



City of Stuart

AGENDA

SPECIAL COMMUNITY REDEVELOPMENT AGENCY

JUNE 12, 2023

AT 4:00 PM

COMMISSION CHAMBERS

121 SW FLAGLER AVE.

STUART, FLORIDA 34994

COMMUNITY REDEVELOPMENT AGENCY

Chair - Troy McDonald

Vice Chair - Becky Bruner

Board Member - Eula R. Clarke

Board Member - Christopher Collins

Board Member - Campbell Rich

Board Member - Tom Campenni

Board Member - Micah Hartowski

ADMINISTRATIVE

Interim City Manager, Michael J. Mortell

Interim City Attorney, Paul J. Nicoletti

CRA Executive Director, Pinal Gandhi-Savdas

City Clerk, Mary R. Kindel

Agenda items are available on our website at <http://www.cityofstuart.us>
Phone: (772) 288-5306. Fax: (772) 288-5305. E-mail: mkindel@ci.stuart.fl.us

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation to attend this meeting should contact the City's ADA coordinator at 772-288-5306 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he 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.

(RC) next to an item denotes there is a City Code requirement for a Roll Call vote.

(QJ) next to an item denotes that it is a quasi-judicial matter or public hearing.

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

ACTION ITEMS

1. EXECUTE FACILITIES AGREEMENTS WITH FP&L AND BINDING COST ESTIMATE PAYMENT FOR CONVERTING OVERHEAD UTILITY LINES TO UNDERGROUND (RC):

RESOLUTION No. 08-2023 CRA; A RESOLUTION OF THE BOARD OF COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF STUART, FLORIDA, AUTHORIZING THE CHAIRPERSON TO ACCEPT AND EXECUTE AGREEMENTS WITH FLORIDA POWER AND LIGHT (FP&L) FOR UNDERGROUND FACILITIES CONVERSION IN DOWNTOWN; PROVIDING FOR CONFLICTS; SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

ADJOURNMENT

WHAT IS CIVILITY? Civility is caring about one's identity, needs and beliefs without degrading someone else's in the process. Civility is more than merely being polite. Civility requires staying "present" even with those persons with whom we have deep-rooted and perhaps strong disagreements. It is about constantly being open to hear, learn, teach and change. It seeks common ground as a beginning point for dialogue. It is patience, grace, and strength of character. Civility is practiced in our City Hall.

PUBLIC COMMENT: If a member of the public wishes to comment upon ANY subject matter, including quasi-judicial matters, please submit a Request to Speak form. These forms are available in the back of the Commission Chambers, and should be given to the City Clerk prior to introduction of the item number you would like to address.

CONSENT CALENDAR: Those matters included under the Consent Calendar are self-explanatory, non-controversial, and are not expected to require review or discussion. All items will be enacted by one motion. If discussion on an item is desired by any City Commissioner that item may be removed by a City Commissioner from the Consent Calendar and considered separately. If an item is quasi-judicial it may be removed by a Commissioner or any member of the public from the Consent Calendar and considered separately.

QUASI-JUDICIAL HEARINGS: Some of the matters on the Agenda may be "quasi-judicial" in nature. City Commissioners will disclose all ex-parte communications, and may be subject to voir dire by any interested party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment without being sworn. Unsworn testimony will be given appropriate weight and credibility by the City Commission.

CITY OF STUART, FLORIDA

AGENDA ITEM REQUEST

Community Redevelopment Agency

Meeting Date: 6/12/2023

Prepared by: Pinal Gandhi-Savdas

Title of Item:

EXECUTE FACILITIES AGREEMENTS WITH FP&L AND BINDING COST ESTIMATE PAYMENT FOR CONVERTING OVERHEAD UTILITY LINES TO UNDERGROUND (RC):

RESOLUTION No. 08-2023 CRA; A RESOLUTION OF THE BOARD OF COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF STUART, FLORIDA, AUTHORIZING THE CHAIRPERSON TO ACCEPT AND EXECUTE AGREEMENTS WITH FLORIDA POWER AND LIGHT (FP&L) FOR UNDERGROUND FACILITIES CONVERSION IN DOWNTOWN; PROVIDING FOR CONFLICTS; SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

Summary Explanation/Background Information on Agenda Request:

The Downtown Underground Overhead Utilities Project includes the conversion of overhead utilities on SW Seminole Street from SW St Lucie Avenue to S Colorado Avenue, and SW Osceola Street from St Lucie Avenue to S Colorado Avenue; SW St Lucie Street from SW Seminole Street to SW Flagler Avenue; and S Colorado Avenue from SW Seminole Street to SW Flagler Avenue (map attached). The improvements will increase reliability, specifically following storm events, as well as add aesthetic benefits to the downtown. The project was initially anticipated to be completed in two phases, so that's why you will note that the agreements will refer to the projects as Phase 1 and Phase 2. However, to better coordinate the improvements, the underground conversion (Phase 1 and Phase 2) will be constructed in conjunction with the streetscape project.

FPL has provided an underground facilities conversion agreement and a binding cost estimate, known as the Contribution In Aid of Construction (C.I.A.C), required for converting the area to underground. The execution of agreements and payment in the amount of \$46,026 for Phase 1 and \$141,222 for Phase 2 is required to commence the construction process. FPL will supply the materials for the conversion. The city's contractor will be responsible for hiring an FP&L approved contractor for constructing all the underground facilities and transferring all the electric services to the new underground system. The city's contractor will also install all the conduit facilities required by Comcast and AT&T to accommodate the conversion of their overhead cable. Comcast and AT&T will install their respective equipment facilities and perform their respective service conversion. For reference, please see attached Engineer's Opinion of Probable Costs for Seminole Street in the amount of \$760,000 and Osceola Street in the amount of \$2.71 M. This includes contingency and CEI (construction observation) services for the construction of undergrounding and streetscape.

Funding Source:

Funding for this expenditure is budgeted in the CRA FY 2023 Budget (Downtown Undergrounding of Utilities Seminole & Osceola and Utilities Agreements - \$3.1 M).

Recommended Action:

Motion to Approve Resolution No. 08-2023 CRA to execute facilities agreements with FP&L.

ATTACHMENTS:

1. R08-2023 CRA - FPL Underground Conversion Agreements
2. BCE-City of Stuart - Seminole Street (Phase 1)
3. BCE - City of Stuart - Osceola Street (Phase 2)
4. Cost Estimate _ Seminole Street (Phase 1)
5. Cost Estimate _ Osceola Street (Phase 2)
6. Project Map



**BEFORE THE COMMUNITY REDEVELOPMENT AGENCY
CITY OF STUART, FLORIDA**

RESOLUTION NUMBER 08-2023 CRA

A RESOLUTION OF THE BOARD OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF STUART, FLORIDA, AUTHORIZING THE CHAIRPERSON TO ACCEPT AND EXECUTE AGREEMENTS WITH FLORIDA POWER AND LIGHT (FP&L) FOR UNDERGROUND FACILITIES CONVERSION IN DOWNTOWN; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the Community Redevelopment Agency (CRA) supports the undergrounding of utility facilities, for reasons of public safety, convenience and aesthetics; and

WHEREAS, the CRA seeks to construct a Streetscape Project along Seminole Street from St. Lucie Avenue to SE Colorado Avenue (approximately 600 linear feet), consisting of streetscape improvements and underground facilities conversion; and

WHEREAS, the CRA will continue undergrounding electric power and other facilities along Osceola Street from St. Lucie Avenue to SE Colorado Avenue, and SW St Lucie Avenue from SW Seminole Street to SW Flagler Avenue; and SE Colorado Avenue from SW Seminole Street to SW Flagler Avenue as part of the facilities conversion project.

WHEREAS, FPL provided the attached “Applicant-Installed Facilities Agreement” for **Seminole Street** referred to as Phase 1 and the binding cost estimate, known as the Contribution In Aid of Construction (C.I.A.C.) payment in the amount of \$46,026 for purchasing the material for converting overhead utility lines to underground; and

Resolution Number 08-2023 CRA
FP&L Facilities Conversion Agreements

WHEREAS, FPL provided the attached “Applicant-Installed Facilities Agreement” for **Osceola Street** referred to as Phase 2 and the binding cost estimate, known as the Contribution In Aid of Construction (C.I.A.C.) payment in the amount of \$141,222 for purchasing the material for converting overhead utility lines to underground; and

WHEREAS, Section 15 Sole Source Procurements of the City policy exempts from competitive bid and competitive proposal requirements of the Purchasing Ordinance sole source suppliers and services, such as FP&L; and

WHEREAS, staff recommends accepting the proposals and approving the facilities agreements; and

WHEREAS, funding for this expenditure is available in the CRA FY 2023 Budget.

WHEREAS, staff recommends that the CRA Board approve the attached agreements between the CRA and FP&L.

BE IT RESOLVED BY THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF STUART, FLORIDA that:

SECTION 1: The Community Redevelopment Agency Board, based upon the foregoing precatory statements, hereby authorizes the execution of the attached agreements with FP&L for the underground facilities conversion in Downtown Stuart.

SECTION 2: This resolution shall take effect upon adoption.

Board Member _____ offered the foregoing resolution and moved its adoption. The motion was seconded by Board Member _____ and upon being put to a roll call vote, the vote was as follows:

TROY MCDONALD, CHAIRPERSON
BECKY BRUNER, VICE CHAIRPERSON
EULA R. CLARKE, BOARD MEMBER
CHRISTOPHER COLLINS, BOARD MEMBER
CAMPBELL RICH, BOARD MEMBER
MICAHA HARTOWSKI, EX-OFFICIO BOARD MEMBER
TOM CAMPENNI, EX-OFFICIO BOARD MEMBER

YES	NO	ABSENT	ABSTAIN

Resolution Number 08-2023 CRA
FP&L Facilities Conversion Agreements

ADOPTED this ____ day of _____, 2023.

ATTEST:

MARY R. KINDEL
CITY CLERK

TROY MCDONALD
CHAIRPERSON

APPROVED AS TO FORM
AND CORRECTNESS:

PAUL J. NICOLETTI
INTERIM CITY ATTORNEY



May 4th, 2023

Pinal Gandhi-Savdas
CRA Administrator/Development
City of Stuart
121 SW Flagler Ave.
Stuart, FL 34994

**Re: City of Stuart
Electric Facilities Conversion – Ballpark Estimate
City of Stuart, Phase 1
WR # 11531233**

Dear Mrs. Gandhi-Savdas:

FPL welcomes the opportunity to assist you in determining if underground service is right for your area. As per your request, we have completed the binding cost estimate for the project designated as the City of Stuart – Phase 1. The binding cost estimate amount, known as the Contribution In Aid of Construction (C.I.A.C.), required for converting the area to underground is \$46,026. The underground drawings for the project are being finalized and a full set will be sent to you once they are complete. In addition, the cost estimate includes a more than \$122,567 adjustment credit for both FPL's ASRC (Avoided Storm Restoration Cost) waiver and as required in the CIAC formula, tariff Section 12.1, credit for an equivalent overhead system designed at the current hardened (i.e. extreme wind) standard. Further the cost assumes the following:

- Customer completes all the work.
- All work will be performed during the daylight hours, Monday through Friday, 8 A.M. to 5 P.M.. Any after hours work, e.g. disconnect/reconnect service appointments or requiring construction at night, would be an additional expense for the Town.

This binding cost estimate is valid for 180 days and a response must be received within that timeframe. Should you agree to move forward with the project, please sign and return the enclosed documents. Once we receive the acceptance package (e.g. partially executed documents and C.I.A.C. payment), we will commence the construction process (i.e. initiate bid requests and material purchasing). Any deposits that you have already paid will be applied towards the C.I.A.C. and you must pay the remaining difference of \$45,357 before we begin construction. Failure to execute the applicable Agreement and pay the C.I.A.C.

specified in the Agreement within the 180-day time limit, or termination of the Agreement, shall result in the expiration of the binding cost estimate. However, if you choose to cancel your request or not respond in time, your engineering deposit will not be returned and the estimate will be withdrawn.

