

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2054.09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING AGREEMENTS BETWEEN THE TOWN AND FLORIDA POWER & LIGHT COMPANY IN CONNECTION WITH THE CONVERSION OF CERTAIN OVERHEAD ELECTRICAL DISTRIBUTION FACILITIES TO UNDERGROUND FACILITIES; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENTS; PROVIDING FOR IMPLEMENTATION; AUTHORIZING THE TOWN TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Town Council of the Town of Golden Beach, Florida (the "Town") desires that Florida Power & Light Company ("FPL") convert certain overhead electric distribution facilities, located along Ocean Boulevard from Massini Avenue south to Terracina Avenue (the "Conversion Area"), to underground facilities; and

**WHEREAS**, in connection with the conversion to underground facilities, the Town desires to enter into those agreements and/or documents as may be required by FPL, including the Underground Facilities Conversion Agreement – Governmental Adjustment Factor Waiver, (collectively, the "Agreement") substantially in the form attached to this Resolution as composite Exhibit "A."; and

**WHEREAS**, the Town Council believes that it is in the Town's best interest to convert existing overhead facilities in the Conversion Area to underground facilities and enter into the Agreements.

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That each of the above-stated recitals is hereby adopted and confirmed.

**Section 2. Agreement Approved; Execution of Agreement.** That the Agreement is hereby approved in substantially the form attached hereto as composite Exhibit "A," and the Mayor and Town Manager are authorized to execute the Agreement on behalf of the Town, once approved as to form and legal sufficiency by the Town Attorney.

**Section 3. Implementation.** The Mayor and Town Manager are authorized to take any and all action which is necessary to implement the Agreement and this Resolution.

**Section 4. Authorization for Fund Expenditure.** The Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement.

**Section 5. Effective Date.** That this Resolution shall become effective immediately upon approval of the Town Council.

Sponsored by Town Administration.


The Motion to adopt the foregoing Resolution was offered by Councilmember Bernstein, seconded by Vice Mayor Lusskin and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Judy Lusskin	<u>Aye</u>
Councilmember Ben Einstein	<u>Aye by Telephone</u>
Councilmember Judy Lusskin	<u>Aye</u>
Councilmember Amy Rojas	<u>Absent</u>

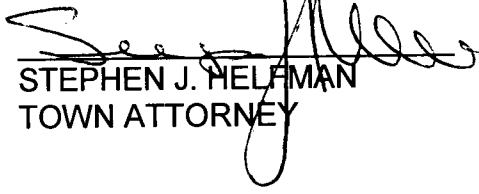
**PASSED AND ADOPTED** by the Town Council of the Town of Golden Beach, Florida, this 17<sup>th</sup> day of November, 2009.

ATTEST:

  
\_\_\_\_\_  
MAYOR GLENN SINGER

  
ELIZABETH SEWELL  
TOWN CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN  
TOWN ATTORNEY

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

This Agreement, which is available to customers that sign the Agreement on or before October 30, 2010, is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between TOWN OF GOLDEN BEACH (“Local Government Applicant”), a Florida municipal corporation or county with an address of One Golden Beach Drive, Golden Beach, Florida, 33160 and FLORIDA POWER & LIGHT COMPANY (“FPL”), a Florida corporation with an address of P.O. Box 14000, 700 Universe Boulevard, Juno Beach, FL 33408-0429.

WHEREAS, the Local Government Applicant has requested that FPL convert certain overhead electric distribution facilities located within the following boundaries (the “Conversion”): Along Ocean Blvd. from Massina Ave. south to Terracina Ave. (see attached drawings - Phase 3 , WR # 3099225) (collectively, the “Existing Overhead Facilities”) to underground facilities, including transformers, switch cabinets and other appurtenant facilities installed above ground as set forth in Attachment A hereof (collectively, the “Underground Facilities”).

