher McVoy | AYE |
| Commissioner Kimberly Stokes | AYE |

The Mayor thereupon declared this resolution duly passed and enacted on the 14th day of December 2021.

LAKE WORTH BEACH CITY COMMISSION

By: _____

Betty Resch, Mayor

ATTEST:



Melissa Ann Coyne, City Clerk



STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: Electric Utility

TITLE:

Exercise of City's extension rights under the OUC Supplemental Energy and Capacity Agreement

SUMMARY:

City's initial Term under the Agreement with Orlando Utility Commission (OUC) expired December 31, 2022. In April of 2023, the City approved the second of two (2) unilateral one (1) year extensions. The second-year extension is set to expire December 31st, 2024. Under the Agreement, City and OUC have a mutual option to a one-time extension of the Term until December 31, 2025 ("Extended Term"), which shall be mutually agreed in writing by no later than June 1, 2024.

BACKGROUND AND JUSTIFICATION:

The City's electric utility provides electricity to its customers using a variety of electric production resources. Among them are the City's entitlements in various Florida Municipal Power Agency (FMPA) projects, the City's own solar farm build atop City's closed landfill, the City's power plant, and a contract with Orlando Utilities Commission for supplemental energy and capacity effective 1/1/2019 with a term of up to seven years ("OUC Agreement"). City's entitlements and/or contracts with FMPA include participation in the St. Lucie Project, Stanton I Project, and the FMPA Municipal Solar Projects (Solar II & Solar III) which will begin delivering electric energy to City by late summer 2024.

OUC's selection as City's provider of supplemental energy and capacity was the result of City's competitive bid process conducted in 2018 and which has resulted in an estimated \$9 million per year in savings to City. City's competitive agreement with OUC has played a large role in City's achieving residential electric utility rates ranked among the lowest in the state of Florida. The OUC Agreement typically provides for approximately 50% of the City's electric supply annually.

The term of the OUC Agreement is comprised of an Initial Term of four (4) years expiring December 31, 2022, with extension rights for up to three (3) one-year terms which if exercised extend the overall term until December 31, 2025. Under the OUC Agreement, OUC performs various tasks on behalf of City, among them are: A) OUC coordinates, schedules, and dispatches electric energy to the City to supplement energy supplied from the City's contractual entitlements described in the opening paragraph above; B) OUC schedules and dispatches the City's power plant units in the Florida Municipal Power Pool ("FMPP") for City and/or FMPP benefit; C) OUC provides City with electric capacity as nominated by City annually and monthly in order for City to remain in compliance with regulatory requirements for electric generation reserves; and D) OUC arranges for and schedules electric energy deliveries to City via the FPL network transmission system.

City's Electric Utility Staff is pleased with OUC's performance under the agreement, the flexibility the OUC Agreement provides City in its ability to vary electric capacity nominations monthly to match changes in system requirements, the accuracy, transparency, and ease of verifying monthly billings, and the competitive pricing and measurable savings achieved on behalf of City's electric utility customers.

MOTION:

Move to approve/disapprove the exercise of the City's right to a third one-year (1) extension of the OUC Agreement and for staff to provide such notification to OUC by June 1, 2024.

ATTACHMENT(S):

Fiscal Impact Analysis
OUC Agreement (Redacted)

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

| Fiscal Years | 2024 | 2025 | 2026 | 2027 | 2028 |
|---|-------------|-------------|-------------|-------------|-------------|
| Inflows/Revenues | | | | | |
| Appropriated (Budgeted) | 0 | 0 | 0 | 0 | 0 |
| Program Income | 0 | 0 | 0 | 0 | 0 |
| Grants | 0 | 0 | 0 | 0 | 0 |
| In Kind | 0 | 0 | 0 | 0 | 0 |
| Outflows/Expenditures | | | | | |
| Appropriated (Budgeted) | 0 | 0 | 0 | 0 | 0 |
| Operating | 0 | \$8,646,927 | 0 | 0 | 0 |
| Capital | 0 | 0 | 0 | 0 | 0 |
| Net Fiscal Impact <i>(If not budgeted)</i> | 0 | 0 | 0 | 0 | 0 |
| No. of Addn'l Full-Time Employee Positions | 0 | 0 | 0 | 0 | 0 |

| Contract Award - Existing Appropriation (Budgeted) | |
|---|-------------------------------|
| | Expenditure |
| Department | Electric |
| Division | Power Generation |
| GL Description | Cont. Services/Purchase Power |
| GL Account Number | 401-6031-531.34-20 |
| Project Number | N/A |
| Requested Funds | \$8,646,927 |
| Remaining Balance | \$0 |
| Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.) | New Fiscal Year |

**AGREEMENT FOR BASE, INTERMEDIATE AND PEAKING
PURCHASE AND SALE
OF ELECTRIC ENERGY AND CAPACITY,
BETWEEN
THE CITY OF LAKE WORTH
AND
ORLANDO UTILITIES COMMISSION
[REDACTED COPY]**

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**AGREEMENT FOR BASE, INTERMEDIATE AND PEAKING PURCHASE AND SALE
OF ELECTRIC ENERGY AND CAPACITY**

This AGREEMENT FOR BASE, INTERMEDIATE AND PEAKING PURCHASE AND SALE OF ELECTRIC ENERGY AND CAPACITY (this "Agreement") is entered into as of the: day of _____, 2018, by and between THE CITY OF LAKE WORTH, a municipal corporation in the State of Florida, duly constituted under Florida law ("LAKE WORTH"), and the ORLANDO UTILITIES COMMISSION, a municipal quasi-governmental agency organized under the State of Florida ("OUC"). LAKE WORTH and OUC are referred to also individually as a ("Party"), or collectively as the ("Parties")

WHEREAS, LAKE WORTH is a public agency and it owns and operates electric utility and related generation, transmission and distribution assets and properties;

WHEREAS, OUC is a public agency and it owns and operates electric utility and related generation, transmission and distribution assets and properties;

WHEREAS, LAKE WORTH is seeking Base Product, Intermediate Product and Peaking Product (Electric and Capacity) wholesale power supplies ("Wholesale Electric Service") to serve its Load Obligations (as defined below) to its customers and to that end has issued an Invitation To Negotiate ("ITN") for the provision by third parties of such power supplies;

WHEREAS, LAKE WORTH has evaluated the proposal submitted by OUC as one of the lowest and best proposal received in response to the ITN and the supply of a portion of the wholesale power by OUC will help to enable LAKE WORTH to fulfill a municipal purpose to deliver a reliable supply of electricity to customers in its service territory;

WHEREAS, Lake Worth is the owner of an electric generating plant in Lake Worth, Florida, currently consisting of ten generating units with a total summer rating capacity of 91.98 MW, as follows: The capacity of each unit is: Unit GT1, 26 MW; Unit GT2 & S5, 29.28 MW; Unit S3, 25.0 MW; Unit M 1-5, 10.0 MW, and the Lake Worth Solar, 1.7MW AC. Units GT2 and S5 normally operate together in combined-cycle operation and are referred to collectively as the "Lake Worth CC". These generating units are hereinafter referred to collectively as the "Lake Worth Power Plant"; and

WHEREAS Lake Worth has ownership shares under contracts with the Florida Municipal Power Agency ("FMPA") through the St. Lucie 2 Project (22.0 MW) and Stanton 1 Project (10.5 MW) , as well as a 10 MW PPA share in a Solar Project referred to as "Generation Entitlement Contracts". Generation Entitlement Contracts and the energy and capacity generated by the Lake Worth CC are referred to in this Agreement collectively as the "Generation Entitlements". Generation Entitlements shall be amended as changes in generation such as up-rates or down-rates are applied to each Unit. The Solar Project shall receive credit per Prudent Utility Practice. For example during the summer months the Solar Project shall have 50% credit of max generation.

WHEREAS, OUC wishes to supply Wholesale Electric Service to LAKE WORTH to enable LAKE WORTH to meet its Load Obligations to its customers, and LAKE WORTH desires to acquire such power supplies from OUC, on the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the foregoing, the covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, OUC and LAKE WORTH agree as follows:

ARTICLE 1 - DEFINITIONS

Capitalized terms used in this Agreement shall have the meanings set forth in this Article 1 unless the context clearly requires otherwise.

“Ancillary Services” shall mean interconnected operations services identified by the Federal Energy Regulatory Commission or other regulatory bodies or agreements as necessary to effect a transfer of capacity and energy from OUC to LAKE WORTH which OUC provides hereunder from time to time, as are further described in Appendix A.

“Base Product” shall be up [REDACTED] every hour and associated energy delivered during the Term (as nominated per Article 5(c))

“Capacity” shall have the meaning as the highest 60 minute integrated peak for the month

“Capacity Charge” shall have the meaning set forth in Section 6.1

“Capacity Credit” shall mean the Entitlement Credit for St. Lucie, Stanton and the Lake Worth CC (or in simple cycle mode) totaling up to 61.78 MW. In the event of certain conditions, Lake Worth’s S3 may be a substitute Capacity replacement for the Combined Cycle unit at a value of 25.0 MW. The Capacity Credit represents the MW floor for determining capacity charges.

“Capacity Nomination - Annual” shall mean the Capacity amount in MW nominated by Lake Worth to be purchased for each month. This nomination is provided by June 1, prior year. For example, the Capacity Nomination – Annual for Calendar year 2020 shall be provided by no later than June 1, 2019.

“Capacity Nomination - Monthly” shall mean the Capacity amount in MW that might be nominated by Lake Worth to be purchased for a particular month. This nomination can be exercised 30 days prior the beginning of any subsequent month.

“Capacity Rates” shall be the Capacity Rate-Base, the Capacity Rate-Intermediate and the Capacity Rate Peaking.

“Capacity Rate-Base” shall mean \$/MW/Month for the Base Product under Appendix A

“Capacity Rate-Intermediate” shall mean \$/MW/Month for the Intermediate Product under Appendix A

“Capacity Rate-Peaking” shall mean \$/MW/Month for the Peak Product under Appendix A

“Charges” shall mean the Capacity Charge, the Fuel Energy Charge, the Non-Fuel Energy Charge, the Ancillary Services charge, and other charges as allowed by this Agreement.

“Claims” shall mean all third-party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity under this Agreement, and the resulting losses, damages, expenses, third party attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

“Dispatchable Units” shall refer to S3 and the Lake Worth CC unit, which will be made available for dispatch as needed.

“FPL” shall mean Florida Power and Light Company.

“FPL Transmission Agreement” means a transmission agreement executed by and between LAKE WORTH and FPL for the transmission of Wholesale Electric Service from the Delivery Point(s) to the Metering Point(s).

“Delivery Point(s)” shall mean the points of interconnection between FPL and OUC or other points as agreed to by the Parties.

“Economic Dispatch” shall mean accepted utility practices for the dispatching of generating assets to meet the Florida Municipal Power Pool (“FMPP”) system load based upon the lowest possible cost, subject to transmission and operational constraints. Dispatch variables such as startup costs, heat rate, and Variable O&M costs will be updated as necessary but must follow FMPP protocol

“Effective Date” shall mean the date on which the last Party executes the Agreement.

“Fuel Energy Charge” shall have the meaning set forth in Section 6.1.

“Fuel Energy Rate” shall have the meaning set forth in Appendix A.

“Event of default” shall have the meaning, with respect to OUC set forth in Section 15.1, and, with respect to LAKE WORTH set forth in Section 15.2, of this Agreement.

“FERC” shall mean the Federal Energy Regulatory Commission.

“Firm Load” shall mean service with priority equal to that of OUC's retail customers and other OUC wholesale customers with service from OUC system resources equivalent to that of retail customers of OUC.

“Florida PSC” shall mean the Florida Public Service Commission.

“FMPP” shall mean the Florida Municipal Power Pool.

“FRCC” shall mean the Florida Reliability Coordinating Council, Inc.

‘

“Interest Rate” shall have the meaning set forth in Section 6.2(b).

“Intermediate Product” shall be [REDACTED] of capacity every hour and associated energy delivered during the Term (as nominated per Article 5(c)).

“KWh” shall mean kilowatt-hour.

“MWh” shall mean Megawatt-hour or 1,000 KWh.

“Letter of Credit” shall mean one or more irrevocable, transferable standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a credit rating of at least A- from S&P or A3 from Moody's, in a form reasonably acceptable to the Party in whose favor the letter of credit is issued, the costs of which shall be borne by the applicant therefor.

“Load Obligations” shall mean the power supplies required for LAKE WORTH to meet its obligations to provide retail electricity service in its electric service territory, including power supplies consumed by LAKE WORTH's municipal facilities, required reserves, and FPL transmission losses.

“Meters” shall have the meaning set forth in Section 7.1.

“Metering Point(s)” shall mean the point(s) of interconnection between the FPL transmission system and the LAKE WORTH transmission system.

“Minimum Base Capacity” shall mean for the months of January, February March November and December, 15 MW per month as the

minimum amount of capacity to be purchased each month . For the months of April, May, June, July August, September and October, the Minimum Base Capacity shall be 25 MW per month

“Monthly Peak Load” shall mean the highest Load Obligation for Lake Worth for any 60 minute integrated reading during the calendar month. The highest hour load shall determine the monthly peak load except as described in Section 6.1(b).

“Monthly Wholesale Electric Capacity” shall mean the combination of the Base, Intermediate and/or Peaking Product(s) for each calendar month.

“Monthly Wholesale Electric Energy” shall mean the MWhs delivered at the Delivery Point(s) during each calendar month.

“Non-Fuel Energy Charge” shall have the meaning set forth in Section 6.1.

“Non-Fuel Energy Rate” shall mean the rate as specified in Appendix A.

“Party” and “Parties” shall have the meaning set forth in the first paragraph.

“Payment Date” shall have the meaning set forth in Section 6.2(b).

“Peaking Product” shall be up to 40 MWs of capacity every hour and associated energy delivered during the Term (as nominated per Article 5(c)).

“Prudent Utility Practice” shall mean any of the applicable practices, methods and acts (i) required by the rules, regulations, policies and standards of state regulatory authorities having jurisdiction relating to emergency operations or otherwise required by applicable law; or (ii) otherwise engaged in or approved by a significant portion of the electric utility industry during the relevant time period; which in each case in the exercise of reasonable judgment in light of the facts known or that should have been known at the time a decision was made, could have been expected to accomplish the desired result in a manner consistent with law, regulation, safety, environmental protection, economy, and expedition. Prudent Utility Practice is intended to be acceptable practices, methods or acts generally accepted and lawful in the region, and is not intended to be limited to the optimum practices, methods or acts to the exclusion of all others.

“Rates” shall mean the Capacity Rates, the Monthly Fuel Energy Rates and the Non-Fuel Energy Rate.

“Requesting Party” shall have the meaning set out in Section 18.2.

“S3” shall have the meaning of the Lake Worth unit S3 at a Capacity Rate of 25.6 MW.

“Service Date” shall mean the later of a) the date on which the conditions precedent under Section 12.1 and 12.2 have been satisfied or waived in writing by the applicable Party and (b) January 1, 2018.

“Substitute Capacity” shall mean the substitution by Lake Worth of the S3 unit for the Lake Worth CC (or running the Lake Worth CC under simple cycle mode) with a value of 25.0 MW for S3 and or 19.5 MW for the simple cycle mode).

“Supplemental Energy and Capacity Costs” shall have the meaning set forth in Section 4.2.

“Term” shall mean the period from the Service Date until December 31, 2025, unless sooner terminated in accordance with the terms of this Agreement.

“Transmission Service” shall mean FPL Network Integration Transmission Service between the Delivery Point(s) and LAKE WORTH transmission ties with FPL.

“Wholesale Electric Capacity” shall mean no less than 15 MWs of electric capacity (For the Months of January, February, March, November and December) Otherwise it shall be no less than 25MW of electric Capacity as made available to LAKE WORTH by OUC at the Delivery Point(s) during the Term and under the terms and conditions of this Agreement.

“Wholesale Electric Energy” shall mean electric energy delivered by OUC at the Delivery Point(s) during the Term and under the terms and conditions of this Agreement.

“Wholesale Electric Service” shall have the meaning set forth in Article 2.

ARTICLE 2 - WHOLESALE ELECTRIC SERVICE

Commencing on the Service Date and during the Term, in accordance with the terms and subject to the conditions hereof, OUC shall provide and deliver Wholesale Electric Service (at the Delivery Point(s), contingent on LAKE WORTH acquiring sufficient Transmission Service) and LAKE WORTH shall purchase electric capacity and electric energy to serve its Load Obligation, which services shall be referred to as "Wholesale Electric Service" and consist of the following:

- (a) Ancillary Services described in Appendix A;
- (b) Supply of Monthly Wholesale Electric Energy; and,
- (c) Supply of Monthly Wholesale Electric Capacity.

ARTICLE 3 - TERM

This Agreement shall be in force and effect as of the Effective Date. The obligations of the Parties in respect of the supply and acceptance of Wholesale Electric Service shall commence on the Service Date and shall continue until December 31, 2022 (“Initial Term”). LAKE WORTH will have two (2) unilateral one (1) year extension until December 31, 2024. LAKE WORTH shall have until June 1st of the preceding to exercise each of the one (1) year extensions. The parties will also have a mutual option to extend until December 31 2025 (“Extended Term”), which shall be mutually agreed to by no later than June 1, 2024. This Agreement shall remain in effect for the Term and Extended Term, unless terminated earlier under the terms of this Agreement. Termination or expiration of this Agreement shall not affect or excuse the performance of either Party under any provision of this Agreement that by its nature or terms survives any such termination or expiration.

ARTICLE 4 - OBLIGATIONS OF LAKE WORTH AND OUC

Section 4.1 Obligations of LAKE WORTH

- (a) LAKE WORTH shall, during the Term and Extended Term, buy and receive from OUC Wholesale Electric Capacity and will receive Wholesale Electric Energy to serve its Load Obligations.
- (b) LAKE WORTH shall pay OUC a monthly payment in accordance with Section 6.2.
- (c) As of the Service Date, LAKE WORTH shall for the Term and Extended Term maintain Transmission Service to accept energy and capacity under this Agreement. In the event that LAKE WORTH is unable to maintain the Transmission Service, LAKE WORTH is still obligated to make all applicable payments to OUC for the Term and the Extended Term.
- (d) LAKE WORTH shall pay OUC for any Ancillary Services procured by LAKE WORTH from OUC pursuant to Appendix A in accordance with Section 4.2(c).
- (e) LAKE WORTH acknowledges and agrees that OUC shall have no responsibility for the distribution and resale to LAKE WORTH's electric system customers of the electricity delivered by OUC and the collection of any payments from LAKE WORTH's electric system customers.

Section 4.2 Obligations of OUC

- (a) OUC shall sell and deliver to LAKE WORTH at the Delivery Point(s) Wholesale Electric Service for the duration of the Term and the Extended Term with a firmness and priority of service equal to that of OUC's Firm Load. LAKE WORTH acknowledges and agrees that OUC shall not be responsible for reductions in Wholesale Electric Service during the period of time that deliveries

of Wholesale Electric Energy and Ancillary Services to the Delivery Point(s) cannot be made as a result of problems or limitations on any transmission system other than OUC's; provided, however, in the event of a problem or limitation affecting OUC transmission system, there is insufficient Transmission Service, or LAKE WORTH requires additional Capacity and Energy, due to one of the Generation Entitlements not being available, OUC shall use commercially reasonable efforts to arrange for delivery of the Wholesale Electric Energy and Ancillary Services at alternate delivery points or, if permissible, to the Delivery Point (s). In the event that OUC is able to find viable supply during such periods of time, LAKE WORTH shall reimburse OUC for any such additional direct costs OUC incurs to provide Wholesale Electric Energy and Ancillary Services to such alternate delivery points or, if applicable, to the Delivery Point ("Supplemental Energy and Capacity Costs"). If scheduling requirements of such resources allow sufficient time for OUC to confer with LAKE WORTH, OUC will contact LAKE WORTH's designated representative and provide LAKE WORTH the opportunity to direct OUC not to pursue the alternate delivery points.

(b) OUC shall operate and maintain its generating resources and transmission system assets and equipment in accordance with Prudent Utility Practice.

(c) OUC shall provide Ancillary Services set forth in Appendix A. Each such Ancillary Service shall at OUC's option be provided by OUC either directly or through the FMPP and charged to LAKE WORTH on a direct cost pass-through basis (the "Ancillary Services Charge"). If the Ancillary Service is being provided through the FMPP, the costs to be passed through shall be calculated in a manner consistent with the allocation methodology used by the FMPP, which method is, as of the date of this Agreement, based on the pro rata energy share that the Ancillary Services required to serve LAKE WORTH under this Agreement bears to OUC's total cost of Ancillary Services during the applicable billing period. If the Ancillary Service is provided directly by OUC, the cost shall be calculated as referenced in Appendix A, Section 4.

(d) OUC shall calculate the amount due on a monthly basis for all Wholesale Electric Service provided in the prior calendar month as measured at the Metering Point (as adjusted for FPL transmission losses per the FPL transmission tariff), and shall submit an invoice to LAKE WORTH for payment. The monthly invoice shall be calculated for the Charges by applying the Rates in accordance with Section 6.1.

ARTICLE 5 - SALE AND PURCHASE

a) OUC shall during the Term and Extended Term at its cost and expense sell Wholesale Electric Service including delivery of Wholesale Electric Energy and Ancillary Services to the Delivery Point(s) or, in the event of a problem or limitation affecting OUC transmission system or there is not enough

transmission through OUC-FPL, to such alternate delivery points as OUC with commercially reasonable efforts can arrange to accept delivery of such Wholesale Electric Service. LAKE WORTH shall during the Term and Extended Term buy from Wholesale Electric Capacity and will receive at the Delivery Point(s) Wholesale Electric Energy to serve its Load Obligations. The Charges and Rates for such sale and purchase shall be as set forth in Section 6.1 and Appendix A.

b) Prior to June 1st of every year, the Parties will agree on the forecasted peak load for the following year as well as peak load for each calendar month. Monthly Electric Capacity is defined as (i) Lake Worth's projected or forecasted peak load for such year, as agreed by mutual Parties, less (ii) the total capacity of the Generation Entitlements including any Substitute Capacity with the resultant quantity then multiplied by (iii) 1.15 to account for reserve margins. Appendix F has the 2019 Nominations on a monthly basis.

[(1) For illustration: The monthly peak load forecasted for this example is 96 MW. The amount of the Generation Entitlements will then be subtracted from the forecasted peak, and the resulting value will then be multiplied by 1.15 to account for reserve requirements to yield the Monthly Electric Capacity. The Monthly Electric Capacity will be multiplied by the Monthly Capacity Rate (Appendix A) to determine the Monthly Capacity Charge.

Illustration:

| | | |
|--|---------|----|
| Load Obligation | 101.0 | MW |
| -Minus St Lucie | (22.0) | MW |
| -Minus Stanton 1 | (10.5) | MW |
| -Minus LW CC | (29.28) | MW |
| | | |
| | | |
| Total Supplied by OUC for month MW(Base) | 39 | MW |

Under this example, Lake Worth would pay OUC Capacity Charges equal to the 39 MW of Base nominated for the month.

c) LAKE WORTH shall have the capability to modify their monthly Capacity Nomination – Monthly by the 1st of the prior month. For example, the original schedule (5.b) was to take 39 MW of Base for September 2019, but LAKE WORTH now would like to change to 25 MW for September 2019, LAKE WORTH will have until August 1, 2019 to change such nomination. If the modified nomination is an increase, such increase shall be contingent on FPL transmission availability

d) When a Generation Entitlement (or S3 if applicable) is offline but available for Economic Dispatch, and if LAKE WORTH's load requires such

energy, OUC shall provide such replacement at the OUC costs for energy without charging LAKE WORTH a Capacity Charge.