This estimate only includes the charges to be paid to FPL. There are additional costs which are the customer's responsibility and should also be considered. These potential costs include:

- Site restoration (sod, landscaping, pavement, sidewalks, etc).
- Rearrangement of customer electric service entrances (requires electrician) from overhead to underground. Also, additional customer expense if local inspecting authorities require customer wiring to be brought up to current codes.
- Removal and burial of other utilities (e.g. telecom, CATV, etc.).
- Any project scope changes that modify the enclosed drawings.
- Acquiring, describing, securing and recording of easements for underground facilities.

We look forward to working with you and your staff as this project progresses. If you have any questions, please contact me at (561-389-9976).

Sincerely,



Andrea Castleblanco
Project Manager
Overhead to Underground Conversions
FPL

Attachments

Overhead to Underground Conversion - Customer Cost Sheet

Project: City of Stuart Phase 1

Date Estimate Provided to Customer: 5/4/2023

Customer Performs All UG Work

1) \$	101,617	The estimated cost to install the requested underground facilities
2) \$	26,050	The estimated cost to remove the existing overhead facilities and the installation of required overhead facilities to serve the new underground system.
3) \$	40,926	The net book value of the existing overhead facilities
4) \$	(94,831)	The estimated cost that would be incurred to install new overhead facilities, in lieu of underground, to replace the existing overhead facilities (the "Hypothetical Overhead Facilities")
5) \$	-	The estimated salvage value of the existing overhead facilities to be removed
6) \$	(18,130)	The 30-year net present value of the estimated non-storm underground vs overhead operational costs differential
7) \$	(9,606)	The 30-year net present value of the estimated average Avoided Storm Restoration Costs ("ASRC")

Total CIAC \$ 46,026 Contribution-In-Aid-of Construction

Engineering Dep \$ 669 Less the Engineering Deposit previously collected for this project.

Net Due to FPL \$ 45,357

Cost Breakdowns for Customer Contributions

	Total	Labor/Vehicle	Material	Direct Engineering, Supervision, and Support
New UG Install (+)	\$ 101,617	\$ -	\$ 78,777	\$ 22,840
Credit for equivalent OH (-)	\$ (94,831)	\$ (37,023)	\$ (45,964)	\$ (11,844)
OH Removal Cost & Make Ready (+)	\$ 26,050	\$ 17,375	\$ 4,482	\$ 4,193
Total	\$ 32,836	\$ (19,648)	\$ 37,295	\$ 15,189
Net Book Value (+)	\$ 40,926			
Operational Costs Differential	\$ (18,130)	0.09 miles		\$205,862 per mile
Avoided Storm Rest Costs	\$ (9,606)			\$109,074 per mile
Salvage Value (-)	\$ -			
Total CIAC	\$ 46,026			
Engineering Deposit (-)	\$ 669	Engineering deposit previously collected		
Net Due FPL	\$ 45,357			

Major Material Breakdown

	Quantity	Item
Install	4,306	Primary UG Cable (feet)
	0	UG Switch Cabinet (0 Vista Sw's)
	8	UG Transformer (each)
	0	Splice box for UG feeder (each)
Remove	2,165	OH Primary Conductor (feet)
	11	Poles (each)
	7	OH Transformer (each)
	912	Primary UG Cable (feet)

**APPLICANT-INSTALLED FACILITIES AGREEMENT FOR UNDERGROUND
CONVERSIONS (WR # 11531233)**

This Agreement, made and entered into this _____ day of _____, 20_____, by and between the CITY OF STUART (the “Applicant”), a Florida municipal corporation with an address of 121 SW Flagler Ave. Stuart, FL 34994 and FLORIDA POWER & LIGHT COMPANY (“FPL”), a Florida corporation organized under the laws of the State of Florida, with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

WITNESSETH:

WHEREAS, the Applicant has executed the appropriate underground facilities conversion agreement (“Conversion Agreement”) with FPL to convert certain overhead electric distribution facilities (collectively the “Existing Overhead Facilities”) to underground distribution facilities (collectively the “Underground Facilities”), as described in the aforementioned Conversion Agreement (hereinafter the “Conversion”);

WHEREAS, the Applicant desires to perform itself, or through its Contractors, certain Work as such term is described in Exhibit A associated with the Conversion;

WHEREAS, FPL is willing, subject to all the terms and conditions set forth below in this Agreement, to allow the Applicant to perform the Work based on Applicant’s assurance that such Work will be in accordance with FPL’s designs, instructions, standards and specifications, and such Work will not adversely impact FPL or its electric customers;

NOW, THEREFORE, in recognition of the foregoing premises, and in consideration of the covenants and promises set forth herein below, FPL and Applicant do hereby agree as follows:

1. **Compliance with Tariff.** Applicant shall comply with and abide by the requirements, terms, and conditions of this Agreement, the Conversion Agreement, and FPL’s electric tariff (the “Tariff”).
2. **Conditions for Work to be Performed.** Applicant shall, at its own cost and expense, perform or cause to be performed, all Work, as described in Exhibit A, in accordance with the terms and conditions of this Agreement and the standards and specifications shown in Exhibit B. The Applicant shall provide all survey and staking to ensure that all Underground Facilities are installed as shown in the Conversion Agreement and provide As-Built prints to FPL within two (2) weeks of installation, signed and certified by a Florida registered surveyor along with a FPL “Redline” document.
3. **Commencement of Work.** Applicant shall perform the Work, or any portion of the Work, only upon receipt of a notice to proceed containing the approved drawings, specifications and instructions from FPL (“Notice to Proceed”). After receipt of the Notice to Proceed, Applicant shall provide written notice of intent to commence work to FPL at least five (5) days prior to commencement of such Work. Applicant shall not perform any excavation

work without first notifying Sunshine State One Call for identification and marking of existing underground utilities and complying with the excavation requirements set forth in Florida Statute Chapter 556.

4. **Materials.** All Materials are to be supplied by FPL and shall be picked up by Applicant at the following address _____ at a mutually agreed upon time, typically with 5 business days minimum notice, but no more than 15 business days notice, unless mutually agreed upon. Alternatively, FPL will, at Applicant's expense, have the material delivered to a mutually agreed upon location. Applicant assumes liability for any materials lost, stolen or damaged once these materials are picked up by, or delivered to, the Applicant.
5. **Contractors.** Applicant may enter into a contract with a contractor for the performance of the Work, or any portion thereof, provided that the contractor has been approved by FPL in writing prior to execution of such contract. Applicant shall not make any substitution of any contractor for the performance of Work unless the substitution is approved by FPL in writing. The Applicant's contractor(s) shall perform ALL work as outlined within Exhibit A & Exhibit B. No contract or purchase order between Applicant and its contractor(s) shall bind or purport to bind FPL, but each contractor entering into a contract with Applicant with respect to the Work shall name FPL as an intended third-party beneficiary and include a provision permitting its assignment to FPL upon FPL's written request, following default by Applicant or termination or expiration of this Agreement. Applicant shall provide FPL with written certification from each of its contractors performing Work that all warranties, guarantees and obligations of such contractors are equivalent or better than those granted by such contractor to FPL for similar work and shall require that each such contractor name FPL as an intended third party beneficiary of such warranties, guarantees and obligations with the same rights of enforcement as Applicant. Applicant shall assign all representations, warranties, guaranties, and obligations of all contractors at the request and direction of FPL, and without recourse to Applicant, to FPL upon default by Applicant or termination or expiration of this Agreement; provided, however, that, notwithstanding such assignment, Applicant shall be entitled to enforce each such representation, warranty, guaranty, and obligation so long as Applicant has any liability under this Agreement. Applicant hereby assigns to FPL, effective as of the termination or expiration of this Agreement, all representations, warranties, guaranties and obligations of all Contractors.
6. **Right of Entry.** FPL reserves the right, together with its agents or designees to enter the Jobsite as it may elect for the purpose of inspecting the Work, or constructing or installing such collateral work as it may desire, or testing, boring or surveying, or any other purpose.
7. **Inspection and Correction of Deficiencies.**
 - 7.1. All Work shall be properly inspected and tested, if appropriate, by Applicant and shall at all times be subject to additional inspection by FPL and its designee(s).

- 7.2. Neither the failure to make such inspection, nor the failure to discover defective workmanship, materials, or equipment, nor approval of or payment to Applicant for such Work shall prejudice the rights of FPL thereafter to correct or reject the same.
- 7.3. Applicant shall correct any deficiencies found with the Work, including but not limited to discrepancies that are inconsistent with FPL's design, instructions, standards or specifications within two (2) business days. If Applicant does not adequately rectify the identified deficiencies in the required timeframe, FPL may, at its sole discretion, perform, or have performed by its contractor the required repairs and Applicant shall pay FPL for any costs incurred. These requirements apply whether the discovery of deficiencies occurs while Applicant is performing its Work or while FPL, or its contractor, is performing its portion of the work.
- 7.4. If any Work or part thereof is covered over contrary to the requirements of this Agreement or the written request of FPL, it must, if required by FPL, be uncovered for observation and inspection and covered again at Applicant's sole expense.
- 7.5. If any Work that FPL has not specifically requested to observe and inspect prior to being covered has been covered, FPL may request to see such Work or part thereof and it shall be uncovered by Applicant. If such Work or part thereof is found to be in accordance with this Agreement, the cost of uncovering and covering again shall be paid by FPL. If such Work or part thereof fails to meet the requirements of this Agreement, Applicant shall pay all costs of uncovering, correcting, and covering again.
- 7.6. Applicant shall pay FPL for all time spent reviewing and inspecting Applicant's Work.
- 7.7. No electric customers shall be connected to the Underground Facilities prior to all deficiencies being rectified.

8. Indemnity / Liability of Applicant.

- 8.1. Subject to the provisions and limitations of Florida law, Applicant shall protect, defend, indemnify and hold FPL free and unharmed from and against any liabilities whatsoever resulting from or in connection with this Agreement, the Conversion or in connection with the performance of the Work by the Applicant, its employees, agents, Contractors or Contractors' employees. The Applicant's indemnity obligations to FPL shall not apply to any claims or liabilities that are caused by the sole negligence of FPL.
- 8.2. Applicant shall assume full responsibility for all damages and all restoration arising in connection with the Work.

9. **Design Work.** FPL shall provide all design, instruction, standards and specifications necessary to perform the Conversion.
10. **Completion of Work and Ownership.** Applicant shall complete the Work by _____, 20_____ and notify FPL when said Work is complete. Upon FPL's final written approval of the completion of the Work ("Acceptance"), Applicant acknowledges that all rights, title and interest, free and clear of all liens, in and to the Work shall vest in FPL. If requested by FPL, Applicant shall provide FPL, in a form acceptable to FPL, an affidavit of Applicant certifying payment of all indebtedness to all Contractors and a written release of liens from Applicant and each Contractor.
11. **No Liability by FPL.** FPL assumes no liability due to any damage, misunderstanding of installation drawings or specifications, or any actions due to Applicant or its Contractor.
12. **Suspension for Cause:**
- 12.1. FPL may at its sole discretion, by Notice, temporarily suspend the Work, or any portion thereof, under this Agreement when the performance by Applicant or its contractor is unsatisfactory by FPL to obtain the results required by this Agreement.
- 12.2. The methods by which Applicant performs its Work are entirely the responsibility of Applicant. FPL's right to suspend Work is intended solely to verify that the Work being performed by Applicant and its Contractor conforms to the design, instruction, standards and specifications and shall not obligate FPL to review the efficiency, adequacy or safety of Applicant's or its Contractors methods or means of operation or construction.
- 12.3. Any additional costs incurred by Applicant resulting from such suspension shall be borne solely by Applicant.
- 12.4. If Applicant immediately corrects the unsatisfactory condition FPL shall authorize resumption of the Work. Applicant's failure to immediately effect correction of the unsatisfactory conditions shall be cause for termination of this Agreement.
13. **Termination for Cause:**
- 13.1. FPL may, upon Notice to Applicant, and without prejudice to any remedy available to FPL under law, in equity or under this Agreement, terminate the whole or any part of this Agreement for cause and take possession of the Work without termination charge, penalty or obligation in the event Applicant fails to perform a material obligation under this Agreement and fails to cure such material obligation default within a reasonable period of time, but in no event more than ten (10) business days, after Notice from FPL specifying the nature of such default (any such termination referred to as a "Termination for Cause").