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

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

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

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

(Continued on Sheet No. 9.726)

(Continued from Sheet No. 9.725)

- iv. When the aggregate size of the first 3 phases of a project would satisfy the minimum size criteria but, for mutually-agreed engineering or logistical reasons, those phases are non-contiguous; provided that (a) the next (4<sup>th</sup>) phase must be adjacent to one or more of the first 3 phases such that the combined contiguous area meets the minimum size criteria, and (b) this 4<sup>th</sup> phase begins within 1 year from completion of the 3<sup>rd</sup> phase.
2. **Contribution-in-Aid-of-Construction (CIAC).** The Local Government Applicant shall pay FPL a CIAC as required by FPL's Electric Tariff and Section 25-6.115 of the Florida Administrative Code with the Otherwise Applicable CIAC amount reduced by the GAF Waiver.
- i. Otherwise Applicable CIAC                   \$ 418,804 \_\_\_\_\_
  - ii. GAF Waiver                                   \$ 133,283 \_\_\_\_\_
  - iii. **CIAC Due**                                 \$ 285,521 \_\_\_\_\_ (Cust. performs work – C & C)

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

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

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

(Continued on Sheet No. 9.727)

(Continued from Sheet No. 9.726)

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

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

TOWN OF GOLDEN BEACH

FLORIDA POWER & LIGHT COMPANY

Signed \_\_\_\_\_

Signed \_\_\_\_\_

Name Elon Sinyu

Name \_\_\_\_\_

Title Mayor

Title \_\_\_\_\_

Signed \_\_\_\_\_

Name ALEXANDER DIAZ

Title TOWN MANAGER

Approved as to Terms and Conditions

Signed \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form and Legal Sufficiency

Signed \_\_\_\_\_

Name Stephen Helfman

Title Town Attorney

## Overhead to Underground Conversion - Customer Cost Sheet

Project: Golden Beach - Phase 3

Date Estimate Provided to Customer: November 9, 2009

Customer performs work - Conduit & concrete products installation

### Underground Cost

New UG Installation (+)	\$455,058	Cost for FPL to install new underground facilities
Equivalent OH Installation (-)	(\$320,958)	Cost to install an overhead system at current hardening standards

### Existing Overhead Cost

OH Removal Cost & Make ready (+)	\$170,076	Cost for FPL to remove existing overhead facilities
Existing OH Value (+)	\$98,290	Net Book Value of existing OH facilities to be removed
Operational Costs Differential (+)	\$16,338	30-year Net present value of the est. operational OH / UG Diff. cost
Salvage Value (-)	\$0	Credit for re-usable items
<b>Subtotal*</b>	<b>\$418,804</b>	Total customer contribution as specified in Tariff 12.2.3
<b>GAF</b>	<b>(\$133,283)</b>	
<b>CIAC</b>	<b>\$285,521</b>	
Engineering Deposit (-)	(\$7,850)	Engineering deposit previously collected
<b>Net Due FPL</b>	<b>\$277,671</b>	Total customer contribution owed

### Cost Breakdowns for Customer Contributions

	Total	Labor/Vehicle	Material	Direct Engineering, Supervision, and Support
New UG Facilities (+)	\$455,058	\$155,812	\$219,497	\$79,749
Credit for equivalent OH (-)	(\$320,958)	(\$127,162)	(\$146,988)	(\$46,808)
OH Removal Cost & Make ready (+)	\$170,076	\$122,715	\$14,181	\$33,180
<b>Total</b>	<b>\$304,176</b>	<b>\$151,365</b>	<b>\$86,690</b>	<b>\$66,121</b>
Net Book Value (+)	\$98,290			
Operational Costs Differential (+)	\$16,338	(1.4 miles)		
Salvage Value (-)	\$0			
<b>Subtotal*</b>	<b>\$418,804</b>			
<b>GAF</b>	<b>(\$133,283)</b>			
<b>CIAC</b>	<b>\$285,521</b>			
Engineering Deposit (-)	(\$7,850)			Engineering deposit previously collected
<b>Net Due FPL</b>	<b>\$277,671</b>			

### Major Material Breakdown

	Quantity	Item
<b>Install</b>	25,324	Primary UG Cable (feet)
	0	UG Switch Cabinet
	36	UG Transformer (each)
	0	Splice box for UG feeder (each)
<b>Remove</b>	21,865	OH Primary Conductor (feet)
	71	Poles (each)
	46	OH Transformer (each)
	396	Primary UG Cable (feet)

\*- Estimate includes \$52,000,000 for Maintenance of Traffic