1) For illustration: In a given month, the Lake Worth CC is not dispatched under Economic Dispatch protocols. Stanton and St. Lucie are both available for dispatch. Lake Worth will be credited 61.78 MW for Capacity Deficiency purposes

e) When Generation Entitlements used for capacity purposes are offline for planned maintenance, (including refueling in the case of St. Lucie) and load requires such energy, OUC shall provide such replacement at the OUC cost for energy without charging LAKE WORTH a Capacity Charge. Such planned maintenance will be agreed upon and scheduled in advance.

f) When Generation Entitlements used for capacity purposes are unavailable for reason other than Article 5 (d) & (e) above and load requires such energy, OUC will, if sufficient Transmission and Energy is available, provide Energy and Capacity at the OUC cost (including Capacity Charge).

g) If LAKE WORTH's load, in any particular hour, exceed the Total of the available Generation Entitlements and OUC PPA as nominated (in the illustration above, 40MW) then OUC will, if sufficient Transmission and Energy is available, provide Energy and Capacity at the OUC intermediate cost for capacity and associated energy.

Example 1:

LAKE WORTH load, is 110 MW (includes reserve requirement); Generation Entitlements are 61.78 MW, OUC PPA 40 MW = 8.220 MW Short ($-110+60.60+40=-8.22$ plus gross-up for FPL transmission losses).

If Transmission and Energy is available, OUC will deliver the 9.0 (8.22 rounded up to the next integer) MW to cover LAKE WORTH Load. The price for 9.0 MW will then be OUC costs for energy for each applicable hour plus the applicable Capacity rate for the Intermediate Product for such year in Appendix A.

Example 2: (Change in nomination)

LAKE WORTH load is 96 MW; Generation Entitlements are 61.78MW, OUC PPA (LAKE WORTH changed the nomination) to 25 MW = 9.2MW Short ($-96+61.78+25=-9.2$).

If Transmission and Energy is available, OUC will deliver the 9.0 MW to cover LAKE WORTH Load. The price will then be OUC costs for

energy plus the applicable Capacity rate for the Intermediate Product for such year in Appendix A.

Example 3: Lake Worth CC is unavailable, substitute S3, insufficient Capacity nomination

LAKE WORTH load is 96 MW (Including Reserves); Original Generation Entitlements are 61.78 MW, Combined Cycle LW is unavailable for reasons other than an agreed upon planned outage and for more than 72 hours resulting in a 29.28MW reduction in entitlements. Lake Worth substitutes Unit S3 for Capacity which provides 25.0MW bringing entitlements to 57.0 MW. Then the calculation shall be as follows: $96 - (61.78 - 29.28 + 25.0) = -38.5$ required MW. OUC PPA (LAKE WORTH nomination for the month is 35 MW. If Transmission and Energy is available, OUC will then deliver the 4.0 MW to cover LAKE WORTH Load. The price will then be OUC costs for energy and plus the applicable Capacity rate for the Intermediate Product for such year in Appendix A.

h) The Wholesale Electric Capacity and Wholesale Electric Energy sold and delivered by OUC to LAKE WORTH hereunder shall be three phase, 60 hertz alternating current having a nominal voltage as specified by and otherwise in accordance with interconnection protocols.

i) LAKE WORTH has the right but not the obligation to retire existing generation and replace or add additional renewable generation (upon 6 month notice to OUC, with the exception of catastrophic failure of any of the units)

ARTICLE 6 - PRICE AND BILLING

Section 6.1 Billing for Services

Section 6.1.1 For the Wholesale Electric Service that OUC delivers to the Delivery Point(s) based on data from the Metering Point(s), OUC shall deliver an invoice to LAKE WORTH (Sample calculation in Appendix F) and LAKE WORTH shall pay OUC the following Charges as follows:

(a) Monthly Capacity Charge

The Monthly Capacity Rate as set forth in Appendix A times the amounts scheduled for each of the Base, Intermediate and Peaking Capacity.

(b) Shortfall Capacity Charge

When the monthly Capacity exceeds the Forecasted Capacity for the month, and as long as such shortfall is more than 5 MW for longer than 2 hours, LAKE

WORTH will be charged the Capacity Charge under the Intermediate Capacity under Appendix A.

(c) Lake Worth Capacity Exception-Planned Outage

Lake Worth and OUC shall, in coordination, plan for up to 30 days annual planned outage for the CC. This planned outage will be agreed upon by both parties and will take place during the months of November-March unless otherwise agreed upon by both parties. During this planned outage, Lake Worth will make available as necessary S3 as an Economic Dispatch substitute for up to 25MW of Capacity.

(d) Lake Worth Capacity Exception-72 Hours

If the Lake Worth Combined Cycle is called upon for Economic Dispatch and is unavailable (for any other reason than lack of Fuel), Lake Worth will have up to 72 hours to make the unit available, including ramp up, before the Combined Cycle is considered unavailable for Capacity Pricing purposes. Prior to the 72 hours, Lake Worth may elect to make S3 and or Lake Worth CC in simple cycle mode available for Economic Dispatch for up to 25 MW Capacity credit. The 72 hours exception can be exercised once every calendar month.

(e) Monthly Fuel Energy Charge

The Monthly Fuel Energy Rates as set forth in Appendix A multiplied by the Monthly Wholesale Electric Energy for the Base, Intermediate and Peaking Products sold in the applicable billing period

(d) Monthly Non-Fuel Energy Charge

The Non-Fuel Energy Rate multiplied by the Monthly Wholesale Electric Energy for the Base, Intermediate and Peaking Products sold in the applicable billing period.

(e) Monthly Ancillary Service Charge

The monthly Ancillary Services Charge shall be the sum of the Monthly Ancillary Service Charges, as outlined in Appendix A and computed in accordance with Section 4.2(c).

Additional Charges for either (i) energy and/or capacity is bought from other vendors (outside OUC) or (ii) other charges incurred by OUC.

Section 6.2 Payment

(a) On or before the tenth (10th) day following the end of each calendar month in which OUC provides LAKE WORTH with Wholesale Electric Service, OUC shall calculate the amount due and payable by LAKE WORTH for Wholesale Electric Service delivered in such prior month in accordance with this Article 6. The amount payable shall be calculated as the sum of the Capacity Charges, the Fuel Energy Charges, the Non-fuel Energy Charge, Ancillary Services Charge and/or any additional charges allowable in this Agreement (if any) for the prior month and shall be itemized on the monthly invoice along with any other information and detail reasonably requested by LAKE WORTH.

(b) Unless otherwise specified herein, payments due under this Agreement shall be due and payable by wire transfer, on or before the later of the fifteenth (15th) business day following receipt of the invoice or the twenty-fifth day of the calendar month in which the invoice is received (the "Payment Date"). If an undisputed amount owed is not paid on or before the due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based upon the annual interest rate equal to the prime lending rate plus 100 basis points as published on the date of the invoice in the Wall Street Journal (or, if the Wall Street Journal is not published on that day, the next succeeding date of publication) or the highest rate allowable under Florida's usury laws, whichever is less ("Interest Rate"). If the due date occurs on a weekend or holiday, the late payment charge shall begin to accrue on the next succeeding business day and shall cease accruing on the day prior to payment. Disputes relating to invoicing shall be resolved in accordance with the pre-litigation procedures set forth in Section 19.

(c) In the event an invoice or portion thereof is disputed, the disputing Party shall provide notice of the dispute to the other Party and detail therein the basis for the dispute and its proposed correction or adjustment to the invoice within fifteen (15) business days of receipt of the disputed invoice. Representatives of the Parties shall promptly confer in person or telephonically in a good faith attempt to resolve the dispute within five (5) business days of the notice of dispute. If a correction of or adjustment to the disputed invoice is agreed upon, a revised invoice shall be promptly issued. Payment of the disputed portion shall be made under protest when due, with notice of the objection given to the other Party. Any invoice dispute shall be in writing and shall state the basis for the dispute. Upon resolution of the dispute in accordance with this paragraph or Section 19, any required refund shall be made within five (5) business days of such resolution along with interest accrued at the Interest Rate from and including the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment.

Section 6.3 Taxes, Fees and Levies. Sales for Resale

(a) OUC shall process payment for all present (from the execution of this Agreement and the Service Date) and any future taxes, fees and levies that may be assessed upon OUC by any governmental authority not controlling or controlled by OUC on the sale to LAKE WORTH of Wholesale Electric Service or any component thereof. OUC shall promptly notify LAKE WORTH of the commencement of any legislative, regulatory, administrative or other governmental action, of which it becomes aware, imposing such taxes, fees and/or levies upon the sale of Wholesale Electric Service. Each such tax, fee and levy shall be identified in a separate line item on the monthly invoice from OUC to LAKE WORTH for Wholesale Electric Service. LAKE WORTH shall reimburse OUC for the increase in any such taxes, fees and levies paid by OUC as a result of providing Wholesale Electric Service to LAKE WORTH under this Agreement. In the event of the imposition of any such taxes, fees or levies on the sale of Wholesale Electric Service hereunder, each Party shall use reasonable efforts to minimize all such taxes, fees or levies so long as neither Party is materially adversely affected by such efforts and no such measures will create a subsidy for LAKE WORTH by OUC's retail or other wholesale customers or a subsidy by LAKE WORTH of OUC's retail or other wholesale customers.

(b) All Wholesale Electric Service delivered by OUC to LAKE WORTH hereunder shall be sales for resale by LAKE WORTH. LAKE WORTH shall obtain and provide OUC with any certificates reasonably requested by OUC to evidence that the deliveries hereunder are sales for resale.

Section 6.4 Audit Rights.

Each Party has the right, after reasonable notice, at its sole expense and during normal business hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any invoice, bill, statement, Charges or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the quantity of Wholesale Electric Service delivered at the Delivery Point(s) or alternate delivery points (as applicable). If any such examination reveals any inaccuracy in any invoice, bill or statement, the necessary adjustments in such invoice, bill or statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any invoice, bill statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

ARTICLE 7 - SERVICE FACILITIES AND METERING

Section 7.1 Measurement

Wholesale Electric Energy shall be measured by metering equipment approved by

OUC at or adjacent to the Metering Points, which metering equipment shall constitute the basis of measuring energy, and computation of bills for energy consumption.

Section 7.2 Testing

OUC, upon notice to Lake Worth, shall have the right in the presence of a representative of Lake Worth, to read and check Lake Worth's meters and/or metering equipment, for any reason, including when there is any disagreement as to the correctness of the readings or the accuracy of said meters or metering equipment. In the event of such disagreement, the Parties shall retain a mutually agreeable independent inspector, the cost of which shall be borne equally by each Party. The determination of the independent inspector as to the correctness of the meter reading shall be accepted by the Parties as final. The Parties agree that said meters and metering equipment will be considered accurate provided calibration is within one (1) percent, fast or slow, of accuracy. Should any meter be beyond this range of accuracy, an adjustment shall be made for the period of known accuracy, based upon the average of three (3) months consumption, prior to the period in question, but no adjustment shall extend over a period of more than three (3) months.

Section 7.3 Meter Fails

If a Metering Device fails to register, or if the measurement made by a Metering Device is found upon testing to be inaccurate by more than one percent (1.0%), an adjustment shall be made correcting all measurements by the inaccurate or defective Metering Device, for both the amount of the inaccuracy and the period of the inaccuracy, in the following manner:

- (a) In the event that the Parties cannot agree on the actual period during which the inaccurate measurements were made, the period during which the measurements are to be adjusted shall be the shorter of (a) the last one-half of the period from the last previous test of the Metering Device to the test that found the Metering Device to be defective or inaccurate, or (b) the ninety (90) days immediately preceding the test that found the Metering Device to be defective or inaccurate.
- (b) To the extent that the adjustment period covers a period of deliveries for which billings have already been made by OUC, OUC shall use the corrected measurements as determined in accordance with this Article 7 to compute the adjustment necessary for the period of the inaccuracy and shall adjust billing for this period from such recomputed amount.

ARTICLE 8 - CONTINUITY OF SERVICE

Section 8.1 Interruptions.

OUC shall supply and deliver Wholesale Electric Energy and Ancillary Services hereunder to the Delivery Point(s) on a firm basis with priority equal to that of OUC's Firm Load. OUC shall not be responsible for any failure to deliver Monthly Wholesale Service due to (a) transmission system operations outside of OUC's transmission system or (b) interruptions of transmission service within OUC's transmission system if initiated by the FRCC security coordinator. OUC shall not be liable for third-party Claims arising out any failure to supply Wholesale Electric Service hereunder, or for interruption, reversal or abnormal voltage of the supply, unless such failure, interruption, reversal or abnormal voltage is the result of gross negligence or intentional misconduct on its part, and any liability of OUC for any Claims arising out of or related to such failure, interruption, reversal or abnormal voltage of the supply by OUC shall be limited to \$100,000 per occurrence.

Section 8.2 Capacity Shortfalls.

In the event of an OUC capacity shortfall that requires load interruption, OUC shall affect load interruption of OUC Firm Load (including other wholesale customers with equal firmness) and LAKE WORTH retail customers on a pro rata basis showing no adverse distinction between LAKE WORTH, or OUC' s Firm Load.

Section 8.3 Shortfall Notification.

OUC will promptly inform LAKE WORTH as soon as possible under the circumstances upon becoming aware of any event, occurrence or circumstance that will result in load shedding or otherwise cause a material reduction or an interruption or suspension of delivery of Wholesale Electric Service to LAKE WORTH.

ARTICLE 9 - DELIVERY VOLTAGE

The delivery voltage at each Delivery Point(s) shall be as agreed between FPL and OUC. OUC and LAKE WORTH shall maintain close coordination with respect to future delivery points in the interests of system reliability. Each party shall endeavor, to the extent practicable, to keep the other party advised of significant developments related to their respective power supply facilities.

ARTICLE 10 - DELIVERY AND LOSSES

Section 10.1 Delivery

Title to and risk of loss related to the Wholesale Electric Service shall transfer from OUC to LAKE WORTH at the Delivery Point(s) (or alternate delivery point(s)) free and clear of all liens, security interests, Claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point(s). OUC shall not incur any expense or risk beyond the Delivery Point(s) (or alternate delivery point(s)) and LAKE WORTH shall not incur any expenses or risk up to and at the Delivery Point(s).

Section 10.2 FPL Losses

Losses for Monthly Wholesale Electric Energy between the Delivery Point(s) (or alternate delivery point(s)) and the Metering Point(s) for LAKE WORTH's electric distribution system shall be determined in accordance with FPL's approved transmission tariff.

ARTICLE 11 - CONDITIONS PRECEDENT

Section 11.1. Conditions to Obligations of LAKE WORTH.

The obligations of LAKE WORTH under this Agreement to purchase and receive Wholesale Electric Service shall commence on the Service Date, and such obligations are subject to the fulfillment and satisfaction of each of the following conditions on or before December 31, 2018, any one or more of which may be waived only in writing, in whole or in part, by LAKE WORTH:

(a) Representations, Warranties and Covenants True at the Effective Date.

(i) All representations and warranties of OUC contained in this Agreement shall be true and correct in all material respects as of the date when made and at and as of the Effective Date as though such representations and warranties had been made or given on such date (except to the extent such representations and warranties specifically pertain to an earlier date), except

(A) for changes contemplated by this Agreement and

(B) where the failure to be true and correct will not have a material adverse effect on LAKE WORTH's rights, remedies or benefits under this Agreement;

(ii) OUC shall have performed and complied with, in all material respects, its obligations that are to be performed or complied with by it hereunder prior to or on the Effective Date; and

(b) No Material Adverse Change. No change in the business, properties, assets, generation resources, transmission system, financial condition, results of operations or prospects of OUC shall have occurred and be continuing or with the passage of time, the giving of notice or both, shall be reasonably likely to occur which have a material adverse effect on OUC's ability to perform its obligations under this Agreement.

(c) Absence of Litigation. No Claims, actions, suits, investigations, grievances, arbitrations or proceedings shall be pending or threatened against LAKE WORTH or OUC with respect to the transactions contemplated hereunder or the adverse outcome of which would have a material adverse effect on the ability of LAKE WORTH or OUC to perform its respective obligations under this Agreement.

(d) Required Approvals. All the approvals and authorizations set forth in Appendix B hereto, shall have been received.

Section 11.2. Conditions to Obligations of OUC.

The obligations of OUC under this Agreement to sell and delivery Wholesale Electric Service shall commence on the Service Date, and such obligations are subject to the fulfillment and satisfaction, on or before the dates indicated, of each of the following conditions, any one or more of which may be waived only in writing, in whole or in part, by OUC:

(a) Representations, Warranties and Covenants True at the Effective Date.

(i) All representations and warranties of LAKE WORTH contained in this Agreement shall be true and correct in all material respects when made and at and as of the Effective Date and at and as of the Service Date as though such representations and warranties had been made or given on such date (except to the extent such representations and warranties specifically pertain to an earlier date), except for;

(A) for changes contemplated by this Agreement and

(B) where the failure to be true and correct will not have a material adverse effect on OUC's rights, remedies or benefits under this Agreement;

(ii) LAKE WORTH shall have performed and complied with, in all material respects, its respective obligations that are to be performed or complied with by them hereunder prior to or on the Effective Date or the Service Date (as applicable); and

(b) Required Approvals. All the approvals and authorizations set forth in Appendix B hereto, shall have been received on or before December 31, 2018.

(c) No Material Adverse Change. No material adverse change in the Load Obligation, electric facilities, electric business, financial condition, results of operations or prospects of LAKE WORTH shall have occurred and be continuing, or with the passage of time, the giving of notice or both, shall be reasonably likely to occur as of the Service Date.

(d) Absence of Litigation/Legislative Action. No Claims, actions, suits, grievances, investigations, arbitrations or proceedings shall be pending or threatened against LAKE WORTH or OUC with respect to this Agreement which might have a material adverse effect on the ability of LAKE WORTH or OUC to perform its respective obligations under this Agreement.

(e) PSC Regulation. No new law shall be pending or passed which would cause OUC to become regulated by the Florida PSC by virtue of its service duties under this Agreement.

Section 11.3. Coordination:

LAKE WORTH and OUC shall cooperate with each other and use all commercially reasonable efforts to (a) promptly prepare and file all necessary documentation, (b) effect all necessary applications, notices, petitions and filings and execute all agreements and documents, and (obtain all necessary consents, approvals and authorizations, including those of other parties necessary or advisable to consummate the transactions contemplated by this Agreement, all of which are set forth in Appendix B.

Each Party shall keep the other Party reasonably apprised of the status of the conditions precedent to the occurrence of the Service Date applicable to it. The Parties shall reasonably coordinate so that subject to the satisfaction of other prior conditions, the certificates and opinions to be delivered by a Party hereunder in connection with the Effective Date have been provided by the Effective Date.

ARTICLE 12 - TERMINATION PRIOR TO SERVICE DATE

Section 12.1. Termination Prior to Service Date.

(a) If the conditions precedent to LAKE WORTH's and OUC's obligations hereunder set forth in Article 11 hereof have not been satisfied or waived on or prior to the express date specified therein or December 31, 2018, notwithstanding the reasonable effort of the Party to satisfy or waive the condition, then at any time thereafter, either Party may terminate this Agreement on written notice of termination to the other Party, without any liability or obligation of any Party to the others as a result of such termination, unless prior to the delivery of any such written notice of termination the condition or conditions precedent which had not been satisfied are satisfied.

(b) If the Agreement is terminated by OUC pursuant to Section 11.2 or by LAKE WORTH under 11.1, then the following shall apply:

(i) If OUC exercises its right to terminate this Agreement under Section 11.2, then neither party shall thereafter have any further obligations to the other hereunder.

(ii) If LAKE WORTH terminates this Agreement pursuant to Section 11.1 then OUC shall thereafter (a) have no further obligations hereunder and (b) shall have the right to require LAKE WORTH to assume OUC's rights, obligations and liabilities under any or all contracts entered into by OUC with LAKE WORTH's prior written approval solely for the purpose of providing electric energy and capacity to LAKE WORTH under this Agreement that are described in Appendix D.

Section 12.2. Notice.

Each Party shall notify the other Party promptly if any information comes to its attention prior to the Effective Date or prior to the Service Date, as applicable that it believes will potentially excuse such Party from the performance of its obligations under this Agreement or might reasonably cause any condition set forth in Article 11 not to be satisfied on or prior to the Service Date

ARTICLE 13 - REPRESENTATIONS AND WARRANTIES

Section 13.1. General Representations and Warranties.

Each Party hereby represents and warrants to the other that:

(a) It is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and is duly qualified to do business in all jurisdictions where such qualification is required.

(b) It has or will have prior to the Effective Date full power and authority to enter this Agreement and perform its obligations hereunder. The execution, delivery and performance of this Agreement have been duly authorized by all necessary municipal and other action and do not and will not contravene its organizational documents or conflict with, result in a breach of, or entitle any party (with due notice or lapse of time or both) to terminate, accelerate or declare a default under, any agreement or instrument to which it is a party or by which it is bound.

(c) The execution, delivery and performance by it of this Agreement will not result in any violation by it of any law, rule or regulation applicable to it. It is not a party to, nor subject to or bound by, any judgment, injunction or decree of any court or other governmental entity which may restrict or interfere with the performance of this Agreement by it or may materially and adversely affect the business, property, financial condition, results of operations or prospects of such Party.

(d) This Agreement is its valid and binding obligation, enforceable against it in accordance with its terms, except as (i) such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights generally and (ii) the remedy of specific performance and injunctive relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

(e) Except for those approvals listed in Appendix B and approval of a transmission service agreement between LAKE WORTH and FPL by the FERC, no consent, waiver, order, approval, authorization or order of, or registration, qualification or filing with, any court or other governmental agency or authority or other person is required for the execution, delivery and performance by such Party of this Agreement and the consummation by such Party of the transactions contemplated hereby. No consent or waiver of any party to any contract to which such Party is a party or by which it is bound is required for the execution, delivery and performance by such Party

of this Agreement that has not been or will by the Effective Date have been duly obtained.

(f) There is no action, suit, grievance, arbitration or proceeding pending or, to the knowledge of such Party, threatened against or affecting such Party at law or in equity, before any federal, state, municipal or other governmental court, department, commission, board, arbitrator, bureau, agency or instrumentality which prohibits or impairs its ability to execute and deliver this Agreement or to consummate any of the transactions contemplated hereby. Such Party has not received written notice of and otherwise is not aware of any such pending or threatened investigation, inquiry or review by any governmental entity.

Section 13.2. Disclaimers.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, EACH PARTY EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE PROVISION OR RECEIPT OF WHOLESALE ELECTRIC SERVICE HEREUNDER, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

ARTICLE 14 - SECURITY

Section 14.1. OUC Security

OUC shall maintain a rating on senior unsecured debt securities of OUC by Standard and Poor's Corporation, Moody's Investors Service, Inc., Fitch IBCA or another nationally recognized rating service reasonably acceptable to LAKE WORTH of BBB+ its equivalent or a rating equivalent to LAKE WORTH senior unsecured debt securities, if any, whichever is lower. In the event that OUC's credit rating fails to meet said credit standing and OUC fails to restore its credit rating to said standing within 12 months after its rating has fallen, OUC shall notify LAKE WORTH thereof and shall upon request by LAKE WORTH provide a Letter of Credit, cash or bond sufficient to assure OUC's due performance under this Agreement.

Section 15.2. LAKE WORTH Security

The LAKE WORTH shall maintain a rating on senior unsecured debt securities of LAKE WORTH, if any such securities are rated, by Standard and Poor's Corporation, Moody's Investors Service, Inc., Fitch IBCA or another nationally recognized rating service reasonably acceptable to OUC of BBB+ or its equivalent, or a rating equivalent to OUC senior unsecured debt securities, whichever is lower. In the event that LAKE WORTH issues any senior unsecured debt securities and the rating on such securities falls below such specified minimum rating and LAKE WORTH fails to restore its credit rating to such specified minimum rating standing within 12 months after its rating has fallen below the rating described above, LAKE WORTH shall within thirty (30) days of a written request by OUC therefor provide a Letter of Credit, cash or bond or other

assurances reasonably sufficient to assure LAKE WORTH's due performance of its purchase and payment obligations under this Agreement.