- 13.2. In the event of Termination for Cause by FPL, Applicant shall:
- a. Unless instructed otherwise in the Notice, immediately stop all Work hereunder;
 - b. Issue no further contracts except with the prior written consent of FPL;
 - c. Assign to FPL, to the extent requested by FPL, all rights of Applicant under contracts outstanding;
 - d. Terminate, to the extent requested by FPL, outstanding contracts;
 - e. Fully cooperate and refrain from hindering or interfering in any manner with any other persons or parties currently or prospectively performing the Work; and
 - f. Take any other action toward termination, or toward preservation of the Work, that FPL may direct.
- 13.3. Upon a Termination for Cause, all obligations of FPL hereunder shall terminate effective immediately. Upon such Termination for Cause, FPL may either rework or take over the terminated Work and proceed to provide such materials, supplies, equipment and labor of both FPL and FPL contractors, as may be reasonably necessary to complete said Work. FPL may have any partially fabricated portion of the Work removed from Applicant's or contractor's facilities upon Notice to Applicant. Applicant shall be liable for any increase of FPL's costs, including rework costs, incurred by FPL as a result of FPL's termination of the contract for cause.
- 13.4. In the event of Termination for Cause, FPL shall have no liability to Applicant for costs incurred by Applicant as a result of such termination.
14. **Termination Prior to Construction.** Applicant may terminate this Agreement at any time prior to the start of construction. If Applicant elects to still complete the Conversion, then the Contribution-In-Aid-of-Construction (CIAC) amount provided in the Conversion Agreement shall be revised accordingly. The revised Conversion Agreement must be executed and any additional CIAC due received by FPL prior to the start of construction.
15. **Assignment.** This Agreement is not assignable.
16. **Applicant's Payments to FPL.** Any monies that are owed by Applicant to FPL under this Agreement shall be paid to FPL within thirty (30) days of FPL producing an invoice.
17. **Notice.** As used herein, the term "Notice" shall mean any formal written correspondence providing notice of action, purpose, intent or the like given under the provisions of this Agreement. Unless otherwise provided in this Agreement, Notice shall be delivered in person, by courier or by certified mail and shall be effective when received. General correspondence is not categorized as Notice.

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

For: _____

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

Approved as to Terms and Conditions: _____
(signature/title)

Approved as to Form and Legal Sufficiency: _____
(signature/title)

For **FLORIDA POWER & LIGHT COMPANY**

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

FLORIDA POWER & LIGHT COMPANY

UNDERGROUND FACILITIES CONVERSION AGREEMENT

This Agreement, is made and entered into this _____ day of _____, 2023, by and between The City of Stuart (“Applicant”), with an address of 121 SW Flagler Ave, Stuart, FL, 34994 and FLORIDA POWER & LIGHT COMPANY (“FPL”), a Florida corporation with an address of 700 Universe Boulevard, Juno Beach, FL 33408-0429.

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

Phase 1 - St Lucie - Colorado Ave & W Seminole St - SW Flagler Ave

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

1. **Avoided Storm Restoration Cost (“ASRC”) Eligibility Criteria.** The Applicant represents and warrants that it meets, and is capable and willing to enforce, the applicable eligibility criteria for the Conversion.
2. **Contribution-in-Aid-of-Construction (CIAC).** The Applicant shall pay FPL a CIAC as required by FPL’s Electric Tariff and Section 25-6.115 of the Florida Administrative Code.

i. CIAC (excluding ASRC)	\$ <u>73,762</u>
ii. ASRC	\$ <u>- 9,606</u>
iii. Operational Cost Differential	\$ <u>-18,130</u>
iv. CIAC Due	\$ <u>46,026</u>

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

3. **Applicant-Installed Facilities.** The Applicant may, upon entering into an applicant-installed facilities agreement satisfactory to FPL, construct and install all or a portion of the Underground Facilities. Such work must meet FPL’s construction standards and FPL will own and maintain the completed facilities. The Applicant agrees to rectify any deficiencies, found by FPL, prior to the connection of any customers to the Underground Facilities and the removal of the Existing Overhead Facilities.
4. **Compliance with Tariff.** The Applicant agrees to comply with and abide by the requirements, terms, and conditions of FPL’s Electric Tariff.

FLORIDA POWER & LIGHT COMPANY

5. **Timing of Conversion.** Upon compliance by the Applicant with the requirements, terms, and conditions of FPL's Electric Tariff, this Agreement and any other applicable agreements, FPL will proceed in a timely manner with the Conversion in accordance with the construction drawings and specifications set forth in Attachment A hereof.
6. **Relocation.** In the event that the Underground Facilities are part of, or are for the purposes of, relocation, then this Agreement shall be an addendum to the relocation agreement between FPL and the Applicant. In the event of any conflict between the relocation agreement and this Agreement or the Electric Tariff, this Agreement and the Electric Tariff shall control.
7. **Term.** This Agreement shall remain in effect for as long as FPL or any successor or assign owns or operates the Underground Facilities.
8. **ASRC Repayment.** If the Applicant does not satisfy the relevant eligibility criteria, the Applicant shall repay the ASRC within 30 days of written notice from FPL of such failure. Additionally, if at any point within 30 years of completion of the Underground Facilities installation, the Applicant elects to have electric service within the Conversion Area supplied by a provider other than FPL, the Applicant shall repay FPL a pro-rata share of the ASRC. The pro-rata share (which shall reflect partial years) shall be determined as follows:

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

Non-governmental-Applicants shall provide, at the time of execution of this Agreement, either a surety bond or irrevocable bank letter of credit (the "Security Instrument") in a form acceptable to FPL evidencing ability to repay the ASRC. This Security Instrument shall remain in effect until such time as all customers within the Conversion Area are converted. The Applicant may provide either an amended or replacement Security Instrument in a form acceptable to FPL at any time to reflect the pro-rata adjustments to the ASRC amount. If, upon notice of cancellation or prior to expiration of the Security Instrument, a replacement Security Instrument in a form acceptable to FPL is not provided by the Applicant to FPL, FPL will require the third party issuing the Security Instrument to pay the full balance due in accordance with this Agreement in cash.

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

FLORIDA POWER & LIGHT COMPANY

- 13. Applicability.** This subpart applies to requests for underground facilities addressing the conversion of existing overhead facilities. In order for the Company to take action pursuant to a request for conversion:
- the conversion area must be at least two contiguous city blocks or 1,000 feet in length;
 - all electric services to the real property on both sides of the existing overhead primarily lines must be part of the conversion;
 - all other existing overhead utility facilities (e.g. telephone, CATV, etc.) must also be converted to underground facilities.

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

CITY OF STUART

Signed _____

Name _____

Title _____

Signed _____

Name _____

Title _____

Approved as to Terms and Conditions (if required by
Applicant)

Signed _____

Name _____

Title _____

Approved as to Form and Legal Sufficiency (if required by Applicant)

Signed _____

Name _____

Title _____

FPL

Signed _____

Name _____

Title _____

**CITY/COUNTY RIGHT-OF-WAY
AGREEMENT FOR UNDERGROUND CONVERSIONS**

THIS AGREEMENT (the “**Agreement**”) is made and entered into this _____ day of _____, 20____ by and between City of Stuart (“**Local Government**”), a Florida municipal corporation or county with an address of 121 SW Flagler Ave. Stuart, FL 34994 and Florida Power & Light Company (“**FPL**”), a Florida corporation with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

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

St Lucie - Colorado Ave & W Seminole St - SW Flagler Ave

_____ (collectively, the “**Existing Overhead Facilities**”) to underground facilities, including transformers, switch cabinets and other appurtenant facilities some of which may be installed above ground (collectively, the “**Underground Facilities**”) and has further requested that certain of the Underground Facilities be placed in certain of its road rights-of-way (“**Local Government ROW**”) and/or certain road rights-of-way owned by or under the jurisdiction of other agencies (“**Other ROW**”). Local Government ROW and Other ROW may be referred to collectively as “**ROW**”; and

WHEREAS, the Local Government has agreed to pay FPL the cost of such Conversion as required by FPL’s electric tariff and Section 25-6.115 of the Florida Administrative Code and has or will enter into a separate Underground Facilities Conversion Agreement with FPL; and

WHEREAS, FPL is willing, subject to the terms and conditions set forth in this Agreement, FPL’s electric tariff and Section 25-6.115 of the Florida Administrative Code, to place certain of the Underground Facilities in the ROW.

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

1. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Agreement.

2. Conditions Precedent to Placement of Underground Facilities in ROW

- (a) Local Government covenants, represents and warrants that:
 - (i) Local Government has full legal right and authority to enter into this Agreement;
 - (ii) Local Government has full legal right and authority to take all actions and measures necessary to fulfill Local Government's obligations under this Agreement;
 - (iii) Local Government hereby authorizes the use of the ROW by FPL for the purposes stated herein.
- (b) All applicable permits for FPL to install, construct, or maintain Underground Facilities in ROW must be issued on a timely basis by the appropriate agency, subject to the timely filing for permits by FPL.
- (c) Local Government agrees to provide, at its expense, a legal description that is acceptable to FPL of the ROW to be occupied by the Underground Facilities at a time before FPL initiates the design of the Underground Facilities. Said legal description shall be made part of this Agreement and attached as Exhibit "A".
- (d) FPL agrees to identify and document all existing FPL underground facilities within the ROW that will not be included under this Agreement. Local Government shall reimburse FPL's reasonable costs and expenses to deliver said documentation. Said documentation shall be made part of this Agreement and attached as Exhibit "B".
- (e) FPL warrants that the design of the Underground Facilities to which Local Government has agreed are in compliance with all operational and safety guidelines, codes and standards. FPL and Local Government have mutually agreed upon the location of the facilities within the ROW as per the construction drawings. Said construction drawings shall be attached as Exhibit "C" to this agreement, are part of this agreement, and may be amended to reflect changes to location of facilities as required.

3. Relocation and Rearrangement of FPL Facilities. If the Local Government or other agency with control over the Local Government ROW or Other ROW, for any reason whatsoever, requires that FPL relocate or rearrange, in whole or in part, any Underground Facilities (as they are to exist as a result of this Conversion, or as they may later be modified, upgraded, or otherwise altered) from or within the Local Government ROW or Other ROW, the Local Government, notwithstanding any language to the contrary in any applicable permit or franchise agreement, and prior to any such relocation by FPL, shall provide FPL with a substitute location, satisfactory to FPL, obtain any easements that may be necessary, and shall pay FPL for the costs of any such relocation, adjustment or rearrangement, now or in the future. Local Government shall reimburse FPL for all costs to locate, expose, protect or support the Underground Facilities, whether underground or above ground, in the event of future construction or excavation in close proximity to the Underground Facilities, when such services are required by Local Government or other agency with control over the Local Government

ROW or Other ROW Local Government shall use its best efforts in any design and construction of its future road improvement projects to avoid or mitigate the necessity of relocating or adjusting the Underground Facilities in Local Government ROW and, to the extent reasonably practicable, in Other ROW.

Local Government shall only be responsible for relocation costs associated with replacement facilities conforming to FPL standards in effect at the time of relocation. Any costs associated with the replacement facilities to provide increased capacity, improved reliability, future use facilities, or other such enhancements over and above the FPL standards in effect at the time of the relocation shall not be the responsibility of Local Government.

Nothing herein shall preclude Local Government from obtaining reimbursement for any and all costs requiring FPL to relocate or rearrange any of its Underground Facilities from that entity which initiated the requirement for the relocation or rearrangement of the facilities, excluding only other agencies which own or have jurisdiction over the ROW.

FPL shall be responsible for any and all costs of removal or relocation when such removal or relocation is initiated by FPL. Additionally, FPL agrees that when any portion of a street is excavated by FPL in the location, relocation or repair of any of its facilities when said location, relocation or repair is initiated by FPL, the portion of the street so excavated shall, within a reasonable time and as early as practical after such excavation, be replaced by FPL at its expense in a condition as good as it was at the time of such excavation.

4. **Abandonment or Sale of Local Government ROW.** If the Local Government desires to subsequently abandon or discontinue use of the Local Government ROW, and ownership of the land is transferred to a private party, the Local Government, as a condition of and prior to any such sale, abandonment, or vacation, shall grant FPL an easement satisfactory to FPL for the Underground Facilities then existing within the ROW or require the transferee to so grant FPL an easement satisfactory to FPL at the time of transfer. If ownership of the Local Government ROW is transferred to another public entity, that public entity shall take the ROW subject to the terms and conditions of this Agreement.

5. **Term.** This Agreement shall remain in effect for as long as FPL or any successor or assign owns or operates the Underground Facilities placed in the ROW.

6. **Title and Ownership of Underground Facilities.** Title and ownership of Underground Facilities installed by FPL as a result of this Agreement shall, at all times, remain the property of FPL.

7. **Conversion Outside ROW.** In the event that the FPL Underground Facilities are not, for any reason other than the sole error of FPL or its contractors,

constructed within the ROW, Local Government shall grant or secure, at Local Government's sole cost and expense, new easements or ROW grants for the benefit of FPL for the placement of the Underground Facilities in these areas, and shall secure subordinations of any mortgages affecting these tracts to the interest of FPL. In the alternative, at the discretion of Local Government, Local Government shall reimburse FPL for all costs incurred to remove said facilities which were constructed outside the ROW and for reinstallation within the ROW. FPL shall be responsible at completion of construction for notifying Local Government in writing of FPL's approval and acceptance of the conversion as being constructed within the ROW. Upon acceptance there shall be no further responsibility on the Local Government for relocations referenced in this paragraph.

8. **Agreement Subject to FPL's Electric Tariff.** This Agreement is subject to FPL's electric tariff, including but not limited to the general rules and regulations for electric service and the rules of the Florida Public Service Commission.

9. **Venue; Waiver of Jury Trial.** This Agreement shall be enforceable in Martin County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Martin County, Florida. By entering into this Agreement, FPL and the Local Government expressly waive any rights either party may have to a trial by jury of any civil litigation related to or arising out of this Agreement. This Agreement shall be construed in accordance with the laws of the State of Florida.

10. **Attorney Fees.** In the event it becomes necessary for either party to institute or defend legal proceedings as a result of the failure of the other party to comply with the terms, covenants, or provisions of this Agreement, each party in such litigation shall bear its own cost and expenses incurred and extended in connection therewith, including, but not limited to attorneys' fees and court costs through all trial and appellate levels.

11. **Assignment.** The Local Government shall not assign this Agreement without the written consent of FPL.

12. **Recording.** This Agreement shall be adopted by the Local Government and maintained in the official records of Local Government for the duration of the term of this Agreement. This Agreement also shall be recorded in the Official Records of the County in which the Underground Facilities are located, in the place and in the manner in which deeds are typically recorded.

13. **Conflict between Terms of Permit or Franchise Agreement.** In the event of a conflict between the terms of this Agreement and any permit or franchise agreement entered into by Local Government and FPL, the terms of this Agreement shall control.

14. **Notice.** Any notice, instruction or other communication to be given to either party hereunder shall be in writing and shall be hand delivered, telecopied, sent by Federal Express or a comparable overnight service or by U. S. registered or certified mail, with return receipt requested and postage prepaid to each party at their respective addresses set forth below:

As to Local Government:

With copies to:

As to FPL:

IN WITNESS WHEREOF, Florida Power & Light Company and Local Government have executed this Agreement on the date first set forth above.

For **LOCAL GOVERNMENT:**

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

Approved as to Terms and Conditions: _____
(signature/title)

Approved as to Form and Legal Sufficiency: _____
(signature/title)

For **FLORIDA POWER & LIGHT COMPANY**

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)



NOTIFICATION OF FPL FACILITIES

Customer/Agency City of Stuart
 Developer/Contractor Name City of Stuart
 Location of Project: St Lucie - Colorado Ave & W Seminole St - SW Flagler Ave
 City: City of Stuart
 FPL Representative: Andrea Castelblanco
 Developer/Contractor Representative: Pinal Gandhi-Savdas

Date of Meeting/Contact: May 4th, 2023
 Project Number/Name: Stuart Ph 1 (Seminole) OH-UG Conversion
 Phone: 561-389-9976
 FPL Work Request #/Work Order #: 11531233

FPL calls your attention to the fact that there may be energized, high voltage electric lines, both overhead and underground, located in the area of this project. It is imperative that you visually survey the area and that you also take the necessary steps to identify all overhead and underground facilities prior to commencing construction to determine whether the construction of any proposed improvements will bring any person, tool, machinery, equipment or object closer to FPL's power lines than the OSHA-prescribed limits. If it will, you must either re-design your project to allow it to be built safely given the pre-existing power line location, or make arrangements with FPL to either deenergize and ground our facilities, or relocate them, possibly at your expense. **You must do this before allowing any construction near the power lines.** It is impossible for FPL to know or predict whether or not the contractors or subcontractors, and their employees, will operate or use cranes, digging apparatus or other mobile equipment, or handle materials or tools, in dangerous proximity to such power lines during the course of construction, and, if so, when and where. Therefore, if it becomes necessary for any contractor or subcontractor, or their employees, to operate or handle cranes, digging apparatus, draglines, mobile equipment, or any other equipment, tools or materials in such a manner that they might come closer to underground or overhead power lines than is permitted by local, state or federal regulations, you and any such contractor or subcontractor must notify FPL in writing of such planned operation prior to the commencement thereof and make all necessary arrangements with FPL in order to carry out the work in a safe manner. **Any work in the vicinity of the electric lines should be suspended until these arrangements are finalized and implemented.**

The National Electrical Safety Code ("NESC") prescribes minimum clearances that must be maintained. If you build your structure so that those clearances cannot be maintained, you may be required to compensate FPL for the relocation of our facilities to comply with those clearances. As such, you should contact FPL prior to commencing construction near pre-existing underground or overhead power lines to make sure that your proposed improvement does not impinge upon the NESC clearances.

It is your responsibility and the responsibility of your contractors and subcontractors on this project to diligently fulfill the following obligations:

1. Make absolutely certain that all persons responsible for operating or handling cranes, digging apparatus, draglines, mobile equipment or any equipment, tool, or material capable of contacting a power line, are in compliance with all applicable state and federal regulations, including but not limited to U.S. Department of Labor OSHA Regulations, while performing their work.
2. Make sure that all cranes, digging apparatus, draglines, mobile equipment, and all other equipment or materials capable of contacting a power line have attached to them any warning signs required by U.S. Department of Labor OSHA Regulations.
3. Post and maintain proper warning signs and advise all employees, new and old alike, of their obligation to keep themselves, their tools, materials and equipment away from power lines per the following OSHA minimum approach distances (refer to OSHA regulations for restrictions):

<u>*Power Line Voltages</u>	<u>**Personnel and Equipment</u> (29 CFR 1910.333 and 1926.600)	<u>Cranes and Derricks</u> (29 CFR 1926.1407, 1408)	<u>Travel under or near Power Lines (on construction sites, no load)</u> (29 CFR 1926.600 – Equipment) (1926.1411 – Cranes and Derricks)	
0 - 750 volts	10 Feet	10 Feet	4 Feet	4 Feet
751 - 50,000 volts	10 Feet	10 Feet	4 Feet	6 Feet
69,000 volts	11 Feet	15 Feet	10 Feet	10 Feet
115,000 volts	13 Feet	15 Feet	10 Feet	10 Feet
138,000 volts	13 Feet	15 Feet	10 Feet	10 Feet
230,000 volts	16 Feet	20 Feet	10 Feet	10 Feet
500,000 volts	25 Feet	25 Feet	16 Feet	16 Feet

***When uncertain of the voltage, maintain a distance of 20 feet for voltages up to 350,000 volts and 50 feet for voltages greater than 350,000 volts.**

****For personnel approaching insulated secondary conductors less than 750 volts, avoid contact (Maintain 10 Feet to bare energized conductors less than 750 volts). For qualified personnel and insulated aerial lift equipment meeting requirements of 29 CFR 1910.333, distances may be reduced to those shown in 29 CFR 1910.333 Table S-5.**

4. All excavators are required to contact the Sunshine State One Call of Florida, phone number 1-800-432-4770 or 811 a minimum of two working days (excluding weekends) in advance of commencement of excavation to ensure facilities are located accurately.
5. Conduct all locations and excavations in accordance with the Florida Statute 556 of the Underground Facilities Damage Prevention & Safety Act and all local city and county ordinances that may apply.
6. When an excavation is to take place within a tolerance zone, an excavator shall use increased caution to protect underground facilities. The protection requires hand digging, pot holing, soft digging, vacuum methods, or similar procedures to identify underground facilities.

A copy of this notification must be provided by you to each contractor and subcontractor on this project, to be shared with their supervision and employees prior to commencing work on this project.

Email
 Means by which this notification was provided to customer and/or contractor

pgandhi@ci.stuart.fl.us
 Address

 FPL Representative Signature

 Date

 Customer/Developer/Contractor Representative Signature

 Date



April 20th, 2023

Pinal Gandhi-Savdas
CRA Administrator/Development
City of Stuart
121 SW Flagler Ave.
Stuart, FL 34994

**Re: City of Stuart
Electric Facilities Conversion – Ballpark Estimate
City of Stuart, Phase 2
WR # 11543990**

Dear Mrs. Gandhi-Savdas:

FPL welcomes the opportunity to assist you in determining if underground service is right for your area. As per your request, we have completed the binding cost estimate for the project designated as the City of Stuart – Phase 1. The binding cost estimate amount, known as the Contribution In Aid of Construction (C.I.A.C.), required for converting the area to underground is \$145,191. The underground drawings for the project are being finalized and a full set will be sent to you once they are complete. In addition, the cost estimate includes a more than \$371,205 adjustment credit for both FPL's ASRC (Avoided Storm Restoration Cost) waiver and as required in the CIAC formula, tariff Section 12.1, credit for an equivalent overhead system designed at the current hardened (i.e. extreme wind) standard. Further the cost assumes the following:

- Customer completes all the work.
- All work will be performed during the daylight hours, Monday through Friday, 8 A.M. to 5 P.M.. Any after hours work, e.g. disconnect/reconnect service appointments or requiring construction at night, would be an additional expense for the Town.

This binding cost estimate is valid for 180 days and a response must be received within that timeframe. Should you agree to move forward with the project, please sign and return the enclosed documents. Once we receive the acceptance package (e.g. partially executed documents and C.I.A.C. payment), we will commence the construction process (i.e. initiate bid requests and material purchasing). Any deposits that you have already paid will be applied towards the C.I.A.C. and you must pay the remaining difference of \$141,222 before we begin construction. Failure to execute the applicable Agreement and pay the C.I.A.C.

specified in the Agreement within the 180-day time limit, or termination of the Agreement, shall result in the expiration of the binding cost estimate. However, if you choose to cancel your request or not respond in time, your engineering deposit will not be returned and the estimate will be withdrawn.