ARTICLE 15 - EVENTS OF DEFAULT

Section 15.1. Events of default by OUC.

Any one or more of the following shall constitute an "Event of default" hereunder with respect to OUC:

(a) OUC shall fail to pay any amounts to be paid by OUC hereunder to LAKE WORTH and such failure shall continue for a period of more than ten (10) Business Days after notice by LAKE WORTH.

(b) A default shall occur in the performance of any other material covenant or condition to be performed by OUC hereunder (other than a default specified in Section 16.1(a)) and such default shall continue un-remedied for a period of thirty (30) days after notice from LAKE WORTH specifying the nature of such default; provided, however, that if such default (other than the failure to make payments when due) cannot reasonably be remedied by OUC within thirty (30) days, subject to commencement of action to remedy the default within such thirty (30) day period, OUC shall have up to an additional sixty (60) days to remedy the default.

(c) A custodian, receiver, liquidator or trustee of OUC or of all or substantially all of the property of either, is appointed or takes possession and such appointment or possession remains uncontested or in effect for more than sixty (60) days; or OUC makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts as they mature; or OUC is adjudicated bankrupt or insolvent; or an order for relief is entered under the Federal Bankruptcy Code against OUC; or all or substantially all of the material property of either is sequestered by court order and the order remains in effect for more than sixty (60) days; or a petition is filed against OUC under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or subsequently in effect, and is not stayed or dismissed within sixty (60) days after filing.

(d) OUC files a petition in voluntary bankruptcy or seeks relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or subsequently in effect; or consents to the filing of any petition against it under any such law; or consents to the appointment of or taking possession by a custodian, receiver, trustee or liquidator of OUC or all or substantially all of the property of either.

Section 15.2. Events of default by LAKE WORTH.

Any one or more of the following shall constitute an "Event of default" hereunder with respect to LAKE WORTH:

(a) LAKE WORTH shall fail to pay any amounts to be paid by LAKE WORTH hereunder to OUC and such failure shall continue for a period of more than ten (10) days after notice by OUC.

(b) default shall occur in the performance of any material covenant or condition to be performed by LAKE WORTH hereunder (other than a default specified in Section 16.2 (a)) and such default shall continue un-remedied for a period of thirty (30) days after notice from OUC specifying the nature of such default; provided, however, that if such default cannot reasonably be remedied by LAKE WORTH within thirty (30) days, subject to commencement of action to remedy the default within such thirty (30) day period, LAKE WORTH shall have up to additional sixty (60) days to remedy the default.

(c) A custodian, receiver, liquidator or trustee of LAKE WORTH or of all or substantially all of either of their property is appointed or takes possession and such appointment or possession remains uncontested or in effect for more than sixty (60) days; or LAKE WORTH makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts as they mature; or LAKE WORTH is adjudicated bankrupt or insolvent; or an order for relief is entered under the Federal Bankruptcy Code against LAKE WORTH; or all or substantially all of the material property of LAKE WORTH is sequestered by court order and the order remains in effect for more than sixty (60) days; or a petition is filed against LAKE WORTH under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or subsequently in effect, and is not stayed or dismissed within sixty (60) days after filing.

(d) LAKE WORTH files a petition in voluntary bankruptcy or seeks relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or subsequently in effect; or consents to the filing of any petition against it under any such law; or consents to the appointment of or taking possession by a custodian, receiver, trustee or liquidator of LAKE WORTH or all or substantially all of its property.

Section 15.3. Remedies.

The Parties shall have the following remedies available to them with respect to the occurrence of an Event of default with respect to the other Party hereunder:

(a) Upon the occurrence of an Event of default by either Party hereunder, the non-defaulting Party shall have the right to (i) invoice and collect all amounts then due to it from the defaulting Party hereunder (subject to any applicable limitation of liability or cap on damages), and (ii) terminate this Agreement at any time during the continuation of such Event of default upon written notice to the

defaulting Party. Notwithstanding any other provision of this Agreement, after the occurrence of an Event of default and for so long as the Event of default is continuing and has not been cured, the non-defaulting Party shall have the right, upon written notice to the defaulting Party, to suspend all performance under this Agreement until such Event of default has been cured.

(b) If LAKE WORTH terminates this Agreement as a result of the occurrence of an Event of default by OUC, then LAKE WORTH shall thereafter have no further obligations hereunder and shall have all rights and remedies available to it under applicable law, including the right to recover damages and shall thereafter have no further obligations hereunder other than (upon OUC's request) assume OUC's rights, and further obligations and liabilities under any or all contracts entered into by OUC with LAKE WORTH's express, prior written approval solely for the purpose of providing electric energy and capacity to LAKE WORTH under this Agreement.

(c) If OUC terminates this Agreement as a result of the occurrence of an Event of default by LAKE WORTH, then OUC shall thereafter (a) have no further obligations hereunder and shall have all rights and remedies available to it hereunder and under applicable law, including the right to recover damages and (b) to have the right to require LAKE WORTH to assume OUC's rights, obligations and liabilities under any or all contracts entered into by OUC with LAKE WORTH's express, prior written approval solely for the purpose of providing electric energy and capacity to LAKE WORTH under this Agreement.

(d) The remedies provided for in this Section 15.3 shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise). The remedies provided for in this Section 15.3 shall be subject to the limitations of liability and caps on damages set forth in Article 16.

ARTICLE 16 - LIMITATION OF LIABILITY

Section 16.1. No Consequential Damages.

NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER INDEMNITY PROVISIONS OR OTHERWISE, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, COST OF CAPITAL; LOSS OF USE, LOSS OF GOODWILL, REPLACEMENT POWER OR CLAIMS OF CUSTOMERS, UNLESS SUCH DAMAGES ARE A COMPONENT OR ELEMENT OF A CLAIM THAT IS SUBJECT TO INDEMNIFICATION HEREUNDER AND COVERED UNDER A PRIMARY POLICY OF LIABILITY INSURANCE, IF ANY, ISSUED BY A THIRD PARTY SURETY.

Section 16.2. Aggregate Cap on Liability.

NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, THE TOTAL AGGREGATE LIABILITY OF OUC TO LAKE WORTH AND OF LAKE WORTH TO OUC UNDER THIS AGREEMENT, WHETHER BASED ON CLAIMS ARISING UNDER TORT, CONTRACT, STRICT LIABILITY OR ANY OTHER THEORY OF RECOVERY, SHALL NOT EXCEED THE FOLLOWING:

(i) FOR EITHER PARTY, OTHER THAN AS TO THE CONDITIONS SET FORTH IN 16.2 (ii) (FOR OUC) AND 16.2 (iii) (FOR LAKE WORTH), THE AMOUNT(S) SET FORTH IN APPENDIX D;

(ii) FOR OUC, WHERE LAKE WORTH CAN DEMONSTRATE OUC HAS BREACHED THIS AGREEMENT FOR PURPOSES OF PURSUING MORE FAVORABLE MARKET SALES FOR ENERGY OR CAPACITY, THE AMOUNT(S) SET FORTH IN APPENDIX D;

(iii) FOR LAKE WORTH, WHERE OUC CAN DEMONSTRATE LAKE WORTH HAS BREACHED THIS AGREEMENT FOR PURPOSES OF PURSUING OTHER POWER SUPPLY OPTIONS, INCLUDING THE PARTIAL OR FULL SALE OF THE LAKE WORTH UTILITY SYSTEM, THE AMOUNT(S) SET FORTH IN APPENDIX D.

ARTICLE 17 - INDEMNIFICATION

Section 17.1. Indemnification by OUC.

To the extent permitted by Florida law and subject to the limitations set out in Article 16, OUC shall indemnify, defend and hold harmless LAKE WORTH and its respective officials, officers, directors, agents, representatives and employees from and against any and all loss, costs, expense, Claims, demands, liabilities (including reasonable attorneys' fees), judgments, fines, settlements and other amounts arising from any and all Claims relating to or arising out of:

(a) any willful misconduct or illegal acts of OUC;

(b) any damages awarded against LAKE WORTH in a Claim by a third party to the extent arising from the negligent acts or omissions of OUC or any of its agents or employees in exercising its rights or performing its obligations hereunder after the Effective Date.

Section 17.2. Indemnification by LAKE WORTH.

To the extent permitted by Florida law and subject to the limitations set out in Article 16, LAKE WORTH shall indemnify, defend and hold harmless OUC, its officers, directors, agents, employees and Affiliates from and against any and all loss, costs, expense, Claims, demands, liabilities (including reasonable attorneys' fees), judgments, fines,

settlements and other amounts arising from any and all Claims relating to or arising out of:

- (a) any willful misconduct or illegal acts of LAKE WORTH;
- (b) any damages awarded against OUC in a Claim by a third party to the extent arising from the negligent acts or omissions of LAKE WORTH or any of its agents or employees in exercising its rights or performing its obligations hereunder after the Effective Date.

ARTICLE 18 - DISPUTE RESOLUTION

Section 18.1. Resolution by Officers of the Parties.

Except as otherwise expressly, specifically set forth herein, in the event of any dispute between the Parties as to a matter referred to herein or as to the interpretation of any part of this Agreement, including this Section 18.1 or as to the determination of any rights or obligations or entitlements arising from or related to this Agreement or as to the calculation of any amounts payable under this Agreement, the Parties shall refer the matter to their respective duly authorized representatives, for resolution. Should such representatives of the respective Parties fail to resolve the dispute within twenty (20) days from such referral, the Parties agree that any such dispute shall be first referred to non-binding mediation in accordance with Section 18.2. Should mediation be unsuccessful within the times specified in Section 18.2, the Parties may pursue any legal or equitable remedies available under Florida Law.

Section 18.2. Mediation Procedures.

A Party submitting a dispute to non-binding mediation pursuant to the procedures set forth in Florida Statutes, Section 44.101 (the "Requesting Party") shall do so by delivering to the other Party a notice demanding or requesting, as the case may be, mediation of the dispute and naming three acceptable mediators. Within ten (10) days after the receipt of the notice from the Requesting Party, the other Party shall, in writing, serve upon the Requesting Party a notice of acceptance of one of the three mediators provided or offer three alternate mediators for consideration. Within five (5) days, the Parties shall confer and mutually agree and appoint a mediator from the lists provided. To the extent practicable, the mediator shall have special competence and experience with respect to the subject matter of the dispute(s). No mediator appointed shall have the power to render any binding or enforceable award, order, decree or disposition or amend or add to this Agreement. Within ten (10) days after the mediator is appointed, a time and date for the mediation shall be scheduled and documented in writing. The mediator thereupon shall proceed promptly to hear and facilitate an amiable resolution of the controversy. If mediation is successful, any settlement achieved through mediation shall be confidential to the extent permissible under Florida law and not in violation of the Florida Statute 119 and made in writing and in duplicate, and one copy shall be delivered to each of the Parties. Each Party

shall pay the costs of its own counsel and share equally the fee and cost of the mediator.

Section 18.3. Settlement.

If the resolution of the dispute and the terms of any settlement agreement, amendment to the Agreement or other document or instrument executed in connection therewith will require the approval of the Board of a Party, a request for such approval shall be promptly submitted for the Board's consideration. Once accepted by the Parties, the decision of the mediator and any award made hereunder shall be binding upon each Party and the successors and assigns and any trustee or receiver of each Party.

Section 18.4. Legal Remedies.

If mediation is unsuccessful, either Party may pursue any legal rights and remedies made available under Florida Law. The Parties agree that the exclusive venue for any dispute arising hereunder that is not resolved through the dispute resolution procedures set forth in Section 18.1 and 18.2 shall be the State Circuit Court in Orange County, Florida.

Section 18.5. Continued Performance.

Except to the extent a Party has the right to suspend performance under Section 15.3 hereof no dispute shall interfere with the Parties' continued fulfillment of their obligations under this Agreement pending the outcome of the mediation process or a decision by the Florida courts.

ARTICLE 19 - FORCE MAJEURE

Section 19.1. Force Majeure Standard.

A Party shall be excused from performing its obligations under this Agreement and shall not be liable in damages or otherwise, if and only to the extent that it is unable to so perform or is prevented from performing by an event of Force Majeure.

Section 19.2. Force Majeure definition.

An event of "Force Majeure" means an event or circumstance that prevents or unduly frustrates the performance by a Party of its obligations under this Agreement (other than the duty to make payments when due, which shall not be excused by Force Majeure) which is not within the reasonable control of, or the result of the negligence of, such Party and which by the exercise of due diligence such Party is unable to overcome or avoid. Force Majeure includes, without limitation, hurricanes, tornadoes, flood, lightning, drought, earthquake, fire, explosion, terrorist attack, civil disturbance, strikes, acts of God, acts of the public enemy, orders, directives (including the state security coordinator), restraints and requirements of the government and governmental agencies, either federal, state or local, civil or military, or any other cause beyond a Party's control. Force Majeure shall not include (i) events solely

affecting the cost of operating any generating facility, (ii) changes in market conditions which cause the price of energy or capacity to fluctuate including, without limitation, weather, fuel prices and supply and demand, or (iii) the inability of a Party to make a profit or avoid a loss in performing its obligations under this Agreement.

Section 19.3. Obligation to Diligently Cure Force Majeure.

If a Party shall rely on the occurrence of an event of Force Majeure as a basis for being excused from performance of its obligations under this Agreement, then such Party shall:

Provide written notice to the other Party promptly but in no event later than five (5) Business Days of the occurrence of the event or condition giving an estimation of the expected duration and the probable impact on the performance of its obligations hereunder;

(a) Exercise all reasonable efforts to continue to perform its obligations hereunder;

(b) Expeditiously take reasonable action to correct or cure the event or condition excusing performance, provided that settlement of strikes or other labor disputes shall be completely within the sole discretion of the affected Party; and

(c) Exercise all commercially reasonable efforts to mitigate or limit damages to the other Party.

ARTICLE 20 - MISCELLANEOUS

Section 20.1. Assignment; Successors and Assigns.

This Agreement shall inure to the benefit of and bind the respective successors and permitted assigns of the Parties, including any successor to any Party by consolidation, merger, or acquisition of all or substantially all of the assets of such Party. No assignment by any Party (or any successor or assignee thereof) of its rights and obligations hereunder shall be made or become effective without the prior written consent of the other Party in each case obtained (which in the case of an assignment by OUC shall include approval by the City Commission of LAKE WORTH), which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the immediately preceding sentence, OUC or any permitted assignee of OUC may assign this Agreement as collateral security to any lender from time to time providing financing to OUC in connection with the transactions contemplated hereby, provided that OUC is not relieved of any obligation or liability hereunder as a result of such assignment. LAKE WORTH, at the cost and expense of OUC, shall execute and deliver such documents as may be reasonably requested by OUC which are necessary to accomplish any such assignment, transfer, pledge or other disposition of rights and interests to any such lender so long as LAKE WORTH's rights, remedies, benefits and privileges under this Agreement are not thereby materially altered, amended, diminished or otherwise impaired. Any assignments by any Party shall be in such form

as to ensure that such Party's obligations under this Agreement will be assumed, accepted and honored fully and timely by any transferee, assignee or successor party.

Section 20.2. Notices.

With the exception of communications within the ordinary course of the day to day performance and administration of this Agreement, all notices, requests and other communications hereunder (herein collectively a "notice" or "notices") shall be deemed to have been duly delivered, given or made to or upon any Party if in writing and delivered by hand against receipt, or by certified or registered mail, postage pre-paid, return receipt requested, or to a courier who guarantees next business day delivery to such Party at its address set forth below or to such other address as such Party may at any time, or from time to time, direct by notice given in accordance with this Section 20.2.

IF TO OUC:

Vice President, Electric and Water Production
100 W. Anderson Street
Orlando, Florida 32801
Tel: 407-423-9100
Facsimile: 407-275-4120

IF TO LAKE WORTH:

Utilities Director
City of Lake Worth
1900 2nd Avenue North
Lake Worth, Florida 33461
Telephone: 561-533-7369

The date of delivery of any such notice, request or other communication shall be the earlier of (i) the date of actual receipt or (ii) three (3) Business Days after such notice, request or other communication is sent by certified or registered mail, (iii) if sent by courier who guarantees next business day delivery, the business day next following the day such notice, request or other communication is actually delivered to the courier.

Section 20.3. Governing Law.

The rights and obligations of the Parties shall be construed and interpreted in accordance with the substantive law of the State of Florida without giving effect to its principles for choice of law.

Section 20.4. Confidentiality.

Each Party shall keep confidential, and shall not disseminate to any third party (other than such Party's Affiliates) or use for any purpose other than the performance, administration, management and enforcement of this Agreement (except with the written authorization of the other Party), any information received from the other that is

designated as confidential or proprietary by the other Party unless legally compelled by the Florida Sunshine Law disclosure requirements, deposition, inquiry, request for documents, subpoena, civil investigative demand or similar process, or by order of a court or tribunal of competent jurisdiction or in order to comply with applicable rules or requirements of any stock exchange, government department or agency or other regulatory authority, or by requirements of any securities law or regulation or other legal requirement or as necessary to enforce the terms of this Agreement. This Section 20.4 shall survive the termination of this Agreement for a period of two (2) years. If any Party is compelled to disclose any confidential information of the other Party that is exempt from the disclosure requirements of the Florida Sunshine Law, such Party shall, at the cost and expense of the other Party, provide the other Party with prompt notice of the requirement to disclose confidential information in order to enable the other Party, at such other Party's costs and expense, to seek an appropriate protective order or other remedy, and such Party shall consult with the other Party with respect to the other Party taking steps to resist or narrow the scope of any required disclosure. The Parties shall reasonably coordinate in the preparation and issuance of all publicity relating to this Agreement.

Section 20.5. No Partnership.

Nothing contained in this Agreement shall be construed to create a partnership, joint venture or other legal relationship that may invoke fiduciary obligations between the Parties.

Section 20.6. Fees and Expenses.

Except as otherwise provided herein, LAKE WORTH and OUC shall each pay for its own costs, fees and expenses in connection with, or in anticipation of, this Agreement and the consummation of the transactions contemplated hereby.

Section 20.7. Captions.

The captions to sections throughout this Agreement and attachments and appendices hereto are intended solely for ease of reference and to facilitate reading and reference to all sections and provisions of this Agreement and such attachments and appendices. Such captions shall not affect the meaning or interpretation of this Agreement or such attachment or appendices.

Section 20.8. Entire Agreement and Amendments.

This Agreement and all of the attachments and appendices referred to herein sets forth the entire agreement of the Parties with respect to the subject matter herein and takes precedence over all prior discussions or understandings. This Agreement may not be amended, modified or changed except by an agreement in writing signed by the Parties.

Section 20.9. Severability.

The invalidity or unenforceability of any provisions of this Agreement shall not affect the other provisions hereof. If any provision of this Agreement is held to be invalid, such provision shall not be severed from this Agreement; instead, the scope of the rights and duties created thereby shall be reduced to the minimum extent necessary to conform such provision to applicable law, preserving to the greatest extent the intent of the Parties to create such rights and duties as set out herein. If necessary to preserve the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement, adopting a substitute provision for the one deemed invalid or unenforceable that is legally binding and enforceable.

Section 20.10. Further Assurances.

In connection with this Agreement and the transactions contemplated hereby, upon the request of either Party the other Party shall execute and deliver any additional documents and instruments and perform any additional acts that may be reasonably necessary or appropriate to effectuate and perform the provisions of this Agreement and such transactions and the intention of the Parties.

Section 20.11. Laws and Regulations; Changes in Law.

This Agreement and the rights, obligations, and performances of the Parties under this Agreement are subject to all applicable state and federal laws, and to all duly promulgated orders and other duly authorized actions of governmental authorities having jurisdiction. Each Party hereto shall be responsible for taking all necessary actions to satisfy any regulatory and other requirements that may be imposed by any federal, state, or municipal statute, rule, regulation, or ordinance that may be in effect from time to time relative to the performance of such Party hereunder.

If and to the extent that, after the Effective Date of this Agreement, any laws or regulations which govern any transaction or duty of a Party contemplated herein shall change so as to (a) make this Agreement or any provision hereof unlawful or (b) subject either Party to regulation by the Florida PSC to OUC of providing Wholesale Electric Service, then the affected Party may require the other to negotiate and use reasonable efforts to agree on such modifications to this Agreement as shall be reasonably necessary for the Agreement to accommodate any such legal or regulatory changes. If the Parties are unable to agree on terms, conditions or such other measures to prevent (x) the Agreement from being illegal or (y) a Party being subject to Florida PSC regulation then the affected Party(ies) may terminate this Agreement upon 180 day's prior written notice with no further obligation to the other.

If and to the extent that, after the Effective Date of this Agreement, any laws or regulations which govern any transaction or duty of a Party contemplated herein shall result in any additional or new costs, expenses, charges, fees and/or assessments that are attributable or related (in whole or in part) to the production and/or provision of Wholesale Electric Energy or Wholesale Electric Capacity to LAKE WORTH, including environmental-related costs, renewable portfolio standards (only if applicable to wholesale contracts), charges, fees, or expenses incurred by OUC to supply the

Wholesale Electric Energy or Wholesale Electric Capacity, LAKE WORTH shall reimburse OUC for LAKE WORTH's pro-rata share of such costs, expenses, charges, fees and/or assessments, which amounts shall be calculated and recovered as determined by OUC in a commercially reasonable manner. OUC shall allocate increases in variable operating costs to Fuel Charges and increases in fixed operating costs to Capacity Charges. Any such cost increases resulting from capital expenditures shall be allocated to LAKE WORTH based on the cost of the capital expenditure annualized over the economic life of the capital addition and the ratio of Wholesale Electric Capacity to the total capacity of OUC's firm obligations. Change in costs for which LAKE WORTH might become liable to pay under this Section 20.11 shall not include any costs recovered in the Fuel Energy Charge. OUC shall promptly notify LAKE WORTH upon the determination of any additional or new costs, expenses, charges, fees and/or assessments and the calculation of the pro rata portion of such costs proposed to be recovered from the LAKE WORTH.

Section 20.12. Counterparts.

This Agreement and any amendment or modification hereto may be executed simultaneously in two or more counterparts, any of which need not contain the signatures of more than one Party, but all such counterparts taken together shall constitute one and the same Agreement or instrument. This Agreement, as executed by the Parties.

Section 20.13. Interpretation.

In the event of any dispute concerning the construction or interpretation of this Agreement or any ambiguity hereof, there shall be no presumption that this Agreement or any provision hereof be construed against the Party who drafted this Agreement. In this Agreement, unless the context otherwise requires, the singular shall include the plural, the masculine shall include the feminine and neuter, and vice versa; the term "includes" or "including" shall mean including, without limitation; references to an Article, Section, Appendix or Schedule shall mean an Article, Section, Appendix or Schedule of this Agreement; and the terms "hereof", "herein", "hereto", "hereunder" and "herewith" refer to this Agreement as a whole. Reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented and restated through the date as of which such reference is made.

Section 20.14. Independent Relationship.

Unless specifically and expressly set forth herein to the contrary, nothing in this Agreement shall be construed or interpreted to make a Party or its employees or agents, the agent, representative or employees of the other Party.

Section 20.15. No Third-Party Beneficiaries.

This Agreement shall not confer any rights or remedies upon any third party not a party hereto, except designated indemnitees and permitted assignees and successors.

Section 20.16. Waivers.