This estimate only includes the charges to be paid to FPL. There are additional costs which are the customer's responsibility and should also be considered. These potential costs include:

- Site restoration (sod, landscaping, pavement, sidewalks, etc).
- Rearrangement of customer electric service entrances (requires electrician) from overhead to underground. Also, additional customer expense if local inspecting authorities require customer wiring to be brought up to current codes.
- Removal and burial of other utilities (e.g. telecom, CATV, etc.).
- Any project scope changes that modify the enclosed drawings.
- Acquiring, describing, securing and recording of easements for underground facilities.

We look forward to working with you and your staff as this project progresses. If you have any questions, please contact me at (561-389-9976).

Sincerely,



Andrea Castleblanco
Project Manager
Overhead to Underground Conversions
FPL

Attachments

Overhead to Underground Conversion - Customer Cost Sheet

Project: City of Stuart Phase 2

Date Estimate Provided to Customer: 04/20/2023

Customer Performs All UG Work

1) \$	264,322	The estimated cost to install the requested underground facilities
2) \$	165,813	The estimated cost to remove the existing overhead facilities and the installation of required overhead facilities to serve the new underground system.
3) \$	86,260	The net book value of the existing overhead facilities
4) \$	(173,952)	The estimated cost that would be incurred to install new overhead facilities, in lieu of underground, to replace the existing overhead facilities (the "Hypothetical Overhead Facilities")
5) \$	-	The estimated salvage value of the existing overhead facilities to be removed
6) \$	(128,937)	The 30-year net present value of the estimated non-storm underground vs overhead operational costs differential
7) \$	(68,316)	The 30-year net present value of the estimated average Avoided Storm Restoration Costs ("ASRC")

Total CIAC \$ 145,191 Contribution-In-Aid-of Construction

Engineering Dep \$ 3,968 Less the Engineering Deposit previously collected for this project.

Net Due to FPL \$ 141,222

Cost Breakdowns for Customer Contributions

	Total	Labor/Vehicle	Material	Direct Engineering, Supervision, and Support
New UG Install (+)	\$ 264,322	\$ -	\$ 203,582	\$ 60,740
Credit for equivalent OH (-)	\$ (173,952)	\$ (56,385)	\$ (93,726)	\$ (23,841)
OH Removal Cost & Make Ready (+)	\$ 165,813	\$ 94,922	\$ 50,358	\$ 20,533
Total	\$ 256,183	\$ 38,537	\$ 160,214	\$ 57,432
Net Book Value (+)	\$ 86,260			
Operational Costs Differential	\$ (128,937)	0.63 miles		\$205,862 per mile
Avoided Storm Rest Costs	\$ (68,316)			\$109,074 per mile
Salvage Value (-)	\$ -			
Total CIAC	\$ 145,191			
Engineering Deposit (-)	\$ 3,968	Engineering deposit previously collected		
Net Due FPL	\$ 141,222			

Major Material Breakdown

	Quantity	Item
Install	12,762	Primary UG Cable (feet)
	0	UG Switch Cabinet (0 Vista Sw's)
	12	UG Transformer (each)
	1	Splice box for UG feeder (each)
Remove	4,820	OH Primary Conductor (feet)
	18	Poles (each)
	18	OH Transformer (each)
	0	Primary UG Cable (feet)

**APPLICANT-INSTALLED FACILITIES AGREEMENT FOR UNDERGROUND
CONVERSIONS (WR # 11543990)**

This Agreement, made and entered into this _____ day of _____, 20_____, by and between the CITY OF STUART (the “Applicant”), a Florida municipal corporation with an address of 121 SW Flagler Ave. Stuart, FL 34994 and FLORIDA POWER & LIGHT COMPANY (“FPL”), a Florida corporation organized under the laws of the State of Florida, with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

WITNESSETH:

WHEREAS, the Applicant has executed the appropriate underground facilities conversion agreement (“Conversion Agreement”) with FPL to convert certain overhead electric distribution facilities (collectively the “Existing Overhead Facilities”) to underground distribution facilities (collectively the “Underground Facilities”), as described in the aforementioned Conversion Agreement (hereinafter the “Conversion”);

WHEREAS, the Applicant desires to perform itself, or through its Contractors, certain Work as such term is described in Exhibit A associated with the Conversion;

WHEREAS, FPL is willing, subject to all the terms and conditions set forth below in this Agreement, to allow the Applicant to perform the Work based on Applicant’s assurance that such Work will be in accordance with FPL’s designs, instructions, standards and specifications, and such Work will not adversely impact FPL or its electric customers;

NOW, THEREFORE, in recognition of the foregoing premises, and in consideration of the covenants and promises set forth herein below, FPL and Applicant do hereby agree as follows:

1. **Compliance with Tariff.** Applicant shall comply with and abide by the requirements, terms, and conditions of this Agreement, the Conversion Agreement, and FPL’s electric tariff (the “Tariff”).
2. **Conditions for Work to be Performed.** Applicant shall, at its own cost and expense, perform or cause to be performed, all Work, as described in Exhibit A, in accordance with the terms and conditions of this Agreement and the standards and specifications shown in Exhibit B. The Applicant shall provide all survey and staking to ensure that all Underground Facilities are installed as shown in the Conversion Agreement and provide As-Built prints to FPL within two (2) weeks of installation, signed and certified by a Florida registered surveyor along with a FPL “Redline” document.
3. **Commencement of Work.** Applicant shall perform the Work, or any portion of the Work, only upon receipt of a notice to proceed containing the approved drawings, specifications and instructions from FPL (“Notice to Proceed”). After receipt of the Notice to Proceed, Applicant shall provide written notice of intent to commence work to FPL at least five (5) days prior to commencement of such Work. Applicant shall not perform any excavation

work without first notifying Sunshine State One Call for identification and marking of existing underground utilities and complying with the excavation requirements set forth in Florida Statute Chapter 556.

4. **Materials.** All Materials are to be supplied by FPL and shall be picked up by Applicant at the following address _____ at a mutually agreed upon time, typically with 5 business days minimum notice, but no more than 15 business days notice, unless mutually agreed upon. Alternatively, FPL will, at Applicant's expense, have the material delivered to a mutually agreed upon location. Applicant assumes liability for any materials lost, stolen or damaged once these materials are picked up by, or delivered to, the Applicant.
5. **Contractors.** Applicant may enter into a contract with a contractor for the performance of the Work, or any portion thereof, provided that the contractor has been approved by FPL in writing prior to execution of such contract. Applicant shall not make any substitution of any contractor for the performance of Work unless the substitution is approved by FPL in writing. The Applicant's contractor(s) shall perform ALL work as outlined within Exhibit A & Exhibit B. No contract or purchase order between Applicant and its contractor(s) shall bind or purport to bind FPL, but each contractor entering into a contract with Applicant with respect to the Work shall name FPL as an intended third-party beneficiary and include a provision permitting its assignment to FPL upon FPL's written request, following default by Applicant or termination or expiration of this Agreement. Applicant shall provide FPL with written certification from each of its contractors performing Work that all warranties, guarantees and obligations of such contractors are equivalent or better than those granted by such contractor to FPL for similar work and shall require that each such contractor name FPL as an intended third party beneficiary of such warranties, guarantees and obligations with the same rights of enforcement as Applicant. Applicant shall assign all representations, warranties, guaranties, and obligations of all contractors at the request and direction of FPL, and without recourse to Applicant, to FPL upon default by Applicant or termination or expiration of this Agreement; provided, however, that, notwithstanding such assignment, Applicant shall be entitled to enforce each such representation, warranty, guaranty, and obligation so long as Applicant has any liability under this Agreement. Applicant hereby assigns to FPL, effective as of the termination or expiration of this Agreement, all representations, warranties, guaranties and obligations of all Contractors.
6. **Right of Entry.** FPL reserves the right, together with its agents or designees to enter the Jobsite as it may elect for the purpose of inspecting the Work, or constructing or installing such collateral work as it may desire, or testing, boring or surveying, or any other purpose.
7. **Inspection and Correction of Deficiencies.**
 - 7.1. All Work shall be properly inspected and tested, if appropriate, by Applicant and shall at all times be subject to additional inspection by FPL and its designee(s).

- 7.2. Neither the failure to make such inspection, nor the failure to discover defective workmanship, materials, or equipment, nor approval of or payment to Applicant for such Work shall prejudice the rights of FPL thereafter to correct or reject the same.
- 7.3. Applicant shall correct any deficiencies found with the Work, including but not limited to discrepancies that are inconsistent with FPL's design, instructions, standards or specifications within two (2) business days. If Applicant does not adequately rectify the identified deficiencies in the required timeframe, FPL may, at its sole discretion, perform, or have performed by its contractor the required repairs and Applicant shall pay FPL for any costs incurred. These requirements apply whether the discovery of deficiencies occurs while Applicant is performing its Work or while FPL, or its contractor, is performing its portion of the work.
- 7.4. If any Work or part thereof is covered over contrary to the requirements of this Agreement or the written request of FPL, it must, if required by FPL, be uncovered for observation and inspection and covered again at Applicant's sole expense.
- 7.5. If any Work that FPL has not specifically requested to observe and inspect prior to being covered has been covered, FPL may request to see such Work or part thereof and it shall be uncovered by Applicant. If such Work or part thereof is found to be in accordance with this Agreement, the cost of uncovering and covering again shall be paid by FPL. If such Work or part thereof fails to meet the requirements of this Agreement, Applicant shall pay all costs of uncovering, correcting, and covering again.
- 7.6. Applicant shall pay FPL for all time spent reviewing and inspecting Applicant's Work.
- 7.7. No electric customers shall be connected to the Underground Facilities prior to all deficiencies being rectified.

8. Indemnity / Liability of Applicant.

- 8.1. Subject to the provisions and limitations of Florida law, Applicant shall protect, defend, indemnify and hold FPL free and unharmed from and against any liabilities whatsoever resulting from or in connection with this Agreement, the Conversion or in connection with the performance of the Work by the Applicant, its employees, agents, Contractors or Contractors' employees. The Applicant's indemnity obligations to FPL shall not apply to any claims or liabilities that are caused by the sole negligence of FPL.
- 8.2. Applicant shall assume full responsibility for all damages and all restoration arising in connection with the Work.

9. **Design Work.** FPL shall provide all design, instruction, standards and specifications necessary to perform the Conversion.
10. **Completion of Work and Ownership.** Applicant shall complete the Work by _____, 20_____ and notify FPL when said Work is complete. Upon FPL's final written approval of the completion of the Work ("Acceptance"), Applicant acknowledges that all rights, title and interest, free and clear of all liens, in and to the Work shall vest in FPL. If requested by FPL, Applicant shall provide FPL, in a form acceptable to FPL, an affidavit of Applicant certifying payment of all indebtedness to all Contractors and a written release of liens from Applicant and each Contractor.
11. **No Liability by FPL.** FPL assumes no liability due to any damage, misunderstanding of installation drawings or specifications, or any actions due to Applicant or its Contractor.
12. **Suspension for Cause:**
- 12.1. FPL may at its sole discretion, by Notice, temporarily suspend the Work, or any portion thereof, under this Agreement when the performance by Applicant or its contractor is unsatisfactory by FPL to obtain the results required by this Agreement.
- 12.2. The methods by which Applicant performs its Work are entirely the responsibility of Applicant. FPL's right to suspend Work is intended solely to verify that the Work being performed by Applicant and its Contractor conforms to the design, instruction, standards and specifications and shall not obligate FPL to review the efficiency, adequacy or safety of Applicant's or its Contractors methods or means of operation or construction.
- 12.3. Any additional costs incurred by Applicant resulting from such suspension shall be borne solely by Applicant.
- 12.4. If Applicant immediately corrects the unsatisfactory condition FPL shall authorize resumption of the Work. Applicant's failure to immediately effect correction of the unsatisfactory conditions shall be cause for termination of this Agreement.
13. **Termination for Cause:**
- 13.1. FPL may, upon Notice to Applicant, and without prejudice to any remedy available to FPL under law, in equity or under this Agreement, terminate the whole or any part of this Agreement for cause and take possession of the Work without termination charge, penalty or obligation in the event Applicant fails to perform a material obligation under this Agreement and fails to cure such material obligation default within a reasonable period of time, but in no event more than ten (10) business days, after Notice from FPL specifying the nature of such default (any such termination referred to as a "Termination for Cause").

- 13.2. In the event of Termination for Cause by FPL, Applicant shall:
- a. Unless instructed otherwise in the Notice, immediately stop all Work hereunder;
 - b. Issue no further contracts except with the prior written consent of FPL;
 - c. Assign to FPL, to the extent requested by FPL, all rights of Applicant under contracts outstanding;
 - d. Terminate, to the extent requested by FPL, outstanding contracts;
 - e. Fully cooperate and refrain from hindering or interfering in any manner with any other persons or parties currently or prospectively performing the Work; and
 - f. Take any other action toward termination, or toward preservation of the Work, that FPL may direct.
- 13.3. Upon a Termination for Cause, all obligations of FPL hereunder shall terminate effective immediately. Upon such Termination for Cause, FPL may either rework or take over the terminated Work and proceed to provide such materials, supplies, equipment and labor of both FPL and FPL contractors, as may be reasonably necessary to complete said Work. FPL may have any partially fabricated portion of the Work removed from Applicant's or contractor's facilities upon Notice to Applicant. Applicant shall be liable for any increase of FPL's costs, including rework costs, incurred by FPL as a result of FPL's termination of the contract for cause.
- 13.4. In the event of Termination for Cause, FPL shall have no liability to Applicant for costs incurred by Applicant as a result of such termination.
14. **Termination Prior to Construction.** Applicant may terminate this Agreement at any time prior to the start of construction. If Applicant elects to still complete the Conversion, then the Contribution-In-Aid-of-Construction (CIAC) amount provided in the Conversion Agreement shall be revised accordingly. The revised Conversion Agreement must be executed and any additional CIAC due received by FPL prior to the start of construction.
15. **Assignment.** This Agreement is not assignable.
16. **Applicant's Payments to FPL.** Any monies that are owed by Applicant to FPL under this Agreement shall be paid to FPL within thirty (30) days of FPL producing an invoice.
17. **Notice.** As used herein, the term "Notice" shall mean any formal written correspondence providing notice of action, purpose, intent or the like given under the provisions of this Agreement. Unless otherwise provided in this Agreement, Notice shall be delivered in person, by courier or by certified mail and shall be effective when received. General correspondence is not categorized as Notice.

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

For: _____

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

Approved as to Terms and Conditions: _____
(signature/title)

Approved as to Form and Legal Sufficiency: _____
(signature/title)

For FLORIDA POWER & LIGHT COMPANY

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

FLORIDA POWER & LIGHT COMPANY

UNDERGROUND FACILITIES CONVERSION AGREEMENT

This Agreement, is made and entered into this _____ day of _____, 2023, by and between The City of Stuart (“Applicant”), with an address of 121 SW Flagler Ave, Stuart, FL, 34994 and FLORIDA POWER & LIGHT COMPANY (“FPL”), a Florida corporation with an address of 700 Universe Boulevard, Juno Beach, FL 33408-0429.

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

Phase 2 - SW Osceola St & S Colorado Ave

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

1. **Avoided Storm Restoration Cost (“ASRC”) Eligibility Criteria.** The Applicant represents and warrants that it meets, and is capable and willing to enforce, the applicable eligibility criteria for the Conversion.
2. **Contribution-in-Aid-of-Construction (CIAC).** The Applicant shall pay FPL a CIAC as required by FPL’s Electric Tariff and Section 25-6.115 of the Florida Administrative Code.

i. CIAC (excluding ASRC)	\$ <u>342,442</u>
ii. ASRC	\$ <u>- 68,316</u>
iii. Operational Cost Differential	\$ <u>-128,937</u>
iv. CIAC Due	\$ <u>145,191</u>

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

3. **Applicant-Installed Facilities.** The Applicant may, upon entering into an applicant-installed facilities agreement satisfactory to FPL, construct and install all or a portion of the Underground Facilities. Such work must meet FPL’s construction standards and FPL will own and maintain the completed facilities. The Applicant agrees to rectify any deficiencies, found by FPL, prior to the connection of any customers to the Underground Facilities and the removal of the Existing Overhead Facilities.
4. **Compliance with Tariff.** The Applicant agrees to comply with and abide by the requirements, terms, and conditions of FPL’s Electric Tariff.

FLORIDA POWER & LIGHT COMPANY

5. **Timing of Conversion.** Upon compliance by the Applicant with the requirements, terms, and conditions of FPL's Electric Tariff, this Agreement and any other applicable agreements, FPL will proceed in a timely manner with the Conversion in accordance with the construction drawings and specifications set forth in Attachment A hereof.
6. **Relocation.** In the event that the Underground Facilities are part of, or are for the purposes of, relocation, then this Agreement shall be an addendum to the relocation agreement between FPL and the Applicant. In the event of any conflict between the relocation agreement and this Agreement or the Electric Tariff, this Agreement and the Electric Tariff shall control.
7. **Term.** This Agreement shall remain in effect for as long as FPL or any successor or assign owns or operates the Underground Facilities.
8. **ASRC Repayment.** If the Applicant does not satisfy the relevant eligibility criteria, the Applicant shall repay the ASRC within 30 days of written notice from FPL of such failure. Additionally, if at any point within 30 years of completion of the Underground Facilities installation, the Applicant elects to have electric service within the Conversion Area supplied by a provider other than FPL, the Applicant shall repay FPL a pro-rata share of the ASRC. The pro-rata share (which shall reflect partial years) shall be determined as follows:

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

Non-governmental-Applicants shall provide, at the time of execution of this Agreement, either a surety bond or irrevocable bank letter of credit (the "Security Instrument") in a form acceptable to FPL evidencing ability to repay the ASRC. This Security Instrument shall remain in effect until such time as all customers within the Conversion Area are converted. The Applicant may provide either an amended or replacement Security Instrument in a form acceptable to FPL at any time to reflect the pro-rata adjustments to the ASRC amount. If, upon notice of cancellation or prior to expiration of the Security Instrument, a replacement Security Instrument in a form acceptable to FPL is not provided by the Applicant to FPL, FPL will require the third party issuing the Security Instrument to pay the full balance due in accordance with this Agreement in cash.

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

FLORIDA POWER & LIGHT COMPANY

- 13. Applicability.** This subpart applies to requests for underground facilities addressing the conversion of existing overhead facilities. In order for the Company to take action pursuant to a request for conversion:
- the conversion area must be at least two contiguous city blocks or 1,000 feet in length;
 - all electric services to the real property on both sides of the existing overhead primarily lines must be part of the conversion;
 - all other existing overhead utility facilities (e.g. telephone, CATV, etc.) must also be converted to underground facilities.

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

CITY OF STUART

Signed _____

Name _____

Title _____

Signed _____

Name _____

Title _____

Approved as to Terms and Conditions (if required by
Applicant)

Signed _____

Name _____

Title _____

Approved as to Form and Legal Sufficiency (if required by Applicant)

Signed _____

Name _____

Title _____

FPL

Signed _____

Name _____

Title _____

**CITY/COUNTY RIGHT-OF-WAY
AGREEMENT FOR UNDERGROUND CONVERSIONS**

THIS AGREEMENT (the “**Agreement**”) is made and entered into this _____ day of _____, 20____ by and between City of Stuart (“**Local Government**”), a Florida municipal corporation or county with an address of 121 SW Flagler Ave. Stuart, FL 34994 and Florida Power & Light Company (“**FPL**”), a Florida corporation with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

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

SW Osceola St & S Colorado Ave

_____ (collectively, the “**Existing Overhead Facilities**”) to underground facilities, including transformers, switch cabinets and other appurtenant facilities some of which may be installed above ground (collectively, the “**Underground Facilities**”) and has further requested that certain of the Underground Facilities be placed in certain of its road rights-of-way (“**Local Government ROW**”) and/or certain road rights-of-way owned by or under the jurisdiction of other agencies (“**Other ROW**”). Local Government ROW and Other ROW may be referred to collectively as “**ROW**”; and

WHEREAS, the Local Government has agreed to pay FPL the cost of such Conversion as required by FPL’s electric tariff and Section 25-6.115 of the Florida Administrative Code and has or will enter into a separate Underground Facilities Conversion Agreement with FPL; and

WHEREAS, FPL is willing, subject to the terms and conditions set forth in this Agreement, FPL’s electric tariff and Section 25-6.115 of the Florida Administrative Code, to place certain of the Underground Facilities in the ROW.

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

1. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Agreement.

2. Conditions Precedent to Placement of Underground Facilities in ROW

- (a) Local Government covenants, represents and warrants that:
 - (i) Local Government has full legal right and authority to enter into this Agreement;
 - (ii) Local Government has full legal right and authority to take all actions and measures necessary to fulfill Local Government's obligations under this Agreement;
 - (iii) Local Government hereby authorizes the use of the ROW by FPL for the purposes stated herein.
- (b) All applicable permits for FPL to install, construct, or maintain Underground Facilities in ROW must be issued on a timely basis by the appropriate agency, subject to the timely filing for permits by FPL.
- (c) Local Government agrees to provide, at its expense, a legal description that is acceptable to FPL of the ROW to be occupied by the Underground Facilities at a time before FPL initiates the design of the Underground Facilities. Said legal description shall be made part of this Agreement and attached as Exhibit "A".
- (d) FPL agrees to identify and document all existing FPL underground facilities within the ROW that will not be included under this Agreement. Local Government shall reimburse FPL's reasonable costs and expenses to deliver said documentation. Said documentation shall be made part of this Agreement and attached as Exhibit "B".
- (e) FPL warrants that the design of the Underground Facilities to which Local Government has agreed are in compliance with all operational and safety guidelines, codes and standards. FPL and Local Government have mutually agreed upon the location of the facilities within the ROW as per the construction drawings. Said construction drawings shall be attached as Exhibit "C" to this agreement, are part of this agreement, and may be amended to reflect changes to location of facilities as required.

3. Relocation and Rearrangement of FPL Facilities. If the Local Government or other agency with control over the Local Government ROW or Other ROW, for any reason whatsoever, requires that FPL relocate or rearrange, in whole or in part, any Underground Facilities (as they are to exist as a result of this Conversion, or as they may later be modified, upgraded, or otherwise altered) from or within the Local Government ROW or Other ROW, the Local Government, notwithstanding any language to the contrary in any applicable permit or franchise agreement, and prior to any such relocation by FPL, shall provide FPL with a substitute location, satisfactory to FPL, obtain any easements that may be necessary, and shall pay FPL for the costs of any such relocation, adjustment or rearrangement, now or in the future. Local Government shall reimburse FPL for all costs to locate, expose, protect or support the Underground Facilities, whether underground or above ground, in the event of future construction or excavation in close proximity to the Underground Facilities, when such services are required by Local Government or other agency with control over the Local Government

ROW or Other ROW Local Government shall use its best efforts in any design and construction of its future road improvement projects to avoid or mitigate the necessity of relocating or adjusting the Underground Facilities in Local Government ROW and, to the extent reasonably practicable, in Other ROW.

Local Government shall only be responsible for relocation costs associated with replacement facilities conforming to FPL standards in effect at the time of relocation. Any costs associated with the replacement facilities to provide increased capacity, improved reliability, future use facilities, or other such enhancements over and above the FPL standards in effect at the time of the relocation shall not be the responsibility of Local Government.

Nothing herein shall preclude Local Government from obtaining reimbursement for any and all costs requiring FPL to relocate or rearrange any of its Underground Facilities from that entity which initiated the requirement for the relocation or rearrangement of the facilities, excluding only other agencies which own or have jurisdiction over the ROW.