The failure of a Party hereto to exercise any right or remedy or enforce at any time any provision of this Agreement shall not be construed to be a waiver of such right, remedy or provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of a Party thereafter to exercise such right or remedy or enforce each and every such provision. In order to be enforceable, a waiver under this Agreement must be in writing, state that it is a waiver and be signed by an authorized representative of the Party to be bound thereby. Any waiver shall be subject to the terms, conditions and limitations thereof, and no waiver of any breach, default or non-performance of this Agreement shall be held to constitute a waiver of any other or subsequent breach, default or non-performance of this Agreement.

Section 20.17. Duty to Mitigate.

Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts consistent with Prudent Utility Practice to minimize any damages it may incur as a result of any other Party's breach, default or non-performance of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK-

SIGNATURE PAGE(S) FOLLOW]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Parties have caused this Agreement for Purchase and Sale of Electric Energy and Capacity to be duly executed as an instrument under seal by their respective duly authorized representatives as of the date and year first above written.

Orlando Utilities Commission

By: _____
Clint Bullock
General Manager and CEO

Attest:

Name: _____
Title: _____

Approved as to form and legality,
OUC Legal Department

By: _____
Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____ day of _____, 2018 by Clint Bullock, General Manager and Chief Executive Officer of the Orlando Utilities Commission, who is personally known to me or who has produced _____ as identification and who (did/did not) take an oath.

NOTARY PUBLIC
Printed Name of Notary _____
My Commission expires: _____

ATTEST:

CITY OF LAKE WORTH

By: _____

By: _____

(seal)

Approved as to correctness and form:

Approved as to substance:

By: _____
_____, City Attorney

By: _____
_____, City Manager

APPENDIX A

PRICING FOR WHOLESALE ELECTRIC SERVICE

Section 1 Monthly Fuel Energy Rates

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

| | | |
|------------|------------|------------|
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

[REDACTED]

[REDACTED]

[REDACTED]

APPENDIX B

REQUIRED APPROVALS AND AGREEMENTS

OUC

1. Approval of this Agreement by the OUC Board.

LAKE WORTH

1. Approval of this Agreement by the City Commission of LAKE WORTH.
2. Execution and delivery of an agreement for Transmission Service between LAKE WORTH and FPL and the filing of such agreement with the FERC by FPL and the approval of such agreement by the FERC.

**APPENDIX C
DELIVERY POINTS AND METERING POINTS**

DELIVERY POINTS

1. Interconnection(s) between OUC and FPL transmission systems.

METERING POINTS

1. Interconnections between FPL and Lake Worth transmission systems (Hypoluxo Substation).

Metering Points may be added or deleted upon the mutual written agreement of the Parties.

APPENDIX D

LIMITATION OF LIABILITY

- 1 The limitation of liability applicable to each of the Parties under Section 16.2(i) is as follows:

| | | | | |
|------------|--|--|------------|--|
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |

- 2 The limitation of liability applicable to OUC under Section 16.2(ii) and applicable to LAKE WORTH under Section 16.2(iii), respectively, is as follows:

| | | | | |
|------------|--|--|------------|--|
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |
| [REDACTED] | | | [REDACTED] | |

EXHIBIT E - GENERATION ENTITLEMENT CONTRACTS

St. Lucie Power Sales Contract, by and between the Florida Municipal Power Agency and the Lake Worth Utilities Authority, dated June 1, 1982, as amended by Amendment No. 1, dated January 1, 1983 and Amendment No. 2 dated April 1, 1983.

St. Lucie Project Support Contract, by and between the Florida Municipal Power Agency, and the Lake Worth Utilities Authority, dated June 1, 1982; as amended by Amendment No. 1, dated January 1, 1983, and Amendment No. 2, dated April 1, 1983.

Nuclear Reliability Exchange Agreement, by and between Florida Power & Light and Florida Municipal Power Agency dated March 26, 1982; as amended by Amendment 1 dated February 18, 1983, as amended by Amendment 2 dated February 12, 1991, and as amended by Amendment 3 dated August 19, 2004.

Stanton I Power Sales Contracts, by and between the Florida Municipal Power Agency and the Lake Worth Utilities Authority, dated January 16, 1984.

Stanton I Project Support Contract, by and between the Florida Municipal Power Agency and the City of Lake Worth, dated January 16, 1984.

EXHIBIT E – CAPACITY CREDITS

For purposes of Capacity Pricing the following MW capacity will be applied:

St. Lucie 22.0 MW

Stanton I 10.5 MW

Lake Worth Combined Cycle 29.28 MW

Lake Worth Unit 3 25.0MW



Florida Municipal Solar Project

Member Participation



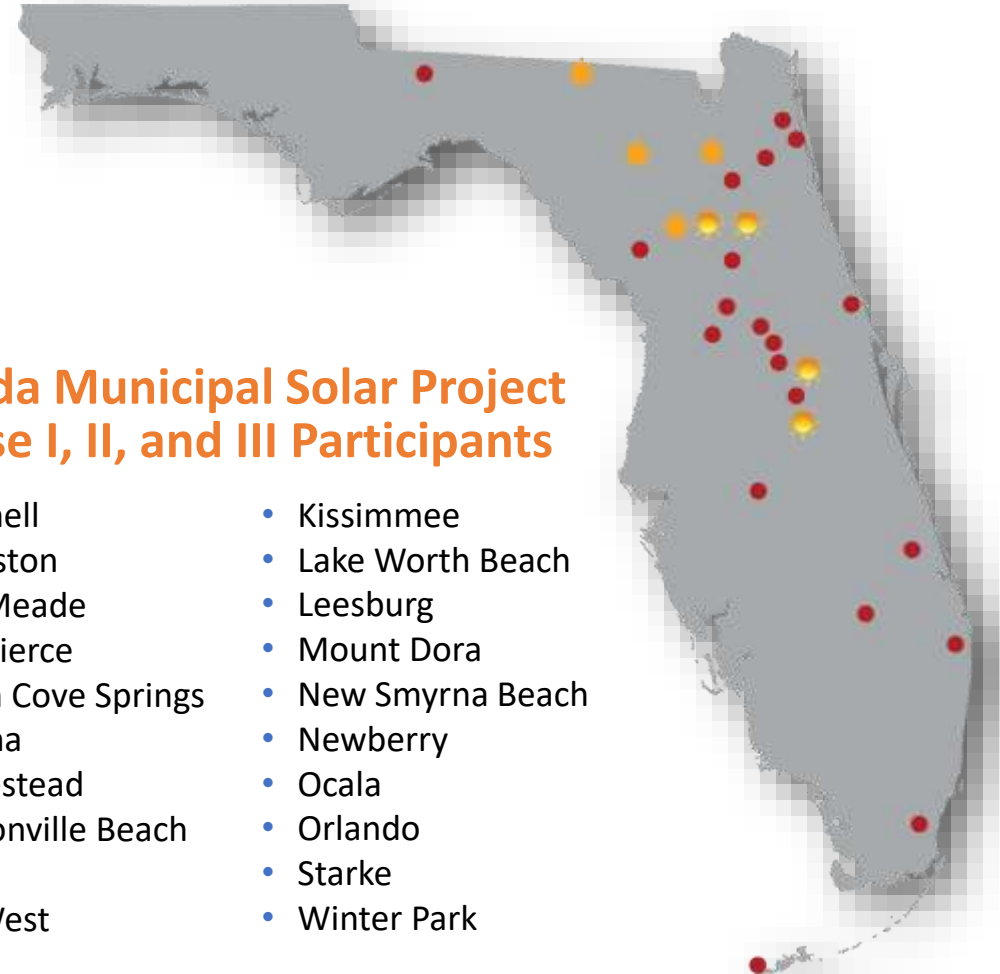
FMPA to Provide 20 Cities Low-Cost Solar

Growing Solar from 1% Today to 7% by 2027

- Florida Municipal Solar Project **Phase I**
 - Two sites totaling 149 MW
 - Enough to power 30,000 homes
- Two **Phase II** sites coming in 2024-2025
- Four additional **Phase III** solar sites
 - COD 2025 and 2026

Florida Municipal Solar Project Phase I, II, and III Participants

- | | |
|----------------------|--------------------|
| • Bushnell | • Kissimmee |
| • Clewiston | • Lake Worth Beach |
| • Fort Meade | • Leesburg |
| • Fort Pierce | • Mount Dora |
| • Green Cove Springs | • New Smyrna Beach |
| • Havana | • Newberry |
| • Homestead | • Ocala |
| • Jacksonville Beach | • Orlando |
| • JEA | • Starke |
| • Key West | • Winter Park |



| Municipal Utilities *(ARP member) | Phase I (MW) | Phase II (MW) | Phase III (MW) | Total Power Share (MW) |
|--|-------------------------------|--------------------------------|---------------------------------|-------------------------------|
| Bushnell* | | | 0.7 | 0.7 |
| Clewiston* | | | 1.2 | 1.2 |
| Fort Meade* | | | 0.5 | 0.5 |
| Fort Pierce Utilities Authority* | 2.1 | 15 | 6.8 | 23.9 |
| Green Cove Springs* | | | 1.2 | 1.2 |
| Havana* | | 0.25 | 0.3 | 0.5 |
| Homestead | | 5 | 10 | 15 |
| Jacksonville Beach* | 7 | 15 | 8.4 | 30.3 |
| JEA | | | 139.8 | 139.8 |
| Keys Energy (Key West)* | 3.5 | 25 | 21.5 | 50 |
| Kissimmee Utility Authority* | 20.9 | 20 | 20.1 | 61.1 |
| Lake Worth Beach | | 26.55 | 33.4 | 59.9 |
| Leesburg* | | | 16 | 16 |
| Mount Dora | | 2 | | 2 |
| New Smyrna Beach | | 10 | | 10 |
| Newberry* | | 1 | 0.5 | 1.5 |
| Ocala* | 7 | 20 | 18.6 | 45.6 |
| Orlando Utilities Commission | 108.5 | | | 108.5 |
| Starke* | | | 0.8 | 0.8 |
| Winter Park | | 10 | 20 | 30 |
| TOTAL | 149 MW | 149.8 MW | 299.8 MW | 598.6 MW |

| | Phase I (149 MW) | | Phase II (149.8 MW) | | Phase III (299.8 MW) | | | | |
|---------------------|------------------|---------|---------------------|----------------|----------------------|-----------|---------------------|--------------------------|----------|
| City (ARP*) | Taylor Creek | Harmony | Rice Creek | Whistling Duck | Hampton | New River | Penholoway | Leyland | Total MW |
| Bushnell* | | | | | | | 0.2 | .44 | 0.7 |
| Clewiston* | | | | | | | 0.36 | .84 | 1.2 |
| Fort Meade* | | | | | | | 0.15 | .34 | .5 |
| Fort Pierce* | | 2.1 | 7.5 | 7.5 | | | 2.07 | 4.7 | 23.9 |
| Green Cove Springs* | | | | | | | 0.39 | 0.89 | 1.2 |
| Havana* | | | 0.125 | 0.125 | | | 0.09 | 0.2 | .5 |
| Homestead | | | 2.5 | 2.5 | 10 | | | | 15 |
| Jacksonville Beach* | | 7 | 7.5 | 7.5 | | | 2.54 | 5.8 | 30.3 |
| JEA | | | | | 64.9 | 74.9 | | | 139.8 |
| Key West* | | 3.5 | 12.5 | 12.5 | | | 2.69 | 6.16(ARP) + 12.6 = 18.76 | 50 |
| Kissimmee* | | 20.9 | 10 | 10 | | | 6.12 | 14 | 61.1 |
| Lake Worth Beach | | | 13.25 | 13.25 | | | 33.4 | | 59.9 |
| Leesburg* | | | | | | | 1.81 | 4.1(ARP) + 10 = 14.1 | 16 |
| Mount Dora | | | 1 | 1 | | | | | 2 |
| New Smyrna Beach | | | 5 | 5 | | | | | 10 |
| Newberry* | | | 0.5 | 0.5 | | | 0.15 | 0.34 | 1.5 |
| Ocala* | | 7 | 10 | 10 | | | 4.74 | 10.8(ARP) + 3 = 13.8 | 45.6 |
| OUC | 74.5 | 34 | | | | | | | 108.5 |
| Starke* | | | | | | | 0.24 | 0.54 | .8 |
| Winter Park | | | 5 | 5 | | | 20 | | 30 |
| Total | 74.5 | 74.5 | 74.9 | 74.9 | 74.9 | 74.9 | 74.9 (ARP 21.55) | 74.9 (ARP 49.25) | 598.6 |

Whistling Duck Amendment Requested by Origis

Additional concerns identified for Phase II and Phase III Development

- Origis Cited Industry-Wide Concerns - Cost Increases and Schedule Delay
 - IRA Impacts and Credit Monetization Shifts
 - Higher Interest Rates and Cost of Capital
 - Higher Execution & Construction Costs – IRA leading to inflation of project costs
- Impacts to Whistling Duck Development
 - Requested December 31, 2025 as revised Commercial Operation Date
 - Requested ~\$ /MWh increase to current PPA flat 20-year contract price
- Potential Impacts to Phase III Development
 - Leyland and Penholoway (Duke facilities): Potential 6+ month delay from December 2025
 - Hampton and New River (FPL facilities): Potential 1 to 2+ year delay from December 2026
 - No official revisions indicated/requested yet

Solar Phase II and III Joint Committee Meetings

No Consensus Yet for Path Forward

Participants to reconvene in upcoming weeks with direction for staff to pursue, reject, or counter Origis' proposal for Amendment to Whistling Duck PPA

Some Whistling Duck participants likely to exit

Path forward may include reconfiguring Whistling Duck participants and likely downsizing of Phase III effort



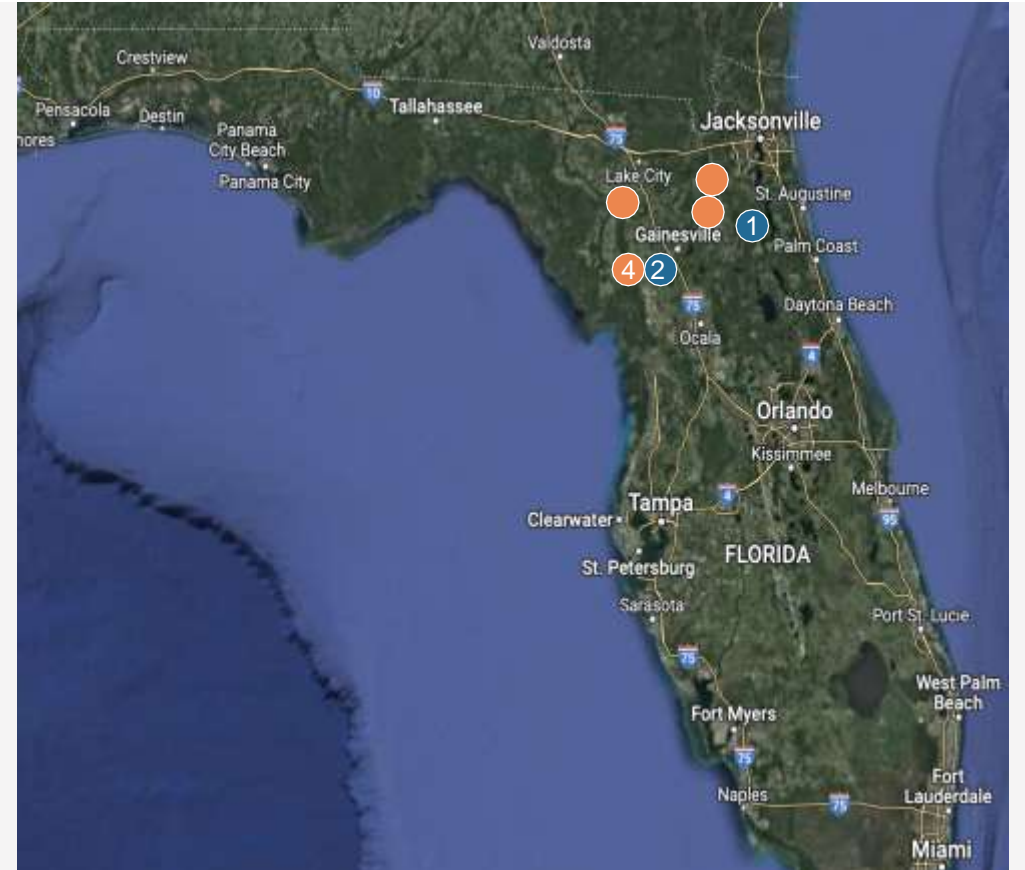
Phase II and III Solar Projects for FMPA

PHASE II

| | | | |
|-----------------------------|--------------------------|-------------------|---|
| Rice Creek Solar | (74.9 MW _{AC}) | Putnam County, FL | ● |
| Whistling Duck Solar | (74.9 MW _{AC}) | Levy County, FL | ● |

PHASE III

| | | | |
|-------------------------|--------------------------|---------------------|---|
| Penholoway Solar | (74.9 MW _{AC}) | Columbia County, FL | ● |
| Leyland Solar | (74.9 MW _{AC}) | Levy County, FL | ● |
| Hampton Solar | (74.9 MW _{AC}) | Bradford County, FL | ● |
| New River Solar | (74.9 MW _{AC}) | Bradford County, FL | ● |



1

Rice Creek Solar Update

Rice Creek – Construction Status Update

March 2024



- Major equipment delivered
- Backfeed available June 2024
- Commercial Operation Date (contingent on FP&L's In Service Date) expected in August 2024
- FPL's Restudy showed no material impact from the updated inverter model.
- Regular engagement with FP&L continues; no changes to expected ISD of June 7, 2024.
- Once ISD is achieved under the LGIA, we anticipate COD within eight weeks (August 2024)
- COD event – tentative week of Oct 14

2

Perfect Storm 3.0

An Industry Update

Forces Creating The Perfect Storm 3.0



IRA Impacts & Credit Monetization Shifts

- Continued UFLPA / Solar supply chain traceability pressure and WRO – AD/CVD impact
- IRA domestic content adder uncertainty
- Tax equity scarcity, shift to transferability at lower economics



Higher Interest Rates & Cost of Capital

- Higher Cost of Capital & interest rates causing subsequent increased investor IRR hurdles
- Industry project compression causing delays on financing



Higher Execution Costs

- FERC2023 queue reforms to ease interconnection backlogs
- Increased execution costs and delays impacting project schedules
- Supply chain constraints on long lead time items
- Community Opposition



Higher Construction Costs

- Skilled labor availability due to industry project compression & competition
- Escalating EPC & labor costs
- IRA prevailing wages and apprenticeship req's
- Equal financial pressure on contractors

3

Whistling Duck I Update

FL Solar 8

Whistling Duck (FL Solar 8) Status

All permits are on track to be issued by Q2 2024

The DEF Sunrise Switching Station is at ~60% design. Schedule matches the Amended LGIA. Construction start in August 2024 and ISD in June 2025.

Permits for the solar facility are being pursued at the state and local level, all expected by May 2024.

Voluntary open house meetings were held on October 24, 2023 in Williston to inform the public and gather input.



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The following are among, but are not the only, important factors that could cause actual results to differ materially from the forward-looking statements: (i) state and federal and local legislative or regulatory developments including developments by regional transmission operators; (ii) national or regional economic conditions; (iii) changes in the size and composition of industrial, commercial and residential service territories; (iv) the timing and extent of changes in commodity prices, equipment and construction costs, and interest rates; (v) weather variations and other natural phenomena; (vi) the availability and terms of financing; (vii) the ability to consummate, terms and timing of acquisitions and dispositions; (viii) conditions in the national and regional electric generation industry; (ix) the development of new power plants by competitors in the same geographic area; (x) the development on near or adjacent properties that could affect the flow of wind across a project; (xi) the development of additional generation in the area or the risk of failure to existing transmission resources that could create or increase the risk of curtailment on transmission routes; (xii) actions undertaken to mitigate the risk of or effects of wildlife fatalities; (xiii) risks incidental to the Company and its affiliates; and (xiv) other factors discussed in this Presentation.

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CONTAINS CONFIDENTIAL - PROPRIETARY BUSINESS / TRADE SECRET INFORMATION

STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: Electric Utility

TITLE:

First Amendment to the Agreement with ENCO Utility Services, LLC

SUMMARY:

First Amendment to the Agreement with ENCO Utility Services, LLC to provide Utility Call Center Support Services for one year.

BACKGROUND AND JUSTIFICATION:

The City has been using ENCO Utility Services, LLC (“ENCO”) to receive and process phone calls and service requests from The City’s Utility customers since December 2021. The City’s Utility customers receive City services for Electric, Water, Sewer, and Refuse. The City’s current agreement with ENCO is a “piggy-back agreement” to ENCO’s agreement with the City of Homestead, which is expiring at the end of April 2024. ENCO has informed the City that they can no longer extend the same terms and conditions to the City. ENCO has submitted a revised rate schedule to the City which converts billing from a “cost per call” model to a “cost per minute of call” model. The City has negotiated a First Amendment to Agreement extend the term of the Agreement with ENCO to May 1, 2025 to allow for a competitive solicitation process to take place. In accordance with the City Procurement Code See 2-112 (g), The City may utilize a waiver to the competitive selection procedure to negotiate an Agreement with ENCO because the services cannot reasonably be acquired through the normal competitive selection process due to insufficient time. This amendment will be accompanied with a budget amendment resolution to cover the excess costs of approximately \$250,000 using current revenues.

MOTION:

Move to approve/disapprove the First Amendment to the Agreement with ENCO Utility Services.

ATTACHMENT(S):

Fiscal Impact Analysis
First Amendment
Analysis of Cost

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

| Fiscal Years | 2024 | 2025 | 2026 | 2027 | 2028 |
|---|-------------|-------------|-------------|-------------|-------------|
| Inflows/Revenues | | | | | |
| Appropriated (Budgeted) | 0 | 0 | 0 | 0 | 0 |
| Program Income | 0 | 0 | 0 | 0 | 0 |
| Grants | 0 | 0 | 0 | 0 | 0 |
| In Kind | 0 | 0 | 0 | 0 | 0 |
| Outflows/Expenditures | | | | | |
| Appropriated (Budgeted) | 0 | 0 | 0 | 0 | 0 |
| Operating | \$250,000 | 0 | 0 | 0 | 0 |
| Capital | 0 | 0 | 0 | 0 | 0 |
| Net Fiscal Impact <i>(If not budgeted)</i> | \$250,000 | 0 | 0 | 0 | 0 |
| No. of Addn'l Full-Time Employee Positions | 0 | 0 | 0 | 0 | 0 |

| New Appropriation (Not Budgeted) Fiscal Impact: | | |
|---|---------------------------|-------------------------|
| | Revenue Source | Expenditure |
| Department | Electric Fund | Electric Fund |
| Division | N/A | Customer Service |
| GL Description | N/A | Contractual Services |
| GL Account Number | Various; Non PCA revenues | 401-1240-513.34-50 |
| Project Number | N/A | N/A |
| Requested Funds | \$250,000 | \$250,000 |
| Sources of funds | Current Revenues/ Paygo | Current Revenues/ Paygo |

**FIRST AMENDMENT TO AGREEMENT
FOR CALL CENTER SUPPORT SERVICES**

THIS FIRST AMENDMENT to the Agreement for Call Center Support Services (“Amendment”) is made as of _____, by and between the **City of Lake Worth Beach** (“CITY”) and **ENCO Utility Services, LLC**, a limited liability company registered to do business in the State of Florida (“CONTRACTOR”).

WHEREAS, on February 1, 2021, the City of Homestead competitively solicited and awarded a Call Center Support Services agreement to the CONTRACTOR (“Homestead Contract”); and

WHEREAS, based on the Homestead Contract, the CITY on December 20, 2021 entered into an Agreement with the CONTRACTOR to provide Call Center Support Services to the CITY (“Agreement”); and

WHEREAS, while the Homestead Contract is being renewed, the CONTRACTOR informed the City that **after April 30, 2024**, it will not continue to extend the same terms and conditions under the Homestead Contract to the CITY and have submitted a revised rate schedule to the CITY for the CONTRACTOR to continue to provide Call Center Support Services to the CITY; and

WHEREAS, the CITY’s Electric Utility department is in need of Call Center Support Services on daily basis and does not have any alternative services option at this time; and

WHEREAS, the CITY estimates it will take it at least twelve (12) months to competitively solicit a new Call Center Support Services provider and implement the same; and

WHEREAS, the CITY has reviewed the CONTRACTOR’s revised rate schedule and determined that the increase is acceptable given the circumstances; and

WHEREAS, the CITY in accordance with the City’s procurement code, section 2-112 (g), CITY may waive the competitive selection procedures if the goods and/or services sought cannot reasonably be acquired through the normal competitive selection process due to insufficient time; and

WHEREAS, the CITY finds amending the Agreement as set forth herein is in the best interest of the CITY and serves a valid public purpose.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged by each party hereto, the CITY and the CONTRACTOR agree to amend the Agreement as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.

2. **Term of Agreement.** The parties agree that the term of the Agreement is hereby extended to May 1, 2025, unless earlier terminated as stated in the Agreement.

3. **Compensation.** The parties agree that the compensation to be paid by the CITY to the CONTRACTOR under this Amendment is set forth in **Exhibit "A"**, which is attached hereto and incorporated herein.

4. **Entire Agreement.** The CITY and the CONTRACTOR agree that the Agreement and this Amendment set forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Amendment may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. All other terms and conditions of the Agreement (except as amended herein) remain in full force and effect.

5. **Counterparts.** This Amendment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Either or both parties may sign this Amendment via facsimile, email or electronically and such signature is as valid as the original signature of such party.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this First Amendment to the Agreement for Call Center Support Services on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR: ENCO Utility Services, LLC

[Corporate Seal]

By: Katherine L. Demeritte

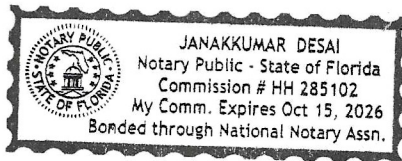
Print Name: Katherine L. Demeritte

Title: Sr. V.P. Customer Service

STATE OF FLORIDA)
COUNTY OF MARION)

THE FOREGOING instrument was acknowledged before me by means of physical presence or online notarization on this 11th day of APRIL 2024, by KATHERINE L. DEMERITTE as the Sr. V.P. CUSTOMER SERVICE [title] of ENCO Utility Services, LLC a Delaware Limited Liability Company authorized to do business in the State of Florida, who is personally known to me or who has produced FLORIDA DRIVER'S LIC as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

Notary Seal:



Janus

Notary Public Signature

Exhibit "A"
Contractor's Proposal



572 Appleyard Dr. – Suite E, Tallahassee, FL 32304

www.encous.com

Nannette McTeague
Customer Service Manager – Utilities Customer Service
City of Lake Worth Beach
414 Lake Avenue
Lake Worth Beach, FL 33460

Via email: nmcteague@lakeworthbeachfl.gov

April 03, 2024

Good afternoon, Nannette,

As requested, I've reviewed the pricing with our financial team. We've revisited all the numbers and have agreed to reduce the cost per minute to \$2.08. This is a 12.5% decrease on the previous numbers.

Since the advent of COVID we have tried to maintain our service levels while keeping our annual price increases significantly below what it costs us to provide those services. We value our relationship and would like to continue to be your provider, however we cannot continue to sustain the losses we have experienced over the last four years.

CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U)

| ALL ITEMS (1982-84=100) | South | | | | | | | | | | | |
|----------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
| Consumer Price Index | | | | | | | | | | | | |
| 2014 | 227.673 | 228.666 | 230.095 | 231.346 | 231.762 | 232.289 | 232.013 | 231.611 | 231.762 | 231.131 | 229.845 | 228.451 |
| 2015 | 226.855 | 227.944 | 229.337 | 229.957 | 230.886 | 232.026 | 231.719 | 231.280 | 230.913 | 230.880 | 230.422 | 229.581 |
| 2016 | 229.469 | 229.646 | 230.977 | 231.975 | 232.906 | 233.838 | 233.292 | 233.561 | 234.069 | 234.337 | 234.029 | 234.204 |
| 2017 | 235.492 | 236.052 | 236.156 | 236.728 | 236.774 | 237.346 | 236.942 | 237.692 | 239.649 | 239.067 | 238.861 | 238.512 |
| 2018 | 239.772 | 241.123 | 241.595 | 242.486 | 243.279 | 243.770 | 243.776 | 243.695 | 243.640 | 244.163 | 243.484 | 242.130 |
| 2019 | 242.547 | 243.896 | 245.554 | 246.847 | 246.667 | 246.515 | 247.250 | 246.953 | 246.891 | 247.423 | 247.385 | 247.289 |
| 2020 | 248.005 | 248.412 | 248.136 | 248.254 | 245.696 | 247.223 | 248.619 | 249.639 | 250.193 | 250.542 | 250.255 | 250.692 |
| 2021 | 252.067 | 253.386 | 255.319 | 257.207 | 259.343 | 261.868 | 263.013 | 263.728 | 264.593 | 267.160 | 268.360 | 269.263 |
| 2022 | 271.634 | 274.000 | 270.590 | 279.079 | 283.507 | 287.427 | 287.608 | 287.168 | 287.638 | 288.838 | 288.991 | 288.205 |
| 2023 | 290.438 | 292.285 | 293.358 | 295.315 | 295.889 | 296.769 | 297.279 | 298.975 | 299.657 | 299.394 | 298.930 | 298.754 |
| 2024 | 300.421 | 303.144 | | | | | | | | | | |

The proposed pricing will remain in effect for one year and may increase no more than 6% annually.

We truly appreciate you and look forward to continuing our relationship with the City of Lake Worth Beach.

Sincerely,

Katherine L. Demeritte
SVP Customer Services
demeritte@encous.com

Analysis of Cost:

| | |
|---|------------------|
| Current FY 2024 | |
| Committed Amount 10/2023 - 9/2024 | \$400,000 |
| Invoices paid through 3/2024 | \$177,735 |
| Remaining Balance | \$222,265 |
| | |
| New Contract Effective 4/2024 - 9/2025 | |
| 40,000 Minutes * \$2.08 * 5 Months | \$416,000 |
| Remaining Balance | \$222,265 |
| | |
| Cost to cover remaining balance FY 2024 plus unexpected charges | \$250,000 |
| | |

| | |
|---|-----------|
| FY 2025 | |
| New Contract is based on minutes - Lake Worth Beach Avg. monthly minutes 40,000@ \$2.08. If there is a 10% drop in monthly minutes of 40,000 the rate will change from \$2.08 to \$2.68 per minute | |
| New Monthly Charge 5/1/2024 - \$2.08 x 40,000 minutes per month | \$83,200 |
| New Annual Charge if 40,000 minutes x \$2.08 over 12 months (plus unexpected charges) | 1,142,400 |
| % Increase | 285% |

STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: Finance

TITLE:

Resolution No. 14-2024 -- Fiscal Year 2024 Second Budget Amendment accompanying ENCO contract

SUMMARY:

Resolution No. 14 - 2024 authorizes the second Budget Amendment for Fiscal Year 2024 Operating Budget

BACKGROUND AND JUSTIFICATION:

The City has been using ENCO Utility Services, LLC for Customer Service & System Operations call services through piggy-back agreement based off City of Homestead agreement since December 2021. In the beginning of April, ENCO informed the City that they can no longer extend the same terms and conditions under this agreement and have submitted a revised rate schedule to provide an updated cost per minute call agreement. The City needs call center support services and cannot provide this service to the customers with internal staff and must accept the increased fees until the new contract is in place. The contract increased by approximately 286% based on the current call volume. The additional funds for the remaining fiscal year will be taken from the excess revenues of approximately \$840,000 originally budgeted for the Electric Fund fiscal year 2024 budget.

MOTION:

Move to approve/disapprove Resolution No. 14-2024 authorizing a budget amendment to appropriate \$250,000 for FY 2024 Operating Budget as identified in Exhibit A.

ATTACHMENT(S):

Fiscal Impact Analysis
Resolution No. 14-2024
Exhibit A

Fiscal Impact Analysis:

| New Appropriation (Not Budgeted) Fiscal Impact: | | |
|---|----------------------------------|----------------------|
| | Revenue Source | Expenditure |
| Department | Electric Fund | Electric Fund |
| Division | N/A | Customer Service |
| GL Description | N/A | Contractual Services |
| GL Account Number | Various Non PCA Revenue accounts | 401-1240-513.34-50 |
| Project Number | N/A | N/A |
| Requested Funds | \$250,000 | \$250,000 |
| Sources of Funds | Current revenues (Paygo) | N/A(New Item) |

RESOLUTION NO. 14-2024, SECOND BUDGET AMENDMENT OF THE CITY OF LAKE WORTH BEACH, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA, MAKING A BUDGET AMENDMENT AND CORRESPONDING APPROPRIATION FOR THE CITY'S NECESSARY OPERATING EXPENSES, THE USES AND EXPENSES OF THE UTILITY CUSTOMER SERVICE DEPARTMENT OF THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023, AND ENDING SEPTEMBER 30, 2024; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth Beach, Florida (the "City") previously adopted the Fiscal Year (FY) 2024 Annual Operating Budget pursuant to Resolution No. 39-2023 on September 28, 2023:

WHEREAS, the City finds it is necessary and essential to amend the FY 2024 Annual Operating Budget as set forth in this Resolution; and

WHEREAS, adoption of the FY 2024 Annual Operating Budget amendments set forth herein serves a valid public purpose

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF LAKE WORTH BEACH, FLORIDA, that:

SECTION 1: The above recitals are hereby ratified and confirmed as being true and correct and are hereby incorporated into this Resolution.

SECTION 2: As hereinafter stated in this Resolution, the term "fiscal year" shall mean the period of time beginning October 1, 2023, and ending and including September 30, 2024.

SECTION 3: The funds and available resources and revenues that are set out and attached as Exhibit "A" and incorporated herein by reference, be, and the same hereby are, appropriated to provide the monies to be used to pay the necessary operating and other expenses of the respective fund and department of the City for the fiscal year.

SECTION 4: The sums, which are set out in Exhibit "A" and herein incorporated by reference, listed as operating and other expenses of the respective fund and department of the City, be, and the same hereby are, appropriated and shall be paid out of the revenues herein appropriated for the fiscal year.

SECTION 5: The revenues and the expenses for which appropriations are hereby made, all set forth above, shall be as set out in the Amended City of Lake Worth Beach Operating Budget for the fiscal year as attached in Exhibit "A".

SECTION 6: The sums set out in Exhibit "A" are herein before incorporated by reference and based upon departmental estimates prepared by the City Manager and the Finance Director, shall be, and the same hereby are, fixed and adopted as the amended budget for the operation of the City and its other enterprises for the fiscal year.

SECTION 7: Except as amended in Exhibit "A" hereto, the remainder of the FY 2024 Annual Operating Budget for the fiscal year remains in full force and effect.

SECTION 8: This resolution shall become effective upon adoption.

The passage of this resolution was moved by Commissioner _____, seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Sarah Malega
Commissioner Christopher McVoy
Commissioner Mimi May
Commissioner Reinaldo Diaz

The Mayor thereupon declared this resolution duly passed and adopted on the _____ day of _____, 2024.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk

EXHIBIT A

Analysis of Cost:

| | |
|--|------------------|
| Current FY 2024 | |
| Committed Amount 10/2023 - 9/2024 | \$400,000 |
| Invoices paid through 3/2024 | \$177,735 |
| Remaining Balance | \$222,265 |
| | |
| New Contract Effective 4/2024 - 9/2024 | |
| 40,000 Minutes * \$2.08 * 5 Months | \$416,000 |
| Remaining Balance | \$222,265 |
| Cost to cover remaining balance FY2024 plus unexpected charges | \$250,000 |

STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: Electric Utilities

TITLE:

Task Order No. 7 with WGI, Inc. for Design Surveying services to support new feeder engineering design connecting Main Yard to the new 6th Ave. South substation

SUMMARY:

Task Order 7 authorizes WGI, Inc. to provide surveying services to identify existing surface and subsurface features and existing utilities along a portion of the proposed route where two (2) new feeders will be routed underground connecting Main Yard to the new 6th Ave., South substation. This project has been identified as an element of the City's electric utility System Hardening and Reliability Improvement Project (SHRIP) and for which bonds were sold in November 2020 and May 2022.

BACKGROUND AND JUSTIFICATION:

On October 31, 2023, the City Commission approved Task Order 2 and Task Order 3 with RCM Technologies (USA), Inc. to provide engineering services for the design of two (2) new feeders connecting Main Yard to the new 6th Ave. South substation, thereby increasing the substation's capacity.

Task Order No. 7 is in support of the RCM Technologies design work where the WGI, Inc. survey shall identify topography, existing subsurface utilities including horizontal alignment and perform non-destructive vacuum excavations, as required, to verify utility conflicts and structures to be placed on the topographic drawing along with a Summary of Verified Utilities table.

The survey will support the design of two new (2) Main Yard feeders which will transition underground commencing at the intersection of South G Street and 5th Ave S and then east under the FEC railroad to South H Street and then turning south underground to the new 6th Ave. South substation location.

This Task Order is issued pursuant to the Continuing Professional Services Agreement (surveying) based on RFQ # 23-300 dated March 28, 2023.

MOTION:

Move to approve/disapprove Task Order No. 7 with WGI, Inc. for survey design work at a cost not to exceed \$75,884.00.

ATTACHMENT(S):

Fiscal Impact Analysis
Task Order No. 7

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

| Fiscal Years | 2024 | 2025 | 2026 | 2027 | 2028 |
|--------------------------------|-------------|-------------|-------------|-------------|-------------|
| Inflows/Revenues | | | | | |
| Appropriated (Budgeted) | 0 | 0 | 0 | 0 | 0 |
| Program Income | 0 | 0 | 0 | 0 | 0 |
| Grants | 0 | 0 | 0 | 0 | 0 |
| In Kind | 0 | 0 | 0 | 0 | 0 |
| Outflows/Expenditures | | | | | |
| Appropriated (Budgeted) | \$75,884 | 0 | 0 | 0 | 0 |
| Operating | 0 | 0 | 0 | 0 | 0 |
| Capital | 0 | 0 | 0 | 0 | 0 |
| Net Fiscal Impact | | | | | |
| <i>(If not budgeted)</i> | 0 | 0 | 0 | 0 | 0 |
| No. of Addn'l Full-Time | | | | | |
| Employee Positions | 0 | 0 | 0 | 0 | 0 |

| | |
|--|---|
| Contract Award - Existing Appropriation (Budgeted) | |
| | Expenditure |
| Department | Electric Utility |
| Division | T & D |
| GL Description | Improve Other than Build / Infrastructure |
| GL Account Number | 421-6034-531-63.15 |
| Project Number | SH2223 |
| Requested Funds | \$75,884 |
| Remaining Balance | \$9,557,639.39 |
| Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.) | Bond |

TASK ORDER No. 7
CONTINUING PROFESSIONAL SERVICES
RFQ#23-300
(Surveying)

THIS TASK ORDER FOR CONTINUING PROFESSIONAL SERVICES (“Task Order”) is made on the day of _____, between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **WGI, Inc.** a State of Florida, CORPORATION (“CONSULTANT”). 7

1.0 Project Description:

The City desires the CONSULTANT to provide those services as identified herein for the Project. The Project is described in the CONSULTANT’s Proposal, dated February 20, 2024 and services are generally described as: Design Survey for the construction design work on South H Street and 5th Ave South (the “Project”).

2.0 Scope

Under this Task Order, the CONSULTANT will provide the City of Lake Worth Beach with Surveying consulting services for the Project as specified in the **CONSULTANT’s proposal attached hereto and incorporated herein as Exhibit “1”**.

3.0 Schedule

The services to be provided under this Task Order shall be completed within **120** calendar days from the City’s approval of this Task Order or the issuance of a Notice to Proceed.

4.0 Compensation

This Task Order is issued for a lump sum, not to exceed amount of **\$75,884.00**. The attached proposal identifies all costs and expenses included in the lump sum, not to exceed amount.

5.0 Project Manager

The Project Manager for the CONSULTANT is Eric Matthews, PSM, phone: 561-472-8151; email: Eric.Matthews@wginc.com; and, the Project Manager for the City is Jakub Pajak, phone: 561-273-6907; email: jpajak@lakeworthbeachfl.gov.

6.0 Progress Meetings

The CONSULTANT shall schedule periodic progress review meetings with the City Project Manager as necessary but every 30 days as a minimum.

7.0 Authorization

This Task Order is issued pursuant to the Continuing Professional Services Agreement (Surveying) based on RFQ#23-300 between the City of Lake Worth Beach and the CONSULTANT, dated March 28, 2023 (“Agreement” hereafter). If there are any conflicts between the terms and conditions of this Task Order and the Agreement, the terms and conditions of the Agreement shall prevail.

IN WITNESS WHEREOF, the parties hereto have made and executed this Task Order No. 7 as of the day and year set forth above.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONSULTANT: WGI, INC.

By: Eric Matthews
Eric Matthews, Senior Operations Manager

[Corporate Seal]

STATE OF Florida
COUNTY OF Palm Beach

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 15th day of February, 2024, by **WGI, Inc.**, a Florida Corporation, who is personally known to me or who has produced _____ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

Cyndy Little
Notary Public Signature

Notary Seal: **CYNDY LITTLE**
Notary Public
State of Florida
Comm# HH224313
Expires 3/31/2026





EXHIBIT 1 (Consultant's Proposal)

February 20, 2024

Jakub Pajak - Distribution Engineer
City of Lake Worth Beach
Electric Utilities Department
1900 2nd Ave., North
Lake Worth Beach, FL 33460

jpajak@lakeworthbeachfl.gov

Re: South H Street & 5th Ave South – Undergrounding Survey

Dear Mr. Pajak,

WGI, Inc. (WGI) is pleased to provide this proposal to City of Lake Worth Beach (CLIENT). Our scope of services and corresponding fees are detailed below. In addition, it is agreed that WGI's services will be performed pursuant to WGI's Contract Terms and Conditions, associated with the original contract between WGI and CLIENT, awarded as per RFQ 23-300 dated March 28, 2023.

PROJECT UNDERSTANDING

WGI shall provide Survey & Subsurface Utility Engineering (SUE) services to support construction design within the Project Limits as shown below in green, on the attached Exhibit A.

SCOPE OF SERVICES

SURVEYING SERVICES

- | | |
|------------------------------|--------------------|
| I. Topographic Survey | \$24,915.00 |
|------------------------------|--------------------|
1. Establish horizontal and vertical control, including two onsite Benchmarks.
 2. Establish the existing right-of-way (R/W) throughout the Project Limits as shown in Exhibit A by researching online publicly available records, and best fit to field location of found monumentation. This will not constitute a boundary survey and property corners will not be set.
 3. Prepare a Topographic Survey of the topographic limits as shown below and in accordance with Rule 5J-17, Florida Administrative Code, pursuant to Chapter 472.027 of the Florida Statutes.
 4. The survey will consist of general ground elevation shots and breaks in grade with intervals not to exceed 50 feet.
 5. The Topographic Survey will include:
 - a. Visible and attainable fixed improvements and utilities unless otherwise noted;
 - b. Footprint of permanent structures;
 - c. Invert elevations of sanitary and storm drainage manholes, culverts, catch basins, and outfalls including pipe sizes and type if attainable. Inverts will not be measured in active traffic lanes. Traffic control, lane closures, off duty police are not included.
 - d. Inverts from their connecting structure if found and accessible.
 - e. Type and height of walls, fences;
 - f. Overhead wires (horizontal location only);

- g. Outline of areas of dense vegetation such as treelines, bushes, hedges, and shrubs not individually located;
 - h. Individual trees with 4 inches and larger caliper measured at breast height when not included within areas of dense vegetation; and
 - i. Outline of landscaped areas.
 6. The Topographic Survey will not include:
 - a. Sub-surface designation or location of underground utilities;
 - b. Sub-surface foundations of structures;
 - c. Storm and Sanitary Sewer inverts of recessed or debris filled structures;
 - d. Sprinkler heads;
 - e. Overhead clearances (signal heads, wires, bridges, roofs, overhangs, walkways, etc.);
 - f. Traffic pavement striping including parking spaces;
 - g. Tree tagging;
 - h. Location of Geotech borings; and
 - i. Temporary features such as a trailers, movable barriers/fences, solar lighting, etc.
 7. Deliverable will be an AutoCAD .dwg file and a digitally signed and sealed surveyor's report.

BASIS OF THIS PROPOSAL

1. Access to the subject project shall be granted upon prior notice if restricted, gated, and/or locked. In the event that the surveyor is not allowed on site to perform the above survey services after access has been coordinated, the client shall be invoiced at the hourly rates quoted on WGI's current Fee Schedule.
2. Tree specimen nomenclature shall be generally common (oak, palm, pine, etc.) and cannot be relied upon. Consult with an arborist for further classification.
3. Permits and permit fees, if needed, are not included and are the responsibility of the CLIENT.
4. Lane closures and police are not included to perform fieldwork.
5. The location of storm and sanitary structures are only verified at the manhole or catch basin structure. Additional underground mapping/locating of storm or sanitary pipes if any, will require a supplemental work order.
6. Meeting attendance is not included in these scope of services.
7. Horizontal and/or Vertical Datums specific to the Project shall be conveyed to WGI prior to the Notice to Proceed.

SUE SERVICES

Task 1.0 – Utility Designating (ASCE 38-22 Quality Level B)

Lump Sum Fee \$24,719.00

- 1.1 WGI to provide an ASCE 38-22 Quality Level B (QLB) utility investigation (utility designates) to depict existing utilities for verification and horizontal alignment confirmation within Project Limits as shown in Exhibit A (green color). Fourteen utility owners with seventeen facilities were identified in the Sunshine 811 Design Ticket.
- 1.2 This QLB investigation includes direct induction of toneable subsurface utility facilities from surface accessible features, and Ground Penetrating Radar sweep for non-toneable facilities. Detected facilities will be marked with American Public Works Association (APWA) compliant colors; flags and water based paint on soft ground and washable chalk on hard surfaces.
- 1.3 WGI will perform survey and location of utility designates using network corrected GNSS surveying methods tied to project control.
- 1.4 WGI will provide utility CADD file with the results of the utility field investigation.

Task 2.0 – Vacuum Excavation (ASCE 38-22 Quality Level A)

Lump Sum Fee \$26,250.00

- 2.1 WGI will provide an ASCE 38-22 Quality Level A field investigation within the project limits (Exhibit A) anticipating up to thirty (30) vacuum excavation test holes at specific utility conflicts at locations as directed by the EOR, including exploratory (attempted) test holes, where a potential design conflict is investigated, and no utility is found. Minimum of five (5) test holes per deployment.
- 2.2 Any additional facilities found during the course of QLA investigation will also be documented.
- 2.3 WGI will provide Field Test Hole Inventory Data sheets with the obtainable data; location, digital photos, utility description, depth, size, type, direction, and material for each test hole;
- 2.4 WGI will provide survey and location of utility test holes using network corrected GNSS surveying methods; and
- 2.5 WGI will update utility CADD file depicting the location of the test holes and corresponding utility data.