FPL shall be responsible for any and all costs of removal or relocation when such removal or relocation is initiated by FPL. Additionally, FPL agrees that when any portion of a street is excavated by FPL in the location, relocation or repair of any of its facilities when said location, relocation or repair is initiated by FPL, the portion of the street so excavated shall, within a reasonable time and as early as practical after such excavation, be replaced by FPL at its expense in a condition as good as it was at the time of such excavation.

4. **Abandonment or Sale of Local Government ROW.** If the Local Government desires to subsequently abandon or discontinue use of the Local Government ROW, and ownership of the land is transferred to a private party, the Local Government, as a condition of and prior to any such sale, abandonment, or vacation, shall grant FPL an easement satisfactory to FPL for the Underground Facilities then existing within the ROW or require the transferee to so grant FPL an easement satisfactory to FPL at the time of transfer. If ownership of the Local Government ROW is transferred to another public entity, that public entity shall take the ROW subject to the terms and conditions of this Agreement.

5. **Term.** This Agreement shall remain in effect for as long as FPL or any successor or assign owns or operates the Underground Facilities placed in the ROW.

6. **Title and Ownership of Underground Facilities.** Title and ownership of Underground Facilities installed by FPL as a result of this Agreement shall, at all times, remain the property of FPL.

7. **Conversion Outside ROW.** In the event that the FPL Underground Facilities are not, for any reason other than the sole error of FPL or its contractors,

constructed within the ROW, Local Government shall grant or secure, at Local Government's sole cost and expense, new easements or ROW grants for the benefit of FPL for the placement of the Underground Facilities in these areas, and shall secure subordinations of any mortgages affecting these tracts to the interest of FPL. In the alternative, at the discretion of Local Government, Local Government shall reimburse FPL for all costs incurred to remove said facilities which were constructed outside the ROW and for reinstallation within the ROW. FPL shall be responsible at completion of construction for notifying Local Government in writing of FPL's approval and acceptance of the conversion as being constructed within the ROW. Upon acceptance there shall be no further responsibility on the Local Government for relocations referenced in this paragraph.

8. **Agreement Subject to FPL's Electric Tariff.** This Agreement is subject to FPL's electric tariff, including but not limited to the general rules and regulations for electric service and the rules of the Florida Public Service Commission.

9. **Venue; Waiver of Jury Trial.** This Agreement shall be enforceable in Martin County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Martin County, Florida. By entering into this Agreement, FPL and the Local Government expressly waive any rights either party may have to a trial by jury of any civil litigation related to or arising out of this Agreement. This Agreement shall be construed in accordance with the laws of the State of Florida.

10. **Attorney Fees.** In the event it becomes necessary for either party to institute or defend legal proceedings as a result of the failure of the other party to comply with the terms, covenants, or provisions of this Agreement, each party in such litigation shall bear its own cost and expenses incurred and extended in connection therewith, including, but not limited to attorneys' fees and court costs through all trial and appellate levels.

11. **Assignment.** The Local Government shall not assign this Agreement without the written consent of FPL.

12. **Recording.** This Agreement shall be adopted by the Local Government and maintained in the official records of Local Government for the duration of the term of this Agreement. This Agreement also shall be recorded in the Official Records of the County in which the Underground Facilities are located, in the place and in the manner in which deeds are typically recorded.

13. **Conflict between Terms of Permit or Franchise Agreement.** In the event of a conflict between the terms of this Agreement and any permit or franchise agreement entered into by Local Government and FPL, the terms of this Agreement shall control.

14. **Notice.** Any notice, instruction or other communication to be given to either party hereunder shall be in writing and shall be hand delivered, telecopied, sent by Federal Express or a comparable overnight service or by U. S. registered or certified mail, with return receipt requested and postage prepaid to each party at their respective addresses set forth below:

As to Local Government:

With copies to:

As to FPL:

IN WITNESS WHEREOF, Florida Power & Light Company and Local Government have executed this Agreement on the date first set forth above.

For **LOCAL GOVERNMENT:**

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)

Approved as to Terms and Conditions: _____
(signature/title)

Approved as to Form and Legal Sufficiency: _____
(signature/title)

For **FLORIDA POWER & LIGHT COMPANY**

By: _____
(signature)

Name: _____
(print or type)

Title: _____
(print or type)



NOTIFICATION OF FPL FACILITIES

Customer/Agency City of Stuart
 Developer/Contractor Name City of Stuart
 Location of Project: SW Osceola St & S Colorado Ave
 City: City of Stuart
 FPL Representative: Andrea Castelblanco
 Developer/Contractor Representative: Pinal Gandhi-Savdas

Date of Meeting/Contact: April 20th, 2023
 Project Number/Name: Stuart Ph 2 (SW Osceola)OH-UG Conversion

Phone: 561-389-9976
 FPL Work Request #/Work Order #: 11543990

FPL calls your attention to the fact that there may be energized, high voltage electric lines, both overhead and underground, located in the area of this project. It is imperative that you visually survey the area and that you also take the necessary steps to identify all overhead and underground facilities prior to commencing construction to determine whether the construction of any proposed improvements will bring any person, tool, machinery, equipment or object closer to FPL's power lines than the OSHA-prescribed limits. If it will, you must either re-design your project to allow it to be built safely given the pre-existing power line location, or make arrangements with FPL to either deenergize and ground our facilities, or relocate them, possibly at your expense. **You must do this before allowing any construction near the power lines.** It is impossible for FPL to know or predict whether or not the contractors or subcontractors, and their employees, will operate or use cranes, digging apparatus or other mobile equipment, or handle materials or tools, in dangerous proximity to such power lines during the course of construction, and, if so, when and where. Therefore, if it becomes necessary for any contractor or subcontractor, or their employees, to operate or handle cranes, digging apparatus, draglines, mobile equipment, or any other equipment, tools or materials in such a manner that they might come closer to underground or overhead power lines than is permitted by local, state or federal regulations, you and any such contractor or subcontractor must notify FPL in writing of such planned operation prior to the commencement thereof and make all necessary arrangements with FPL in order to carry out the work in a safe manner. **Any work in the vicinity of the electric lines should be suspended until these arrangements are finalized and implemented.**

The National Electrical Safety Code ("NESC") prescribes minimum clearances that must be maintained. If you build your structure so that those clearances cannot be maintained, you may be required to compensate FPL for the relocation of our facilities to comply with those clearances. As such, you should contact FPL prior to commencing construction near pre-existing underground or overhead power lines to make sure that your proposed improvement does not impinge upon the NESC clearances.

It is your responsibility and the responsibility of your contractors and subcontractors on this project to diligently fulfill the following obligations:

1. Make absolutely certain that all persons responsible for operating or handling cranes, digging apparatus, draglines, mobile equipment or any equipment, tool, or material capable of contacting a power line, are in compliance with all applicable state and federal regulations, including but not limited to U.S. Department of Labor OSHA Regulations, while performing their work.
2. Make sure that all cranes, digging apparatus, draglines, mobile equipment, and all other equipment or materials capable of contacting a power line have attached to them any warning signs required by U.S. Department of Labor OSHA Regulations.
3. Post and maintain proper warning signs and advise all employees, new and old alike, of their obligation to keep themselves, their tools, materials and equipment away from power lines per the following OSHA minimum approach distances (refer to OSHA regulations for restrictions):

<u>*Power Line Voltages</u>	<u>**Personnel and Equipment</u> (29 CFR 1910.333 and 1926.600)	<u>Cranes and Derricks</u> (29 CFR 1926.1407, 1408)	<u>Travel under or near Power Lines (on construction sites, no load)</u> (29 CFR 1926.600 – Equipment) (1926.1411 – Cranes and Derricks)	
0 - 750 volts	10 Feet	10 Feet	4 Feet	4 Feet
751 - 50,000 volts	10 Feet	10 Feet	4 Feet	6 Feet
69,000 volts	11 Feet	15 Feet	10 Feet	10 Feet
115,000 volts	13 Feet	15 Feet	10 Feet	10 Feet
138,000 volts	13 Feet	15 Feet	10 Feet	10 Feet
230,000 volts	16 Feet	20 Feet	10 Feet	10 Feet
500,000 volts	25 Feet	25 Feet	16 Feet	16 Feet

***When uncertain of the voltage, maintain a distance of 20 feet for voltages up to 350,000 volts and 50 feet for voltages greater than 350,000 volts.**

****For personnel approaching insulated secondary conductors less than 750 volts, avoid contact (Maintain 10 Feet to bare energized conductors less than 750 volts). For qualified personnel and insulated aerial lift equipment meeting requirements of 29 CFR 1910.333, distances may be reduced to those shown in 29 CFR 1910.333 Table S-5.**

4. All excavators are required to contact the Sunshine State One Call of Florida, phone number 1-800-432-4770 or 811 a minimum of two working days (excluding weekends) in advance of commencement of excavation to ensure facilities are located accurately.
5. Conduct all locations and excavations in accordance with the Florida Statute 556 of the Underground Facilities Damage Prevention & Safety Act and all local city and county ordinances that may apply.
6. When an excavation is to take place within a tolerance zone, an excavator shall use increased caution to protect underground facilities. The protection requires hand digging, pot holing, soft digging, vacuum methods, or similar procedures to identify underground facilities.

A copy of this notification must be provided by you to each contractor and subcontractor on this project, to be shared with their supervision and employees prior to commencing work on this project.

Email
 Means by which this notification was provided to customer and/or contractor

pgandhi@ci.stuart.fl.us
 Address

 FPL Representative Signature

 Date

 Customer/Developer/Contractor Representative Signature

 Date

Date: 06/02/22

**City of Stuart
Seminole Street
Engineer's Opinion of Probable Construction Cost**

Seminole Street				
ENGINEERING SERVICES				
Kimley-Horn Construction Observation (exclusive of Streetscape)	1	LS	\$ 82,000.00	\$ 82,000.00
FRANCHISE UTILITY WORK				
Florida Power and Light BCE Estimate	1	LS	\$ 33,866.00	\$ 33,866.00
Comcast Cost Estimate	1	LS	\$ 77,645.63	\$ 77,645.63
ATT Cost Estimate	1	LS	\$ 95,000.00	\$ 95,000.00
Description	Estimated Quantity	Unit	Unit Price	Extended Total
GENERAL CONDITIONS		LS		
Mobilization	1	LS	\$ 34,000.00	\$ 34,000.00
P&P Bonds	1	LS	\$ 14,000.00	\$ 14,000.00
Site Cleaning, Debris Removal, Tree Protection, Specialty Signage	1	LS	\$ 10,000.00	\$ 10,000.00
Maintenance of Traffic	1	LS	\$ 27,000.00	\$ 27,000.00
UNDERGROUND UTILITIES				
FPL Primary 2" PVC 1PN1C (I) incl. wire pull	80	LF	\$ 36.00	\$ 2,880.00
FPL Primary 2" PVC 3PN3C (I) incl. wire pull	880	LF	\$ 33.00	\$ 29,040.00
FPL 6" PVC Feeder (I) incl. wire pull	770	LF	\$ 35.00	\$ 26,950.00
FPL 2" Service Conduit (I) incl. wire pull	120	LF	\$ 26.00	\$ 3,120.00
(1) FPL 2" Secondary Service Conduit (I) incl. wire pull	260	LF	\$ 27.00	\$ 7,020.00
(2) FPL 2" Secondary Service Conduit (I) incl. wire pull	130	LF	\$ 30.00	\$ 3,900.00
Customer Owned Services	1	LS	\$ 75,000.00	\$ 75,000.00
FPL Open delta Transformer Installation (I)	3	EA	\$ 3,125.00	\$ 9,375.00
FPL Single Phase Transformer Installation (I)	1	EA	\$ 2,500.00	\$ 2,500.00
30" FPL Handholes (I)	7	EA	\$ 1,200.00	\$ 8,400.00
Loop Primary into existing TX	2	EA	\$ 3,625.00	\$ 7,250.00
Intercept existing service/primary/feeder riser	6	EA	\$ 4,450.00	\$ 26,700.00
Removal of all risers up poles (Primary/Secondary/Service)	4	EA	\$ 2,500.00	\$ 10,000.00
ATT Main Conduit 1" PVC (F/I)	200	LF	\$ 25.00	\$ 5,000.00
ATT Main Conduit 2" PVC (F/I)	150	LF	\$ 35.00	\$ 5,250.00
ATT Main Conduit 4" PVC (F/I)	500	LF	\$ 38.00	\$ 19,000.00
(2) ATT Main Conduit 4" PVC (F/I)	60	LF	\$ 60.50	\$ 3,630.00
Comcast Main 2-3" PVC (F/I)	650	LF	\$ 48.00	\$ 31,200.00
Comcast Main 3-3" PVC (F/I)	100	LF	\$ 55.50	\$ 5,550.00
Comcast Main 4-3" PVC (F/I)	40	LF	\$ 82.00	\$ 3,280.00
Comcast 2" Service Conduit (F/I)	250	LF	\$ 32.00	\$ 8,000.00
ATT 30"x48" Service Handholes (F/I)	9	EA	\$ 3,850.00	\$ 34,650.00
Streetlight Replacement	3	EA	\$ 2,000.00	\$ 6,000.00
			Sub Total	\$ 420,000.00
			20% Contingency	\$ 42,000.00
			Construction Costs =	\$ 470,000.00
			Seminole Street Total	\$ 760,000.00