BASIS OF SUE SCOPE

1. WGI proposes to provide an ASCE 38-22 Quality Level B utility investigation (designates) on existing utilities in order to determine the horizontal alignment within the project limits as shown in Exhibit A (green color).
2. WGI proposes to provide ASCE 38-22 Quality Level A utility investigation, vacuum excavation test holes, on the existing utilities within the project limits in cyan (Exhibit A).
3. WGI will vacuum excavate utility facilities at the proposed locations, as directed by EOR, and provide a depth, size and material of the facility, and then backfill the test hole with native soil, compact with a pneumatic tamper to existing grade.
4. Generally, utility facilities found by vacuum excavation can be visually exposed to a depth equal to the water table; an air lance probe will be used for deeper facilities; however, visual confirmation will not be possible for facilities lying below the water table or utilities within directional bores. Note that the absence of identified utilities does not guarantee “no utility conflict”.
5. Geophysical designating techniques, although highly reliable, are subject to outside interference, which are beyond the control of WGI, and may impede the effectiveness of subsurface utility investigations. Soil conditions, utility materials, size, depth, salt water and conductivity may prevent the location of some subsurface utilities. WGI utilizes state of the art equipment and methodology during all phases of utility investigations, but no guarantee is hereby expressed that all facilities will be detected.
6. Drafting and/or other CADD services are included.
7. Survey services and survey location utilities and test holes is included.
8. Horizontal datum shall be NAD83/2011 and vertical datum shall be NAVD88, unless otherwise specified.
9. CLIENT shall facilitate access for WGI field staff.
10. Basic work zone safety includes safety road signs and traffic cones.
11. Maintenance of Traffic, lane closures, if needed are included.
12. Street / park lighting is included.

SUE EXCLUSIONS

1. Traffic control investigation is not included.
2. Permits and permit fees, if needed, are not included and are the responsibility of the CLIENT.
3. Select backfill material, flowable fill or other material not included.
4. Mapping of irrigation lines and sprinkler heads is not included.

5. Sanitary sewer (gravity) investigation is not included.
6. Invert elevations of storm drainage manholes, culverts, catch basins, and outfalls including pipe sizes and types are not included in the SUE scope.
7. Off duty police not included.

SUE DELIVERABLES

1. WGI will provide a CADD deliverable with the QLB and QLA investigations drafted and incorporated into the Topographic drawing.
2. WGI will provide a Summary of Verified utilities table with test hole information including number, location, utility line type, size, elevation, depth of cover, utility owner, station and offset or northing and easting, if alignment is not available.

Total WGI Fee = \$75,884.00

Any additional optional services requested by CLIENT will be provided in accordance with WGI's current hourly fee schedule in effect at the time of service, or a fixed fee to be negotiated once a scope of service is defined.

We appreciate the opportunity to be of service to City of Lake Worth Beach. Upon acceptance of this proposal, please sign and return an executed copy to this office. Please note that the Contract Terms and Conditions are an integral part of this contract, are hereby incorporated by reference, and are controlling unless both parties expressly waive them in writing prior to commencement of work.

Respectfully submitted,

WGI

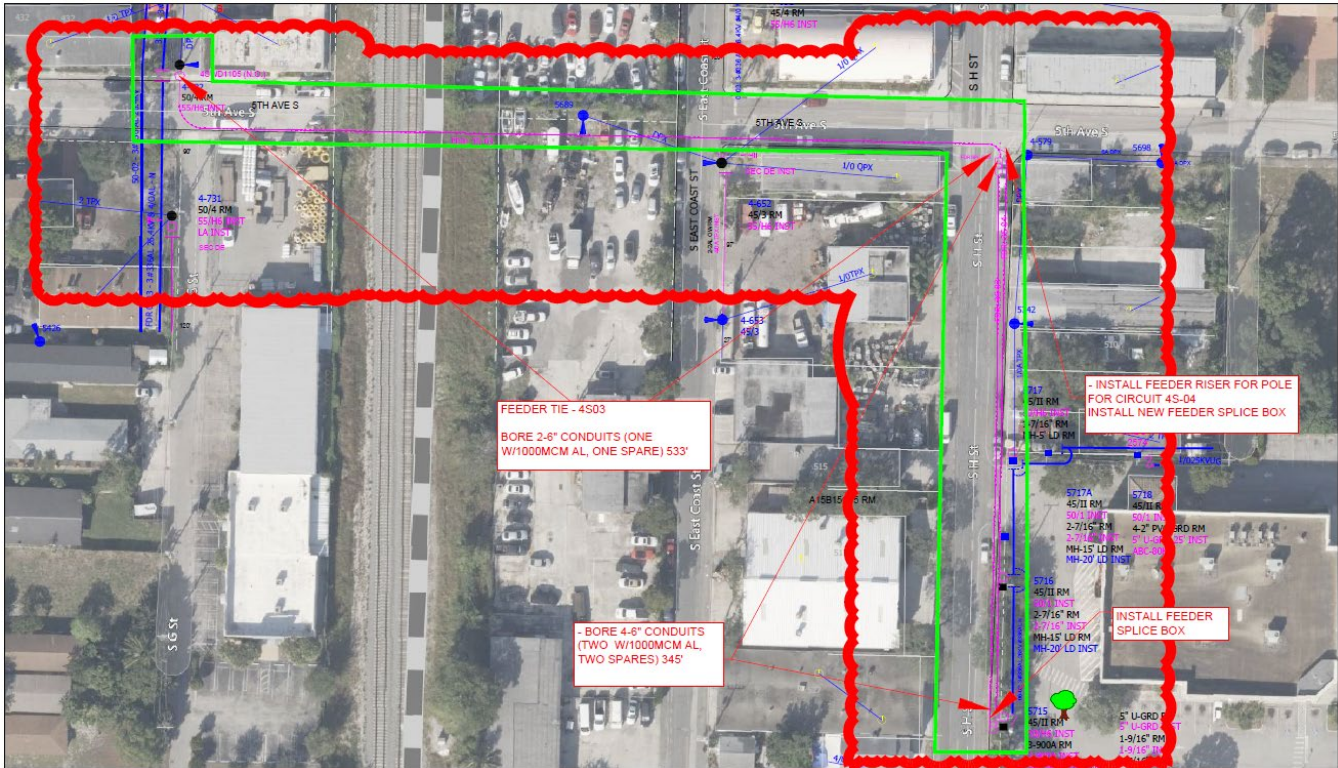


Eric Matthews, PSM
Senior Operations Manager



Radek Grabowski
SUE Project Manager

EXHIBIT A – PROJECT LIMITS



STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: Electric Utility

TITLE:

Hooper Corp. Work Order #1 to provide construction services for the relocation of the Main-Canal 138kV Transmission Line

SUMMARY:

This Work Order authorizes Hooper Corp. ("Hooper"), to complete construction services for the Main-Canal 138kV. Transmission Line Relocation in the amount not to exceed \$596,247.66. This project has been identified as an element of the City's Electric Utility System Hardening and Reliability Improvement Program (SHRIP) and for which bonds were sold in 2020 and 2022.

BACKGROUND AND JUSTIFICATION:

Work Order #1 is for Hooper to complete the planned Relocation of the Electric Utility's Main to Canal 138kV Transmission Line within the Canal substation property to accommodate the new FPL Transmission Line (aka "Tie Line") which is being constructed. The City of Lake Worth Beach issued IFB 23-116 for qualified contractors to perform construction services. Four (4) qualified contractors were selected, and which are technically qualified and responsible bidders. Proposals for this component of IFB #23-116 were received March 22nd. Hooper was the lowest cost, responsive bidder and provides the best value for the City. The City will provide four (4) spun concrete transmission poles which Hooper will install and provide conductors, ground wire and assembly materials. If approved, Work Order #__ will be issued to Hooper in accordance with IFB# 23-116 for the City's Electric Utility SHRIP Program in the amount not to exceed \$596,247.66.

MOTION:

Move to approve/disapprove Work Order #1 with Hooper Corp., to provide construction services for the relocation of the Main-Canal 138kV Transmission Line at a cost not to exceed \$596,247.66.

ATTACHMENT(S):

Fiscal Impact Analysis
Work Order #1
Hooper Proposal
Proposal Comparison

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

| Fiscal Years | 2024 | 2025 | 2026 | 2027 | 2028 |
|--------------------------------|--------------|-------------|-------------|-------------|-------------|
| Inflows/Revenues | | | | | |
| Appropriated (Budgeted) | 0 | 0 | 0 | 0 | 0 |
| Program Income | 0 | 0 | 0 | 0 | 0 |
| Grants | 0 | 0 | 0 | 0 | 0 |
| In Kind | 0 | 0 | 0 | 0 | 0 |
| Outflows/Expenditures | | | | | |
| Appropriated (Budgeted) | \$596,247.66 | 0 | 0 | 0 | 0 |
| Operating | 0 | 0 | 0 | 0 | 0 |
| Capital | 0 | 0 | 0 | 0 | 0 |
| Net Fiscal Impact | | | | | |
| <i>(If not budgeted)</i> | 0 | 0 | 0 | 0 | 0 |
| No. of Addn'l Full-Time | | | | | |
| Employee Positions | 0 | 0 | 0 | 0 | 0 |

| Contract Award - Existing Appropriation (Budgeted) | |
|--|--|
| | Expenditure |
| Department | Transmission |
| Division | Distribution |
| GL Description | Improve Other than Build/ Infrastructure |
| GL Account Number | 421-6034-531.63-15 |
| Project Number | SH2235 |
| Requested Funds | \$596,247.66 |
| Remaining Balance | \$1,844.03 |
| Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.) | 2022 Bond |

**CONTRACT FOR SYSTEM HARDENING AND RELIABILITY IMPROVEMENTS
WORK ORDER NO. _____**

THIS WORK ORDER for System Hardening and Reliability Improvements (“Work Order” hereafter) is made on the _____, between the **City of Lake Worth Beach**, a Florida municipal corporation located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460 (“City” hereafter) and **Hooper Corporation**, a foreign for profit corporation authorized to do business in State of Florida (“Contractor” hereafter).

1.0 Project Description:

The City desires the Contractor to provide all goods, services, materials and equipment as identified herein related to the System Hardening and Reliability Improvements project generally described as: Lake Worth Beach Line Relocation Canal Switchyard Main-Canal (the “Project”). The Project is more specifically described in the plans prepared by Hooper Corp, dated March 27th 2024, and which are incorporated herein by reference.

2.0 Scope

Under this Work Order, the Contractor will provide the City of Lake Worth Beach with construction services for the Project as specified in the **Contractor’s proposal attached hereto and incorporated herein as Exhibit “1”**.

3.0 Schedule and Liquidated Damages

Substantial completion of all services and work under this Work Order shall be within **180 calendar days** from the Effective Date of this Work Order. Final completion of all services and work (and all punch-list items (if any)) under this Work Order shall be within **210 calendar days** from the Effective Date of this Work Order. The Effective Date of this Work Order is the date following the parties’ execution of this Work Order and the City’s delivery of a Notice to Proceed to the Contractor via e-mail, facsimile or other form of delivery as documented by the City. Substantial completion occurs when the services and work has progressed to the point where, in the opinion of the City, the work is sufficiently complete in accordance with the Contract Documents and this Work Order, so that the Project can be utilized for the purposes for which it is intended. Final completion occurs when all services and work (including punch-list items) has been completed and the project becomes fully operational and accepted by the City.

Liquidated Damages. The City and Contractor recognize that time is of the essence under this Work Order and the Contract Documents, and that the City will suffer financial loss if the services and work described in this Work Order and the Contract Documents are not completed within the times specified in this Work Order. The City and Contractor recognize, agree and acknowledge that it would be impractical and extremely difficult to ascertain and fix the actual damages that the City would suffer in the event Contractor neglects, refuses, or otherwise fails to complete the services and work within the time specified. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay the City Five hundred dollars (\$500.00) for each day that expires after the time specified in this Work Order.

4.0 Compensation and Direct Purchases

This Work Order is issued for a lump sum, not to exceed amount of **\$596,247.66**. The Work Order Price includes **\$59,625.00** as a contingency for unforeseen changes and potential additional changes requested by the City (“Contingency”). The Contractor must submit a written request to the City prior to commencing any Work to be covered by the Contingency. The City’s Contract Administrator is authorized to approve in writing the use of the Contingency by the Contractor. The attached proposal identifies all costs and expenses included in the Work Order.

The following Direct Purchases are to be made under this Work Order by the City: City of Lake Worth Beach will be providing the spun concrete poles and the distribution hardware materials.

5.0 Project Manager

The Project Manager for the Contractor is Gary Shortridge, phone: 313-573-5165; email: GShortridge@hoopercorp.com; and, the Project Manager for the City is David Martyniuk, phone: 561-586-1629; email: dmartyniuk@lakeworthbeachfl.gov.

6.0 Progress Meetings

The Contractor shall schedule periodic progress review meetings with the City Project Manager as necessary but every 30 days as a minimum.

7.0 Contractor’s Representations

In order to induce the City to enter into this Work Order, the Contractor makes the following representations:

7.1 Contractor has familiarized itself with the nature and extent of the Contract Documents including this Work Order, work, site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance or furnishing of the work.

7.2 Contractor has obtained at his/her own expense and carefully studied, or assumes responsibility for obtaining and carefully studying, soil investigations, explorations, and test reports which pertain to the subsurface conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the work as Contractor considers necessary for the performance or furnishing of the work at the stated work order price within the Work Order stated time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of the IFB; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or is deemed necessary by Contractor for such purposes.

7.3 Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or is deemed necessary by the Contractor in order to perform and furnish the work under this Work Order price, within the Work Order time and in accordance with the other terms and conditions of the Contract Documents.

7.4 Contractor has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.5 Contractor has given the City's Contract Administrator written notice of all conflicts, errors or discrepancies that he or she has discovered in the Contract Documents and the written resolution thereof by City or its designee is acceptable to the Contractor.

8.0 Warranty. The Contractor warrants and guarantees to the City that all services and work provided under this Work Order will be in accordance with this Work Order and the other Contract Documents. The Contractor warrants that (a) all materials and parts supplied under this Work Order shall be free from defects for one (1) year from the final completion of all work (unless a longer manufacturer warranty applies); (b) all services and work performed under this Work Order will be free from defects for one (1) year from the final completion of all work and the project shall be fully operational without unreasonable downtime or failures; and (c) that the services and work will conform to the requirements of the Contract Documents. If, at any time prior to the expiration of the one (1) year warranty period, the City discovers any failure or breach of the Contractor's warranties or the Contractor discovers any failure or breach of the Contractor's warranties, the Contractor will, upon written notice from City or of its own accord, at the Contractor's sole cost and expense, promptly correct such failure or breach (which corrective action must include, without limitation, any necessary removal, disassembly, reinstallation, repair, replacement, reassembly, retesting, and/or re-inspection of any part or portion of the work and any other property damaged or affected by such failure, breach, or corrective action). The Contractor will remedy any such failure or breach so, to the extent possible, to avoid unnecessary disruptions to the operations of City or its systems. In the event the Contractor fails to initiate and diligently pursue corrective action within five (5) days of the Contractor's receipt of the City's notice or the Contractor's discovery of the same, the City may undertake such corrective action at the Contractor's expense.

9.0 Authorization

This Work Order is issued pursuant to the System Hardening and Reliability Improvements Contract for between the City of Lake Worth Beach and the Contractor, dated 09/28/2023, ("Contract" hereafter). If there are any conflicts between the terms and conditions of this Work Order and the Contract, the terms and conditions of the Contract shall prevail.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order as of the day and year set forth above.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

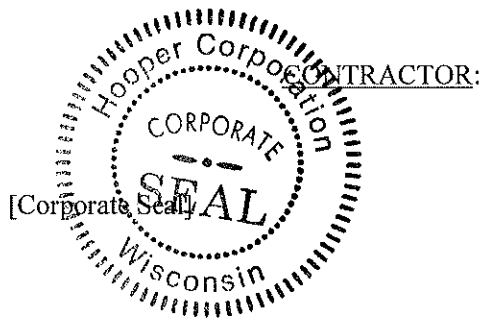
By: _____
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director



HOOPER CORPORATION

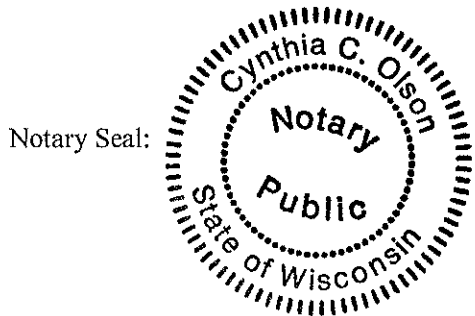
By: _____

Print Name: Bruce Cram

Title: Vice President

STATE OF Wisconsin)
COUNTY OF Dane)

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 5th day of April 2024, by Bruce Cram, as the Vice President [title] of Hooper Corporation, a foreign profit Corporation, who is personally known to me or who has produced known to me as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.



Cynthia C Olson
Notary Public Signature

Exhibit "1"
(Contractor's Proposal – 3 Pages)



March 27, 2024 Revision 2

Reference: Lake Worth Beach Line Relocation Canal Switchyard Main-Canal

Start Date: TBD

Completion Date: TBD

Project Engineer: Dominic Richardet (POWER Engineers, Inc.)

Project Location: Canal Substation

4601 Davis Road

Lake Worth Beach, FL 33461

Scope of Work: This project consists of re-routing the existing Main-Canal line from the existing Canal substation to the new 138kV Canal switchyard and 26kV substation.

Hooper's scope of work shall include the following:

Phase 1: Temporary Operating Configuration:

- The temporary operating configuration will remain in place until the 26kV substation has been constructed and is ready for the 138kV terminals to be energized.
 - Lake Worth Beach Electric Utility to provide target date for pricing.
- Install one (1) single circuit self-supporting spun concrete monopole dead-end structure with distribution underbuild at Structure 3/7.
- Install three (3) single circuit self-supporting spun concrete monopole dead-end structures at Structures 3/8, 3/9, & 3/10.
- Terminate the following wires at structure 3/7 and re-sag towards structure 3/6.
 - 3-phase 954 kcmil 54/7 ACSR "Cardinal" conductor.
 - One (1) 7 No. 8 Alumoweld shield wire.
- Remove three (3) existing spans, approximately 540 feet of shield wire and conductor from existing structure 3/7 to new structure 3/10.
 - One (1) circuit of 3-phase 954 kcmil 54/7 ACSR "Cardinal" conductor.
 - One (1) 7 No. 8 Alumoweld shield wire.
- Terminate the following wires at structure 3/10 and re-sag towards existing structure 3/11.

- 3-phase 954 kcmil 54/7 ACSR “Cardinal” conductor.
- One (1) 7 No. 8 Alumoweld shield wire.
- Transfer three (3) circuits of existing distribution from existing structure 3/7 to new structure 3/7.
 - Material to be provided by the Lake Worth Beach Electric Utility.
- Remove six (6) existing square concrete structures (3/7, 3/8, 3/9, 3/10, 3/11 and MC-3/13).
 - Existing holes can be backfilled with the spoils from the new pole installations.
- Install four (4) new spans, approximately 0.11 miles (568 feet), of the following wires from structure 3/7 to 138kV Canal switchyard (138M7033).
 - 3-phase 954 kcmil 54/7 ACSR “Cardinal” conductor.
 - One (1) 7 No. 8 Alumoweld shield wire.
 - Two (2) 7 No. 8 Alumoweld shield wires.
- 3/10 to Canal switchyard
- Install all hardware for strain insulators, clamps, grounding assemblies, etc.
- Canal Transmission Switchyard Structure:
 - Structure will be installed by the substation electrical contractor.
 - The jumper terminals and jumper loops will be installed by the substation electrical contractor.
 - The electrical line contractor’s scope of work shall include:
 - Terminating the conductor and shield wire assemblies to the structure attachment vangs.
 - Grounding the shield wire to the grounding vangs on the substation structure.

Phase 2: Final Operating Configuration:

- Remove two (2) existing spans, approximately 177 feet of shield wire and conductor from structure 3/10 to existing structure 3/11 to 26kV Canal substation.
 - One (1) circuit of 3-phase 954 kcmil 54/7 ACSR “Cardinal” conductor.
 - One (1) 7 No. 8 Alumoweld shield wire.
 - Two (2) 7 No. 8 Alumoweld shield wires.
 - 3/11 to the existing Canal substation
- Remove one (1) existing square concrete structure (3/11). Refer to the existing plan & profile drawings under Section XVI for additional information.
 - Existing hole can be backfilled with the spoils from the new pole installations.
- Install one (1) new span, approximately 50 feet, of the following wires from structure 3/10 to 26kV Canal substation.
 - 3-phase 954 kcmil 54/7 ACSR “Cardinal” conductor.
 - Two (2) 7 No. 8 Alumoweld shield wires.

- Install one (1) new span, approximately 134 feet, of the following wires from the Canal transmission switchyard to the Canal distribution substation (strain bus).
 - 3-phase 954 kcmil 54/7 ACSR “Cardinal” conductor.
 - Two (2) 7 No. 8 Alumoweld shield wires.
- Canal Transmission Switchyard Structure:
 - Structure will be installed by the substation electrical contractor.
 - The jumper terminals and jumper loops will be installed by the substation electrical contractor.
 - The electrical line contractor’s scope of work shall include:
 - Terminating the conductor and shield wire assemblies to the structure attachment vangs.
 - Grounding the shield wire to the grounding vangs on the substation structure.
- Canal Distribution Substation Structure:
 - Structure will be installed by the substation electrical contractor.
 - The jumper terminals and jumper loops will be installed by the substation electrical contractor.
 - The electrical line contractor’s scope of work shall include:
 - Terminating the conductor and shield wire assemblies to the structure attachment vangs.
 - Grounding the shield wire to the grounding vangs on the substation structure.

Additional items included in Scope:

- Schedule, receive and offload concrete poles.
- Pay for the line material order by the City. Markup for the material will be five percent (5%).
- Receive all material from the City.
- Matting at Location 3/7 due to soft sand location.
- Dispose of old poles and material.

Estimated Duration of work for project is 5 weeks.

Proposed Pricing is: \$596,247.66.

| R-Remove | ITEM | UOM | QTY | EXTENDED PRICE |
|----------|--|-----|-----|----------------|
| | Mobilization | EA | 1 | \$20,839.40 |
| | Mobilization (Drilling Contractor) | EA | 1 | \$28,750.00 |
| | Structure 3/6 | EA | 0 | \$0.00 |
| | | | | |
| I | Structure 3/7 - 110' - 52,000# Spun Concrete Pole | EA | 1 | \$8,683.10 |
| I | Matting Structure 3/7 | EA | 1 | \$17,346.65 |
| I | Crane Service- (Sub-contractor) spot | EA | 1 | \$5,468.30 |
| I | Excavation - 5"x34' (Sub-contractor) | EA | 1 | \$31,863.05 |
| ! | Backfill - 10cy material to backfill | LS | 1 | \$866.00 |
| ! | ASSY-SW (Static Deadend Mechanical) | EA | 2 | \$1,042.00 |
| ! | ASSY-C1 (138kV Deadend Insulator & Compression Deadend) | EA | 6 | \$5,209.80 |
| ! | ASSY-J (Stand-off Insulator) | EA | 3 | \$1,302.51 |
| ! | Ground Assembly | EA | 1 | \$434.17 |
| ! | Hot Arms | EA | 9 | \$1,953.54 |
| ! | Transfer Existing Primary around old pole to layout position | EA | 9 | \$2,344.32 |
| ! | Frame 26kV Standoff Insulators | EA | 9 | \$2,344.32 |
| ! | Install Crossarm w/ post insulators | EA | 1 | \$694.65 |
| R | Crane Service- (Sub-contractor) Removal | EA | 1 | \$4,773.65 |
| R | Remove Crossarm w/ post insulators | EA | 1 | \$477.58 |
| R | Remove 26kV Post Insulators | EA | 6 | \$781.44 |
| R | Remove 26kV Lighting Arrester | EA | 3 | \$260.49 |
| R | Remove 138kV Post Insulators | EA | 3 | \$390.72 |
| R | Remove Static Attachment | EA | 1 | \$130.24 |
| R | Top Cut Concrete Pole | EA | 1 | \$868.30 |
| R | Remove Concrete Pole - 4cy material to backfill | EA | 1 | \$4,301.23 |
| T | Temporary catch off 3-954 & 1 Static to West. | EA | 1 | \$4,167.88 |
| T | Moving Distribution back to new pole | EA | 1 | \$6,946.47 |
| I | MOT Structure 3/7 | EA | 1 | \$6,325.00 |
| | | | | |
| I | Structure 3/8 - 110' - 43,250# Spun Concrete Pole | EA | 1 | \$8,683.10 |
| I | Crane Service- (Sub-contractor) Spot | EA | 1 | \$5,468.30 |
| I | Excavation - 5"x31' (Sub-contractor) | EA | 1 | \$31,753.80 |
| ! | Backfill - 10cy material to backfill | LS | 1 | \$866.00 |
| ! | ASSY-SW (Static Deadend Mechanical) | EA | 2 | \$1,042.00 |
| ! | ASSY-C1 (138kV Deadend Insulator & Compression Deadend) | EA | 6 | \$5,209.80 |
| ! | ASSY-J (Stand-off Insulator) | EA | 3 | \$1,302.51 |
| ! | Ground Assembly | EA | 1 | \$434.17 |
| R | Crane Service- (Sub-contractor) Removal | EA | 1 | \$4,773.65 |
| R | Remove 138kV Post Insulators | EA | 3 | \$390.72 |
| R | Remove Static Attachment | EA | 1 | \$130.24 |
| R | Remove Concrete Pole - 4cy material to backfill | EA | 1 | \$4,301.23 |
| | | | | |
| | | | | |
| I | Structure 3/9 - 100' - 43,200# Spun Concrete Pole | EA | 1 | \$8,683.10 |
| I | Crane Service- (Sub-contractor) Spot | EA | 1 | \$5,468.30 |
| I | Excavation - 5"x32' (Sub-contractor) | EA | 1 | \$31,789.45 |
| ! | Backfill - 10cy material to backfill | LS | 1 | \$866.00 |
| ! | ASSY-SW (Static Deadend Mechanical) | EA | 2 | \$1,042.00 |
| ! | ASSY-C1 (138kV Deadend Insulator & Compression Deadend) | EA | 6 | \$3,126.00 |
| ! | Jumper 138kV | EA | 3 | \$1,563.00 |
| ! | Ground Assembly | EA | 1 | \$434.17 |
| R | Crane Service- (Sub-contractor) Removal | EA | 1 | \$4,773.65 |
| R | Remove 138kV Post Insulators | EA | 3 | \$390.72 |
| R | Remove Static Attachment | EA | 1 | \$130.24 |
| R | Remove Concrete Pole - 4cy material to backfill | EA | 1 | \$4,301.23 |
| I | Static Jumpers | EA | 2 | \$694.70 |
| | | | | |

| Intial 3/10 - Canal 138kV | | | | |
|------------------------------------|---|----|------|-------------|
| I | Structure 3/10 - 100' - 34,500 # Spun Concrete Pole | EA | 1 | \$8,683.10 |
| I | Crane Service- (Sub-contractor) Spot | EA | 1 | \$5,468.30 |
| I | Excavation - 5'x2 9.5' (Sub-contractor) | EA | 1 | \$31,698.60 |
| ! | Backfill - 10cy material to backfill | LS | 1 | \$866.00 |
| ! | ASSY-SW (Static Deadend Mechanical) | EA | 3 | \$1,563.00 |
| ! | ASSY-C1 (138kV Deadend Insulator & Compression Deadend) | EA | 9 | \$7,814.70 |
| ! | Jumper 138kV | EA | 6 | \$3,126.00 |
| ! | Ground Assembly | EA | 1 | \$434.17 |
| R | Crane Service- (Sub-contractor) Removal | EA | 1 | \$4,773.65 |
| R | Remove 138kV Post Insulators | EA | 3 | \$390.72 |
| R | Remove Static Attachment | EA | 1 | \$130.24 |
| R | Remove Concrete Pole - 4cy material to backfill | EA | 1 | \$4,301.23 |
| I | Static Jumpers | EA | 2 | \$694.70 |
| | Relocate Conductor going to Location 11 from old pole to new pole | EA | 1 | \$1,736.64 |
| Canal 138kV Station | | | | |
| ! | ASSY-SW (Static Deadend Mechanical) | EA | 3 | \$3,646.92 |
| ! | ASSY-C1 (138kV Deadend Insulator & Compression Deadend) | EA | 9 | \$12,503.61 |
| ! | Jumper 138kV | EA | 0 | \$0.00 |
| I | Static Jumpers | EA | 2 | \$694.70 |
| Structure 3/10 - Canal 26kV | | | | |
| I | ASSY-SW (Static Deadend Mechanical) | EA | 3 | \$3,646.92 |
| I | ASSY-C1 (138kV Deadend Insulator & Compression Deadend) | EA | 9 | \$12,503.61 |
| I | Jumper 138kV | EA | 6 | \$3,126.00 |
| I | Static Jumpers | EA | 2 | \$694.70 |
| R | Remove Deadends, Jumpers and Insulators to 3/11 | EA | 3 | \$1,563.00 |
| R | Remove Static DE and Jumper to 3/11 | EA | 2 | \$694.70 |
| Structure 3/11 Removal | | | | |
| R | Remove Concrete Pole | EA | 1 | \$8,360.73 |
| R | Remove 138kV Deadend Insulators | EA | 9 | \$1,562.85 |
| R | Remove Static Deadend and Jumpers | EA | 2 | \$347.30 |
| R | Remove Jumper | EA | 6 | \$1,041.90 |
| R | Excavate round pole for removal | EA | 1 | \$521.00 |
| R | Pole MC3/13 South of Structure 11 Removal | EA | 1 | \$8,073.23 |
| I | 954 kcmil 54/7 Conductor Install Structure 3/7 - 3/10 (Three Spans) | LF | 1650 | \$12,903.00 |
| I | 7 No. 8 Alumoweld Shield Wire Install Structure 3/7 - 3/10 (Three Spans) | LF | 550 | \$2,381.50 |
| I | 954 kcmil 54/7 Conductor Install Structure 3/10 - 138kV Sub (One Span) | LF | 255 | \$1,994.10 |
| I | 7 No. 8 Alumoweld Shield Wire Install Structure 3/10 - 138kV Sub (One Span) | LF | 170 | \$736.10 |
| I | 954 kcmil 54/7 Conductor Install Structure 3/10 - 26V Sub (One Span) | LF | 180 | \$1,407.60 |
| I | 7 No. 8 Alumoweld Shield Wire Install Structure 3/10 - 26kV Sub (One Span) | LF | 120 | \$519.60 |
| I | 954 kcmil 54/7 Conductor Install 138kV Sub - 26V Sub (One Span) | LF | 450 | \$3,519.00 |
| I | 7 No. 8 Alumoweld Shield Wire Install 138kV Sub - 26kV Sub (One Span) | LF | 300 | \$1,299.00 |
| R | 954 kcmil 54/7 Conductor Removal Structure 3/7 - 3/10 (Three Spans) | LF | 1650 | \$2,838.00 |
| R | 7 No. 8 Alumoweld Shield Wire Removal Structure 3/7 - 3/10 (Three Spans) | LF | 550 | \$753.50 |
| R | 954 kcmil 54/7 Conductor Removal Structure 3/10 3/11 (One Span) | LF | 495 | \$2,578.95 |
| R | 7 No. 8 Alumoweld Shield Wire Removal Structure 3/10 - 3/11 (One Span) | LF | 165 | \$283.80 |
| R | 954 kcmil 54/7 Conductor Removal Structure 3/11 - Sub (One Span) | LF | 495 | \$2,578.95 |

| | | | | |
|---|--|-----------|----------|---------------------|
| R | 7 No. 8 Alumoweld Shield Wire Removall Structure 3/11 -Sub (One Span | LF | 165 | \$283.80 |
| | | | | |
| | | | | |
| | Grounding 138kV Line per location install | EA | 4 | \$5,557.16 |
| | Grounding 138kV Line per location Remove | EA | 4 | \$5,557.16 |
| | Wire Set up less EPZ | EA | 1 | \$4,341.53 |
| | Setup EPZ | EA | 1 | \$2,083.94 |
| | Budgeted Material Cost | LS | 1 | \$100,000.00 |
| | Material Markup 5% (Owner ordered material) not included in pricing | | | |
| | Matterial Handling | Lot | 1 | \$13,892.93 |
| | Additional Mobilization | Ea | 1 | \$13,892.93 |
| | TOTAL: | | | \$596,247.66 |

| Contractor | Bid (Y/N) | In Scope (Y/N) | Cost | % over Rank 1 | Rank | Comments |
|-------------------|-----------|----------------|-----------------|---------------|------|--|
| | Y | N | \$ 361,000.00 | n/a | 4 | Did not provide scope or line item pricing as requested. Was given time to resubmit and did not meet deadline. |
| Primoris / Edison | | | | | | |
| Hooper | Y | Y | \$ 599,373.66 | 0% | 1 | |
| L.E. Myers | Y | Y | \$ 994,587.34 | 66% | 2 | |
| Michels | Y | Y | \$ 1,329,951.15 | 122% | 3 | |
| Wilco | N | n/a | n/a | n/a | 5 | No Bid - Email provided |

STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: Electric Utility

TITLE:

Agreement with E-Source Companies, LLC for consulting services related to Advanced Metering Infrastructure (AMI) and Meter Data Management (MDM)

SUMMARY:

Agreement with E-Source Companies, LLC for consulting services related to assisting the City procure a replacement for the existing water and electric AMI system as well as a Meter Data Management (MDM) system.

BACKGROUND AND JUSTIFICATION:

The City issued a Request for Proposal (RFP 24-202) seeking proposals from qualified vendors for consulting services associated with assisting the City in procuring a replacement for the existing water and electric AMI system as well as an MDM system. E-Source Companies, LLC was one (1) of nine (9) vendors to bid, was found to be responsive and responsible and was ultimately recommended for the award by the City's Evaluation Committee. The City has an existing AMI system that has been installed since approximately 2016 for both electric and water utility accounts. As this existing AMI system has experienced many failures since the original installation and is now approaching ten (10) years in age, the City sought to secure funding through the Department of Energy Grid Resilience and Innovation Partnerships Program (GRIP) Grant to aid in the purchase of a new AMI and MDM system. As this grant funding attempt was successful, the City is now looking to proceed with the development of a Request for Proposals (RFP's) for the said system(s) using consultant assistance provided by this Agreement.

The anticipated cost of the services of E-Source Companies, LLC is not expected to exceed \$166,130.

MOTION:

Move to approve/disapprove the Agreement with E-Source Companies, LLC for the consulting services related to AMI and MDM with a total not-to-exceed amount of \$166,130.

ATTACHMENT(S):

Fiscal Impact Analysis
Agreement
RFP 24-202 -Evaluation Matrix

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

| Fiscal Years | 2024 | 2025 | 2026 | 2027 | 2028 |
|--------------------------------|-------------|-------------|-------------|-------------|-------------|
| Inflows/Revenues | | | | | |
| Appropriated (Budgeted) | 0 | 0 | 0 | 0 | 0 |
| Program Income | 0 | 0 | 0 | 0 | 0 |
| Grants | 0 | 0 | 0 | 0 | 0 |
| In Kind | 0 | 0 | 0 | 0 | 0 |
| Outflows/Expenditures | | | | | |
| Appropriated (Budgeted) | \$166,130 | 0 | 0 | 0 | 0 |
| Operating | 0 | 0 | 0 | 0 | 0 |
| Capital | 0 | 0 | 0 | 0 | 0 |
| Net Fiscal Impact | | | | | |
| <i>(If not budgeted)</i> | 0 | 0 | 0 | 0 | 0 |
| No. of Addn'l Full-Time | | | | | |
| Employee Positions | 0 | 0 | 0 | 0 | 0 |

| Contract Award - Existing Appropriation (Budgeted) | |
|---|-----------------------|
| | Expenditure |
| Department | Electric Utility |
| Division | Meter Shop |
| GL Description | Professional Services |
| GL Account Number | 401-6035-531.31-90 |
| Project Number | N/A |
| Requested Funds | \$166,130 |
| Remaining Balance | \$4,957.99 |
| Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.) | Current Revenue |

PROFESSIONAL SERVICES AGREEMENT
(Advance Metering Infrastructure (AMI) system and
Meter Data Management (MDM) system Consulting Services)

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on _____, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **E-Source Companies, LLC**, a Limited Liability Company, located at 3020 Carbon Place, Suite 300, Boulder, CO 80301, authorized to do business in the State of Florida (“Consultant”).

RECITALS

WHEREAS, the City issued a Request for Proposal (No. 24-202) for Advance Metering Infrastructure (AMI) system and Meter Data Management (MDM) system Consultant Services to help the City procure a replacement for the existing water and electric AMI system as well as a Meter Data Management (MDM) system (“RFP”); and

WHEREAS, Consultant has provided the City with a written proposal in response to the RFP to provide the services as described and set out in the RFP which includes a price proposal as provided in **Exhibit “A”**; and

WHEREAS, the City desires to accept Consultant’s proposal in order for Consultant to render the services to the City as provided herein; and

WHEREAS, the services sought by the City under this Agreement may be funded, in whole or in part, by a federal grant (Department of Energy Grid Resilience and Innovation Partnerships grant), which federal grant requires compliance with all applicable federal law, regulations, executive orders, policies, procedures, directives and special clauses as further illustrated in **Exhibit “B”**; and

WHEREAS, Consultant further warrants that it is experienced and capable of performing the services hereunder in a professional and competent manner; and

WHEREAS, the purpose of this Agreement is to set forth certain terms and conditions for the provision of services by Consultant to the City.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the sufficiency of which is hereby acknowledged by the parties, the City and Consultant agree as follows:

SECTION 1: INCORPORATION OF RECITALS. The foregoing Recitals are incorporated into this Agreement as true and correct statements.

SECTION 2: CONSULTANT’S SERVICES. The Consultant shall provide Advance Metering Infrastructure (AMI) system and Meter Data Management (MDM) system consulting services to the City as more specifically described in the **RFP**, which is incorporated herein by reference, and in accordance with all Department of Energy Grid Resilience and Innovation Partnerships grant requirements, which federal requirements are illustrated in **Exhibit “B”** (Consultant is referred to as “Contractor” in Exhibit “B”). For more information or questions on the federal requirements or their applicability, Consultant shall contact the City prior to taking any action which may be contrary to the federal requirements. When the Consultant commences preparation of a purchasing solicitation for the AMI and/or MDM system(s), the Consultant shall incorporate all federal requirements into the solicitation document as set forth in **Exhibit “B”** and as may otherwise be required by the City or the Department of Energy Grid Resilience and Innovation Partnerships grant.

SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP. No relationship of employer or employee is created by this Agreement, it being understood that Consultant will act hereunder as an independent contractor and none of Consultant's, officers, directors, employees, independent contractors, representatives or agents performing services for Consultant pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and Consultant is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

SECTION 4: TERM, TIME AND TERMINATION.

a. Term. The term of this Agreement shall commence upon the approval of this Agreement and shall be for the term necessary to complete all services as set forth in the Consultant's proposal (**Exhibit "A"**) unless earlier terminated as stated herein. The term may be extended by written agreement of the parties for further services related to those services identified herein.

b. Time for Completion. Time is of the essence in the performance of this Agreement. Consultant shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the project schedule as set forth in RFP or as otherwise agreed between the parties.

c. Force Majeure. Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The Consultant or City may suspend its performance under this Agreement as a result of a force majeure event without being in default of this Agreement, but upon the removal of such force majeure event, the Consultant or City shall resume its performance as soon as is reasonably possible. Upon the Consultant's request, the City shall consider the facts and extent of any failure to perform the services and, if the Consultant's failure to perform was without its or its sub-consultant's fault or negligence, the schedule and/or any other affected provision of this Agreement may be revised accordingly, subject to the City's rights to change, terminate, or stop any or all of the services at any time. No extension shall be made for delay occurring more than seven (7) days before a notice of delay or claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) notice of delay or claim is necessary.

d. Termination without cause. Either party may terminate this Agreement at any time with or without cause by giving not less than thirty (30) days written notice of termination.

e. Termination for cause. Either party may terminate this Agreement at any time in the event that the other party engages in any act or makes any omission constituting a material breach of any term or condition of this Agreement. The party electing to terminate this Agreement for breach shall provide the other party with written notice specifying the nature of the breach. The party receiving the notice shall then have three (3) business days from the date of the notice in which to remedy the breach. If such corrective action is not taken within three (3) business days, then this Agreement shall terminate at the end of the three (3) business day period without further notice or demand.

f. Early Termination. If this Agreement is terminated before the completion of all services by either party, the Consultant shall:

1. Stop services on the date and to the extent specified including without limitation services of any sub-consultants.
2. Transfer all work in progress, completed work, and other materials related to the terminated services to the City in the format acceptable to City.

3. Continue and complete all parts of the services that have not been terminated.

g. Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of services provided prior to the date of termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a municipal corporation existing under the laws of the State of Florida, and as such, this Agreement (and all Exhibits hereto) are subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that no funds are appropriated or budgeted by the City's governing board in any fiscal year to pay the costs associated with the City's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City's obligations hereunder in any fiscal period, then the City will notify Consultant of such occurrence and either the City or Consultant may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever; however, City shall pay Consultant for all services performed under this Agreement through the date of termination.

SECTION 5: COMPENSATION.

a. Payments. The City agrees to compensate Consultant in accordance with the price proposal attached hereto as **Exhibit "A"**. The City shall not reimburse Consultant for any additional costs incurred as a direct or indirect result of Consultant providing services to the City under this Agreement and not set forth in **Exhibit "A"**. For additional hourly rate services and additional reimbursable expenses, the Consultant must receive prior written approval from the City before providing any services to be charged under the hourly rate.

b. Invoices. Consultant shall render invoices to the City for services that have been rendered in conformity with this Agreement, the RFP, and the price proposal set forth in **Exhibit "A"**. The monthly invoices shall set forth the Total Annual Cost (at monthly increments) as set forth in Exhibit "A" (inclusive of reimbursable costs associated with the Total Annual Cost). The monthly invoices shall also include any additional hourly rate services and related reimbursable expenses, which have received the prior written approval of the City. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will be reviewed for approval and if an invoice is not approved, the City will notify Consultant within ten (10) days of deficiencies in the invoice. Once the deficiencies are corrected and a new or amended invoice submitted, the City shall make payment within twenty (20) days. Invoices will normally be paid within thirty (30) days following the City's receipt of Consultant's invoice.

SECTION 6: INDEMNIFICATION. Consultant, its officers, employees and agents shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence, of Consultant, its officers, directors, employees, representatives and agents employed or utilized by Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Consultant, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

SECTION 7: COMPLIANCE AND DISQUALIFICATION. Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

SECTION 8: PERSONNEL. Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and authorized or permitted under federal, state and local law to perform such services.

SECTION 9: SUB-CONSULTANTS. The City reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and approve all qualifications of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Agreement. All sub-consultants providing professional services to Consultant under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement. In the event that a sub-consultant does not have insurance or does not meet the insurance limits as stated in this Agreement, Consultant shall indemnify and hold harmless the City for any claim in excess of the sub-consultant’s insurance coverage, arising out of the negligent acts, errors or omissions of the sub-consultant.

SECTION 10: FEDERAL AND STATE TAX. The City is exempt from payment of Florida State Sales and Use Tax. Consultant is not authorized to use the City’s Tax Exemption Number.

SECTION 11: INSURANCE. Prior to commencing any services, Consultant shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than “excellent” by A.M. Best or as mutually agreed upon by the City and Consultant. All such insurance policies may not be modified or terminated without the express written authorization of the City.

| <u>Type of Coverage</u> | <u>Amount of Coverage</u> |
|---|---|
| Professional liability/ Errors and Omissions | \$1,000,000 per occurrence |
| Commercial general liability (Products/completed operations Contractual, insurance broad form property, Independent Consultant, personal injury) | \$1, 000,000 per occurrence \$2,000,000 annual aggregate |
| Automobile (owned, non-owned, & hired) | \$ 1,000,000 single limits |
| Worker’s Compensation | \$ statutory limits |

The commercial general liability and automobile liability policies will name the City as an additional insured on a primary, non-contributing basis, and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that Consultant has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Consultant of its liability and obligations under this Agreement.

SECTION 12: SUCCESSORS AND ASSIGNS. The City and Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

SECTION 13: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES. All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

SECTION 14: WAIVER OF JURY TRIAL. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

SECTION 15: ACCESS AND AUDITS. Consultant shall maintain adequate records to justify all payments made by the City under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at Consultant's place of business. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

SECTION 16: NONDISCRIMINATION. Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

SECTION 17: AUTHORITY TO PRACTICE. Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

SECTION 18: SEVERABILITY. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

SECTION 19: PUBLIC ENTITY CRIMES. Consultant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Consultant will advise the City immediately if it becomes aware of any violation of this statute.

SECTION 20: NOTICE. All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the City shall be sent to:

City of Lake Worth Beach

Attn: City Manager/Financial Department/Procurement Division
7 N. Dixie Highway
Lake Worth Beach, FL 33460

and if sent to Consultant, shall be sent to:

E-Source Companies, LLC
Attn: Nicole Naassan, Senior Vice President
3020 Carbon Place, Suite 300
Boulder, CO 80301

The foregoing names and addresses may be changed if such change is provided in writing to the other party. Notice shall be deemed given upon receipt.

SECTION 21: ENTIRETY OF AGREEMENT. The City and Consultant agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

SECTION 22: WAIVER. Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

SECTION 23: PREPARATION AND NON-EXCLUSIVE. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

SECTION 24: MATERIALITY. All provisions of the Agreement shall be deemed material. In the event Consultant fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to Consultant to terminate for cause.

SECTION 25: LEGAL EFFECT. This Agreement shall not become binding and effective until approved by the City. The Effective Date is the date this Agreement is executed by the City.

SECTION 26: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS. Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

SECTION 27: SURVIVABILITY. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

SECTION 28: COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement. This Agreement may be signed digitally and each digitally signed counterpart shall be considered as an original of the signing party.

SECTION 29: PALM BEACH COUNTY IG. In accordance with Palm Beach County ordinance number 2011-009, Consultant acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. Consultant has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

SECTION 30: AGREEMENT DOCUMENTS AND CONTROLLING PROVISIONS. This Agreement consists of this Agreement, the RFP (which is incorporated herein by reference), **Exhibit “A”** and **Exhibit “B”**. The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement and the remaining aforementioned documents, the terms and conditions of **Exhibit “B”** shall prevail with this Agreement next taking precedence. The RFP shall take precedence over the Consultant’s price proposal. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

SECTION 31: OWNERSHIP OF DELIVERABLES. The deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the City in the RFP or by the Consultant in **Exhibit “A”** shall become the property of the City. Consultant may keep copies or samples thereof and shall have the right to use the same for its own purposes. The City accepts sole responsibility for the reuse of any such deliverables in a manner other than as initially intended or for any use of incomplete documents.

SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY. By signing this Agreement, on behalf of Consultant, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of Consultant for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

SECTION 33: PUBLIC RECORDS. Consultant shall comply with Florida’s Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City’s custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if Consultant does not transfer the records to the City.
- (d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of Consultant or keep and maintain public records required by the City to perform the service. If Consultant transfers all public records to the City upon completion of the Agreement, Consultant shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If Consultant keeps and maintains public records upon completion of the Agreement, Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City’s custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, CITYCLERK@LAKEWORTHBEACHFL.GOV, OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.