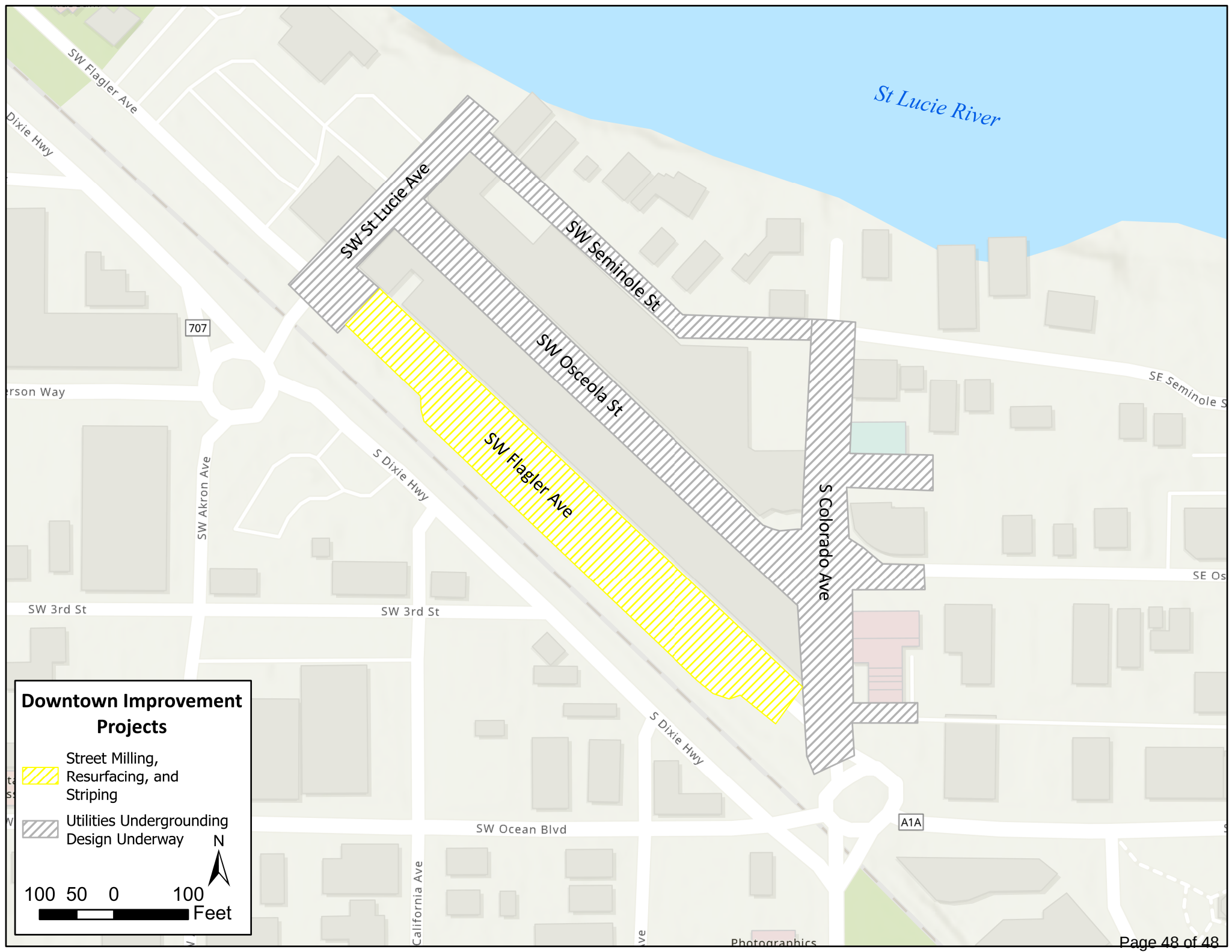
The Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Date: 05/24/23

City of Stuart
SW Osceola Street
Engineer's Opinion of Probable Construction Cost

Description	Estimated Quantity	Unit	Unit Price	Extended Total
ENGINEERING SERVICES				
Kimley-Horn Construction Observation (concurrent with Phase 1 and Streetscape)	1	LS	\$ 160,000.00	\$ 160,000.00
FRANCHISE UTILITY WORK SW Osceola Street				
Florida Power and Light BCE Estimate (Phase 2 - Dated 4/20/2023)	1	LS	\$ 145,191.00	\$ 145,191.00
Comcast Cost Estimate	1	LS	\$ 100,000.00	\$ 100,000.00
ATT Cost Estimate (Phase 2 - Dated October 22, 2022)	1	LS	\$ 76,826.91	\$ 76,826.91
GENERAL CONDITIONS				
Mobilization, Demobilization, Video	1	LS	\$ 147,000.00	\$ 147,000.00
P&P Bonds	1	LS	\$ 59,000.00	\$ 59,000.00
Site Cleaning, Debris Removal, Tree Protection, Specialty Signage	1	LS	\$ 20,000.00	\$ 20,000.00
Private Property Restoration	1	LS	\$ 54,000.00	\$ 54,000.00
Survey	1	LS	\$ 50,000.00	\$ 50,000.00
Maintenance of Traffic	1	LS	\$ 117,000.00	\$ 117,000.00
UNDERGROUND UTILITIES				
FPL Primary 2" PVC 1PN1C (l) incl. wire pull	81	LF	\$ 28.05	\$ 2,272.05
FPL Primary 2" PVC 2PN2C (l) incl. wire pull	339	LF	\$ 38.50	\$ 13,051.50
FPL Primary 2" PVC 3PN3C (l) incl. wire pull	1100	LF	\$ 46.75	\$ 51,425.00
FPL Primary 2" PVC 4PN4C (l) incl. wire pull	510	LF	\$ 52.80	\$ 26,928.00
FPL Primary 2" PVC 5PN5C (l) incl. wire pull	37	LF	\$ 62.15	\$ 2,299.55
FPL Primary 2" PVC 6PN6C (l) incl. wire pull	412	LF	\$ 69.30	\$ 28,551.60
FPL Primary 2" PVC 7PN7C (l) incl. wire pull	14	LF	\$ 89.65	\$ 1,255.10
FPL 6" PVC Feeder (l) incl. wire pull	1390	LF	\$ 50.60	\$ 70,334.00
FPL Customer Owned Services	1	LS	\$ 352,000.00	\$ 352,000.00
FPL 2" Secondary Service Conduit (l) incl. wire pull	495	LF	\$ 28.60	\$ 14,157.00
(2) FPL 2" Secondary Service Conduit (l) incl. wire pull	636	LF	\$ 39.60	\$ 25,185.60
(3) FPL 2" Secondary Service Conduit (l) incl. wire pull	96	LF	\$ 48.40	\$ 4,646.40
(4) FPL 2" Secondary Service Conduit (l) incl. wire pull	239	LF	\$ 58.30	\$ 13,933.70
FPL Three Phase Transformer Installation (l)	1	EA	\$ 4,235.00	\$ 4,235.00
FPL Open Delta Transformer Installation (l)	5	EA	\$ 3,630.00	\$ 18,150.00
FPL Single Phase Transformer Installation (l)	1	EA	\$ 2,057.00	\$ 2,057.00
FPL Primary Splice Box (l)	1	EA	\$ 2,057.00	\$ 2,057.00
FPL Feeder Splice Box (l)	1	EA	\$ 5,445.00	\$ 5,445.00
30" FPL Handholes (l)	17	EA	\$ 1,119.25	\$ 19,027.25
Removal of all risers up poles (Primary/Secondary/Service)	1	EA	\$ 1,639.00	\$ 1,639.00
(2) ATT Main Conduit 4" PVC (F/l)	612	LF	\$ 45.10	\$ 27,601.20
ATT Service Conduit 2" (F/l)	193	LF	\$ 28.60	\$ 5,519.80
(2) ATT Service Conduit 2" (F/l)	60	LF	\$ 34.65	\$ 2,079.00
(4) ATT Service Conduit 2" (F/l)	8	LF	\$ 50.60	\$ 404.80
(2) Comcast Main Conduit 2" PVC (F/l)	2030	LF	\$ 31.68	\$ 64,310.40
(4) Comcast Main Conduit 2" PVC (F/l)	65	LF	\$ 44.88	\$ 2,917.20
Comcast 2" Service Conduit (F/l)	494	LF	\$ 25.08	\$ 12,389.52
(2) Comcast 2" Service Conduit (F/l)	32	LF	\$ 28.49	\$ 911.68
(3) Comcast 2" Service Conduit (F/l)	3	LF	\$ 31.90	\$ 95.70
(4) Comcast 2" Service Conduit (F/l)	21	LF	\$ 35.31	\$ 741.51
ATT 30"x48" Vault (F/l)	6	EA	\$ 3,630.00	\$ 21,780.00
Intercept existing ATT service/equipment	4	EA	\$ 1,320.00	\$ 5,280.00
Intercept existing Comcast service/equipment	3	EA	\$ 1,320.00	\$ 3,960.00
Streetlight Fixture and Arm (F/l)	7	EA	\$ 15,000.00	\$ 105,000.00
Streetlight 2" Conduit (F/l)	301	LF	\$ 14.03	\$ 4,221.53
Streetlight Pull Box 13" x 24" (F/l)	4	EA	\$ 990.00	\$ 3,960.00
Milling/Resurfacing and Striping	13377	SY	\$ 22.00	\$ 294,294.00
Sawcut/ Remove / Replace Existing Pavers With Weed Barrier/57 Stone Base	700	SF	\$ 44.00	\$ 30,800.00
Asphalt Trench Repair	1900	LF	\$ 82.50	\$ 156,750.00
Concrete Sidewalk 4" Thick w/ Paint	375	SY	\$ 83.00	\$ 31,125.00
Modified B-Curb Construction	190	LF	\$ 44.00	\$ 8,360.00
F-Curb Construction	16	LF	\$ 44.00	\$ 704.00
Curb Removal	184	LF	\$ 27.50	\$ 5,060.00
Sidewalk Extension	130	LF	\$ 35.00	\$ 4,550.00
Asphalt Removal	375	SF	\$ 24.20	\$ 9,075.00
Allowance				
Meter Disconnect (F/l)	1	LS	\$ 100,000.00	\$ 100,000.00
Direct Construction Cost Sub Total				\$ 2,010,000.00
20% Contingency				\$ 201,000.00
Construction Costs =				\$ 2,220,000.00
SW Osceola Street Total				\$ 2,710,000.00

The Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.



Downtown Improvement Projects

Street Milling, Resurfacing, and Striping

Utilities Undergrounding Design Underway

100 50 0 100 Feet

N