SECTION 34: CONFIDENTIAL AND PROPRIETARY INFORMATION. Each party (the “Receiving Party”) will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software (“Confidential Information”) obtained from the other party (the “Disclosing Party”); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party’s Confidential Information, (iv) that is already in the Receiving Party’s possession at the time of disclosure, or (v) that is required to be released by law.

SECTION 35: EXPORT ADMINISTRATION. Each party agrees to comply with all export laws and regulations of the United States (“Export Laws”) to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

SECTION 36: SCRUTINIZED COMPANIES.

(a) Consultant certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if Consultant or any of its subcontractors are found to have submitted a false certification; or if Consultant or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

(b) If this Agreement is for one million dollars or more, Consultant certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if Consultant, or any of its subcontractors are found to have submitted a false certification; or if Consultant or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

(c) Consultant agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

(d) Consultant agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

(e) Consultant agrees that if it or any of its subcontractors’ status changes in regards to any certification herein, Consultant shall immediately notify the City of the same.

(f) As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

SECTION 37: E-VERIFY. Pursuant to Section 448.095(2), Florida Statutes, the Consultant shall:

(a) Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

(b) Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

(c) Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the City upon request;

(d) Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

(e) Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,

(f) Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the Consultant may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

REMAINDER OF PAGE IS INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this Professional Services Agreement (Advance Metering Infrastructure (AMI) System and Meter Data Management (MDM) System Consulting Services) as of the day and year set forth above.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____, Mayor

ATTEST:

By: _____
Melissa Anne Coyne, MMC, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONSULTANT: E-SOURCE COMPANIES, LLC

By: Nicole Naassan

Print Name: Nicole Naassan

Title: _____
Sr. Vice President, Delivery

[Corporate Seal]

STATE OF Texas)
COUNTY OF Travis)

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 20 day of March 2024, by NICOLE NAASSAN, as the Sr. Vice President [title] of E-Source Companies, LLC, a Limited Liability Company, who is personally known to me or who has produced Driver License as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONSULTANT to the same.

Otis Carter
Notary Public Signature

Notary Seal:

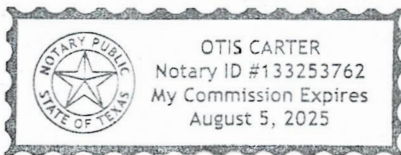


EXHIBIT "A"
Consultant's Price Proposal

Tab 4 – Cost Effectiveness

E Source proposes to perform the requested scope of services as detailed in this proposal for a fixed labor fee of **\$149,480** plus travel expenses estimated to be nine (9) person-trips at \$1,850/trip. The breakdown of the labor and services fee is shown in Table 1 below.

Table 1. Breakdown of Labor and Services Fee

| Phase/Task | Fee | Expenses | Total |
|---|-------------------|------------------|-------------------|
| AMI/MDM Consultant Services | \$ 149,480 | \$ 16,650 | \$ 166,130 |
| Task 1: Project Kick-off & Mobilization | \$ 5,920 | \$ 5,550 | \$ 11,470 |
| Task 2: Requirements and Procurement Strategy | \$ 10,800 | \$ - | \$ 10,800 |
| Task 3: RFP Draft | \$ 15,240 | \$ 3,700 | \$ 18,940 |
| Task 4: RFP Administration Support | \$ 9,600 | \$ - | \$ 9,600 |
| Task 5: Response Evaluation Support | \$ 46,120 | \$ 3,700 | \$ 49,820 |
| Task 6: Vendor Contract Negotiations | \$ 45,560 | \$ 3,700 | \$ 49,260 |
| Task 7: Project Management | \$ 16,240 | \$ - | \$ 16,240 |
| Total | \$ 149,480 | \$ 16,650 | \$ 166,130 |

E Source has calculated the proposed fee based on experience with several similar projects and understanding of the level of effort desired by the City. Our fee includes all services and deliverables described herein. E Source can adjust the scope of work to provide more or less support to match the needs of the City. All tasks will be invoiced monthly.

Reimbursable Expenses

Reimbursable expenses (e.g., travel, incidentals, graphic design fees) are estimated to be **\$16,650** and will be submitted monthly for reimbursement on an actual and reasonable basis. There is no markup on these direct costs, and E Source does not charge for time spent traveling. We will seek to minimize expenses through the use of government contractor rates, if available, and teleconferences whenever possible.

Pricing for Additional Services

E Source does not have unit prices for our additional services as the level of effort and scope of each differs from client to client. We are happy to provide pricing for any additional services not included in the above fee that may be of interest to the City upon request.

Assumptions

The following assumptions apply to this proposal:

- E Source's proposed fee to implement this Scope of Work is based on the timely start and timely completion of each proposed task as outlined in the project schedule provided herein. If an unforeseen delay in any proposed task(s) impacts the level of effort identified or exceeds the duration outlined in the proposed schedule, E Source reserves the right to develop a change order applicable to the additional services / level of effort required to complete the impacted task(s).
- Deliverable documents will be in Microsoft Office, including MS-Word, PowerPoint, Excel, MS-Project, Visio, and Adobe PDF.

- The City will provide E Source with working space, network connections, infrastructure, administrative support, and other services and materials reasonably required to perform project work while onsite at the City offices, if requested.
- The City personnel will support workshops and meetings as needed.
- These rates and estimates are exclusive of taxes. Any required state, city, or local government taxes, fees, or business licenses costs will be invoiced at actual cost incurred.

Payment Terms

Payment terms are net thirty (30) days unless otherwise agreed upon. E Source reserves the right to charge one and one-half (1.5%) percent per month, or the maximum rate permitted by law, if less than 1.5%, on any balance remaining unpaid after thirty (30) days.

Proposal Terms and Conditions

Terms of this proposal remain valid for 90 days from date of submittal. E Source reserves the right to negotiate any terms and conditions of the written agreement relating to this SOW with the City.

EXHIBIT "B"
Federal Requirements

Federal Contract Provisions

The Contractor hereby agrees that the following terms, at a minimum, will be incorporated into any subsequent contract resulting from this RFP, which is funded in whole or in part with any federal or other funding where the following terms are applicable:

Equal Employment Opportunity. During the performance of the resulting contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor

will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. DOJ, the State of Florida, or the CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

Rights to Inventions Made Under a Contract or Agreement

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Contractor agrees to report each violation to the City, and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

Federal Water Pollution Control Act

- (1) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The Contractor agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

Suspension and Debarment.

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification, as laid out in Exhibit I, is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida or the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Byrd Anti-Lobbying Amendment.

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification as laid out in Exhibit J. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency,

a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Procurement of Recovered materials.

- (i) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - Competitively within a timeframe providing for compliance with the contract performance schedule;
 - Meeting contract performance requirements; or
 - At a reasonable price.
- (ii) Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (iii) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

Access to Records.

- (1) The Contractor agrees to provide the State of Florida, the CITY, the DOJ Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the DOJ Administrator or the Comptroller General of the United States.

DHS Seal, Logo, and Flags.

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific DOJ pre-approval.

Compliance with Federal Law, Regulations, and Executive Orders.

By signing this agreement, the Contractor acknowledges that federal financial assistance may be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, federal policies, procedures, and directives.

No Obligation by Federal Government.

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor’s actions pertaining to this contract.

Affirmative Steps. Required Affirmative Steps

If the Contractor intends to subcontract any portion of the work covered by this Contract, the Contractor must take all necessary affirmative steps to assure that small and minority businesses, women's business enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Domestic preferences for procurements / Buy America Provisions.

The Recovery Act Buy American provisions and the Buy America Act are two separate laws which are applicable to the Department of Energy Grid Resilience and Innovation Partnerships grant. Adherence to such laws is required (with exceptions) as follows:

- (1) As appropriate and to the extent consistent with law, the Contractor should purchase, acquire, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- (2) For purposes of this section:
 - (a) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - (b) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Prohibition on certain telecommunications and video surveillance services or equipment.

- (1) The Contractor is prohibited from obligating or expending loan or grant funds to:
 - (a) Procure or obtain;
 - (b) Extend or renew a contract to procure or obtain; or
 - (c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- (2) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), the City shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

Compliance with the Davis-Bacon Act.

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS - LOWER-TIER COVERED TRANSACTIONS

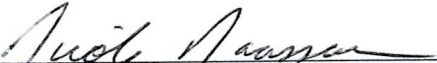
This document is a covered transaction for purposes of the debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 3000 (Non- procurement Debarment and Suspension). As such, Contractor is required to confirm that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

INSTRUCTIONS FOR CERTIFICATION

- 1) By signing this Certification, the Contractor, also sometimes referred to herein as a prospective primary participant, is providing the certification set out below.
- 2) The inability of a Contractor to provide the certification required below will not necessarily result in denial of participation in the covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the City's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- 3) The certification in this clause is a material representation of fact upon which reliance was placed when the City determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 4) The prospective primary participant shall provide immediate written notice to the City if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal and voluntarily excluded, as used in this certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- 6) The prospective primary participant agrees by signing the Addendum that it shall not knowingly enter into any lower tier covered transactions with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction. If it is later determined that the prospective primary participant knowingly entered into such a transaction, in addition to other remedies available to the City, the City may terminate this transaction for cause or default.
- 7) The prospective primary participant further agrees by signing this Addendum that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," as available through the United States Department of Homeland Security, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification

is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.



Signature of Contractor's Authorized Official

Nicole Naassan, Sr. Vice President, Delivery

Name and Title of Contractor's Authorized Official

3/20/24

Date

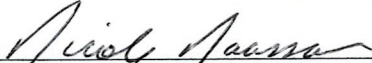
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor _____ certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Nicole Naassan, Sr. Vice President, Delivery

Name and Title of Contractor's Authorized Official

3/20/24

Date

STAFF REPORT UTILITY MEETING

AGENDA DATE: April 30, 2024

DEPARTMENT: City Attorney

TITLE:

Agreement for Legal Services with Traub, Lieberman, Straus & Shrewsberry, LLP generally related to assisting the City with regards to April 2024 damage to the City's sewage pipe/force main

SUMMARY:

This Agreement for Legal Services provides for representation of the City related to the April 2024 damage to the City's sewage pipe/force main, including related transactions, mediation, and litigation.

BACKGROUND AND JUSTIFICATION:

On April 9, 2024, the City responded to a damaged sewage pipe/force main caused by AT&T and/or one of its subcontractors and/or sub-subcontractors. The City's response efforts are ongoing. The City anticipates its response efforts and recovery for its response efforts to be considerable and is in need of legal services to assist these efforts. The Agreement for Legal Services includes a rate of \$350.00 per hour, not to exceed \$100,000 unless amended by the City Commission.

MOTION:

Move to approve/disapprove the Agreement for Legal Services with Traub, Lieberman, Straus & Shrewsberry, LLP for representation of the City related to the April 2024 damage to the City's sewage pipe/force main, including related transactions, mediation, and litigation.

ATTACHMENT(S):

Fiscal Impact Analysis
Agreement
Curriculum Vitae

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

| Fiscal Years | 2024 | 2025 | 2026 | 2027 | 2028 |
|---|-------------|-------------|-------------|-------------|-------------|
| Inflows/Revenues | | | | | |
| Appropriated (Budgeted) | 0 | 0 | 0 | 0 | 0 |
| Program Income | 0 | 0 | 0 | 0 | 0 |
| Grants | 0 | 0 | 0 | 0 | 0 |
| In Kind | 0 | 0 | 0 | 0 | 0 |
| Outflows/Expenditures | | | | | |
| Appropriated (Budgeted) | \$100,000 | 0 | 0 | 0 | 0 |
| Operating | 0 | 0 | 0 | 0 | 0 |
| Capital | 0 | 0 | 0 | 0 | 0 |
| Net Fiscal Impact <i>(If not budgeted)</i> | 0 | 0 | 0 | 0 | 0 |
| No. of Addn'l Full-Time Employee Positions | 0 | 0 | 0 | 0 | 0 |

| | |
|--|-------------------------------------|
| Contract Award - Existing Appropriation (Budgeted) | |
| | Expenditure |
| Department | General Fund |
| Division | City Attorney |
| GL Description | Professional Services/ Legal |
| GL Account Number | 001-1110-514.31-10 |
| Project Number | EM2400 |
| Requested Funds | \$100,000 |
| Remaining Balance | \$54,600 |
| Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.) | Paygo |

**CITY OF LAKE WORTH BEACH
STANDARD AGREEMENT FOR LEGAL SERVICES**

This Standard Agreement (“Agreement”) is made as of the _____ day of _____, 2024, by and between the **City of Lake Worth Beach**, a Florida Municipal Corporation, whose mailing address is 7 North Dixie Highway, Lake Worth Beach, Florida 33460 (“City”) and **Traub, Lieberman, Straus & Shrewsberry LLP**, whose local mailing address is 100 Avenue of the Champions, Suite 210, Palm Beach Gardens, FL 33418 (“Law Firm”).

In consideration of the mutual promises contained in this Agreement, the City and Law Firm agree as follows:

SECTION 1 – SCOPE OF SERVICES AND TERM

1.1 The City engages the Law Firm to provide legal representation to the City. Specifically, the City engages the Law Firm to provide legal services for an hourly fee of \$350.00. The legal services to be provided are generally related to assisting the City with regards to April 2024 damage to the City’s sewage pipe/force main, related transactions, mediation, and litigation. However, the parties reserve the right to expand the scope of this Agreement for legal services on an as-needed basis. The term of this Agreement shall be open-ended without a term with the parties retaining the right to terminate upon written notice to the other party. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination.

SECTION 2 – REMEDIES

2.1 This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise.

SECTION 3 – WAIVER OF JURY TRIAL AND ENFORCEMENT COSTS

3.1 WAIVER OF JURY TRIAL. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

3.2 If any legal action or other proceeding is brought for the enforcement of the Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any provisions of the Agreement, the parties agree that each party shall be responsible for its own attorney’s fees.

SECTION 4 - AUTHORITY TO PRACTICE

4.1 The Law Firm hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner and in accordance with applicable law. Proof of such licenses and approvals shall be submitted to the City upon request.

SECTION 5 – SEVERABILITY

5.1 If any term or provision of the Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of the Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of the Agreement shall be deemed valid and enforceable to the extent permitted by law.

SECTION 6 - PUBLIC ENTITY CRIMES AND SCRUTINIZED COMPANIES

6.1 As provided in Sections 287.132-133, Florida Statutes, as amended from time to time, by entering into the Agreement, Law Firm certifies that it, its affiliates, suppliers, subcontractors and any other contractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.

6.2 As provided in Section 287.135, Florida Statutes, as amended from time to time, by entering into this Agreement, the Law Firm certifies that it is not participating in a boycott of Israel. The City and the Law Firm agree that the City will have the right to terminate this Agreement the Law Firm is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

SECTION 7 - ENTIRETY OF CONTRACTUAL AGREEMENT

7.1 The City and Law Firm agree that this Agreement sets forth the entire contract between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

SECTION 8 – WAIVER

8.1 Failure of either party to enforce or exercise any right(s) under the Agreement shall not be deemed a waiver of either party's right to enforce or exercise said right(s) at any time thereafter.

SECTION 9 – COMPLIANCE

9.1 Each of the parties agrees to perform its obligations under the Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of the Agreement. In the event that either party becomes aware of a possible violation of law, regulation or administrative instruction that might affect the validity or legality of the services provided under the Agreement, such party shall immediately notify the other party and the parties shall agree on appropriate corrective action. In the event either party becomes aware that any investigation or proceeding has been initiated with respect to any of the services provided hereunder, such party shall immediately notify the other party.

SECTION 10 – EFFECTIVENESS AND PALM BEACH COUNTY IG

10.1 This Agreement shall not become effective until approved by the City Commission. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

10.2 In accordance with Palm Beach County ordinance number 2011-009, this Agreement and the Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. Law Firm should review Palm Beach County ordinance number 2011-009 in order to be aware of its rights and/or obligations under such ordinance and as applicable.

SECTION 11 – INDEPENDENT CONTRACTOR

11.1 No relationship of employer or employee is created by this Agreement, it being understood that Law Firm will act hereunder as an independent contractor and none of the Law Firm's, officers, directors, employees, independent contractors, representatives or agents performing services for Law Firm pursuant to this Agreement shall have any claim against the City for compensation of any kind under this Agreement. The relationship between the City and Law Firm is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

SECTION 12 –COMPENSATION AND INVOICING

12.1 The City shall compensate the Law Firm on as set forth in Paragraph 1.1 above. This Agreement shall not exceed One Hundred Thousand Dollars (\$100,000) unless a written amendment hereto is approved by the City Commission.

12.2 The Law Firm shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. Invoices will normally be paid within thirty (30) days following the City's receipt of the Law Firm's invoice.

12.3 All invoices must be submitted to the City Attorney at 701 Northpoint Parkway, Suite 209, West Palm Beach, FL 33407 and to the Finance Department, 7 North Dixie Highway, Lake Worth, FL 33460, on a monthly basis for review and approval prior to payment. Invoices should be itemized to specifically and concisely identify each task performed and should reflect the actual time spent on each task, using 1/10 of an hour increments. The City does not accept grouping of activities or "block billing." Each task must be billed separately, and each billing entry must be sufficiently descriptive so that it can be determined exactly what professional service was provided and the appropriateness of the related time charge can be assessed. Additionally, the personnel who perform each task must be specified together with their hourly rate. Any other type of billing or timekeeping, which allows compensation for time not actually spent by the Law Firm, is not permitted by the City.

12.4 The City will reimburse the Law Firm for any out-of-pocket expenses, including, but not limited to, filing fees, long distance telephone charges, postage charges, courier fees, outside printing, photocopying, court reporting and transcription fees. Payment for some of these fees is outlined more specifically below.

- (a) In-house photocopying will be paid at the rate of ten cents (.10) per page. (It would be helpful if each invoice specified the number of copies for which reimbursement is sought).
- (b) The City will not pay for local facsimile transmissions.
- (c) Long distance telephone calls must state the number of calls, date, length of call, and per minute cost.
- (d) Any travel, per diem, mileage, or meal expenses, which may be reimbursable, must be approved in advance (orally) and will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.
- (e) The City does not pay for local travel (within Palm Beach County), including, but not limited to, Law Firm's time for such local travel and/or reimbursement for meals.
- (f) For all disbursements, the City requires copies of paid receipts, invoices, or other documentation acceptable to the City of Lake Worth Finance Department. Such documentation must be sufficient to establish that the expense was actually incurred and necessary in the performance of legal services provided.
- (g) The City will not be responsible for the cost of any computerized legal research service that the Law Firm receives on a fixed or "flat fee" basis. For payment of computerized research on a "per minute" basis, the City requires copies of transaction reports indicating the total time for each research session, the charge per minute, and a brief description of the issues researched. Any extensive research project (research in excess of three hours whether said research is performed during one session or over several sessions or which is likely to exceed \$300) must

be discussed with and approved in advance. Since assignments are made to Law Firms which have been selected for their expertise in particular areas of law, the City will not pay for research that is routine in nature. The City will pay only for updating and Shepardizing existing research and/or fact specific research.

SECTION 13 - INSURANCE

13.1 The Law Firm shall maintain during the term of this Agreement all insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than “excellent” by A.M. Best or as mutually agreed upon by the City and the Law Firm.

| <u>Type of Coverage</u> | <u>Amount of Coverage</u> |
|---|---|
| Professional liability/ Errors and Omissions | \$300,000 annual aggregate |
| Commercial General Liability Insurance | \$1,000,000 per occurrence \$2,000,000 aggregate |
| Automobile Liability (optional /per case basis) | \$1,000,000 combined Single Limit |
| Workers’ Compensation | Must be in accordance with State and Federal Laws (no minimum amount) |

Proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance upon request by the City. The City shall be identified as an “Additional Insured” on general and auto liability. Failure to comply with the foregoing requirements shall not relieve Law Firm of its liability and obligations under this Agreement.

SECTION 14 – PUBLIC RECORDS

14.1 The Law Firm shall comply with Florida’s Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City’s custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Law Firm does not transfer the records to the City.
- (d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Law Firm or keep and maintain public records required by the City to perform the service. If the Law Firm transfers all public records to the City upon completion of the Agreement, the Law Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Law Firm keeps and maintains

public records upon completion of the Agreement, the Law Firm shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF THE LAW FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LAW FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT (561) 586-1660, MCOYNE@LAKEWORTHBEACHFL.GOV, or 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.

IN WITNESS WHEREOF, the parties hereto have caused this Standard Agreement for Legal Services to be executed as of the day and year set forth above.

CITY OF LAKE WORTH

ATTESTS:

By: _____
Melissa Coyne, City Clerk

By: _____
Betty Resch,
Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

LAW FIRM:

By: /s/Richard A. Jarolem

Print Name: Richard A. Jarolem

Title: Attorney

[Corporate Seal]

RICHARD A. JAROLEM, ESQ.
11646 Riverchase Run, Palm Beach Gardens, FL 33412
561-601-7865, rjarolem@yahoo.com

EXPERIENCE

2015- Present: Partner- Traub Lieberman Straus & Shrewsberry, Palm Beach County Florida.

With regard to insurance liability matters, I have litigated as lead counsel on behalf of insured (appointed by captives and insurers alike) in CGL matters, construction defect claims on behalf of contractors and subcontractors and professional liability claims negligence claims involving doctors, lawyers architects and engineers. With regard to insurance coverage matters, I have been primary counsel in reviewing policies and rendering binding opinions of determinations for coverage for several insurers and/or captives. Additional commercial litigation matters include but are not limited to representing physician expert witnesses, employment law concerning duties for employees, officers and directors, and covenants not to compete; governmental issues including but not limited to referendum initiative challenges, comprehensive plan challenges, sunshine law issues in both civil and criminal areas, land use litigation and eminent domain issues; commercial business disputes including but not limited to actions for dissolution, shareholder derivative actions, and breach of contract actions; other matters include trademark actions, landlord tenant disputes, evictions, foreclosure, collections, asset protection and bankruptcy. Typical partner duties include acting as lead counsel at trial; drafting and overseeing pleadings, discovery motions, substantive legal memoranda, jury instructions, stipulations, appellate briefs and arguments and the supervision of associate attorneys.

2013-2015: Partner- Wilson Elser Moskowitz Edelman & Dicker, Palm Beach County, Florida.

Substantially same job description regarding commercial litigation as current position.

2008- 2013: Partner Ciklin, Lubitz et. al. (f/k/a Casey Ciklin, et. al.), Palm Beach County, Florida:

Substantially same job description regarding commercial litigation as current position.

2000-2008: Associate Attorney from 2000-2007; Partner 2008-2013- Substantially same job description regarding commercial litigation as current position.

1998-2000: Assistant Public Defender- Felony Division, Palm Beach County, Florida:

Responsible for overseeing felony case load in all aspects of representation in all non-capital felonies.

1997-1998: Assistant Public Defender- Misdemeanor Division Chief, Palm Beach County, Florida; Responsible for caseload and oversight of three attorneys in all aspects or representation.

1996-1997: Associate Attorney - Law Offices of Keitel & Keitel, Palm Beach, Florida;

Responsible for representing clients at adversarial hearings regarding securities actions before the NASD, AMEX and NYSE.

EDUCATION/BAR ADMISSIONS

Florida Bar- Admitted April, 1996, bar # 0074950

Federal Bar- United States Supreme Court, US District Court (Southern District of Florida, Middle District of Florida, Northern District of Florida)

Thomas M. Cooley Law School - Juris Doctor, August 1995

Honors: Dean's List, Honor Roll, Moot Court, Academic Scholarship

University of South Florida, B.A. ,Criminology, 1991

Honors: Deans List, etc.

REFERENCES

Furnished on Request