

MEMORANDUM

Agenda Item No. 11(A)(3)


TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: July 6, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving a license agreement and right of entry agreement between Miami-Dade County and Florida Power & Light Company (FPL) for the development and use of property owned by FPL, located along Northwest 136th Court, as a recreational trail, with an estimated fiscal impact of \$700,000.00 in development costs funded from park impact fees and \$1,606,500.00 in operational costs and fees, exclusive of insurance costs, during the 27-year term of the license agreement; directing the County Mayor to obtain price quotations for the insurance required and to purchase such insurance if funding is legally available in the FY 2016-17 budget and, if sufficient funding is not available, to provide a written report to the Board with the cost of the insurance, the funding deficiency, and proposed expense reductions; approving a right-of-entry agreement between the County and FPL for the conducting of soil studies before development; and if sufficient funding is available to purchase the insurance required under the license agreement, directing the County Mayor to execute said license agreement and, if necessary, right-of-entry agreement for and on behalf of the County

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz.



Abigail Price-Williams
County Attorney



APW/smm



MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

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County Attorney

SUBJECT: Agenda Item No. 11(A)(3)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(3)
7-6-17

RESOLUTION NO. _____

RESOLUTION APPROVING A LICENSE AGREEMENT AND RIGHT OF ENTRY AGREEMENT BETWEEN MIAMI-DADE COUNTY AND FLORIDA POWER & LIGHT COMPANY (FPL) FOR THE DEVELOPMENT AND USE OF PROPERTY OWNED BY FPL, LOCATED ALONG NORTHWEST 136TH COURT, AS A RECREATIONAL TRAIL, WITH AN ESTIMATED FISCAL IMPACT OF \$700,000.00 IN DEVELOPMENT COSTS TO BE FUNDED FROM PARK IMPACT FEES FROM PARK BENEFIT DISTRICT NO. 1 AND \$1,606,500.00 IN OPERATIONAL COSTS AND FEES, EXCLUSIVE OF INSURANCE COSTS, DURING THE 27-YEAR TERM OF THE LICENSE AGREEMENT; DIRECTING THE COUNTY MAYOR OR DESIGNEE TO OBTAIN PRICE QUOTATIONS FOR THE INSURANCE REQUIRED UNDER THE LICENSE AGREEMENT AND TO PURCHASE SUCH INSURANCE IF SUFFICIENT FUNDING IS LEGALLY AVAILABLE IN THE FY 2016-17 BUDGET AND, IF SUFFICIENT FUNDING IS NOT AVAILABLE, TO PROVIDE A WRITTEN REPORT TO THE BOARD SETTING FORTH THE COST OF THE INSURANCE, THE FUNDING DEFICIENCY, AND PROPOSED EXPENSE REDUCTIONS TO ACCOMMODATE THE PURCHASE OF THE REQUIRED INSURANCE; APPROVING A RIGHT-OF-ENTRY AGREEMENT BETWEEN MIAMI-DADE COUNTY AND FPL FOR THE CONDUCTING OF SOIL STUDIES IN ADVANCE OF DEVELOPMENT; AND TO THE EXTENT SUFFICIENT FUNDING IS AVAILABLE TO PURCHASE THE INSURANCE REQUIRED UNDER THE LICENSE AGREEMENT, FURTHER DIRECTING THE COUNTY MAYOR OR DESIGNEE TO EXECUTE SAID LICENSE AGREEMENT AND, IF NECESSARY, RIGHT-OF-ENTRY AGREEMENT FOR AND ON BEHALF OF THE COUNTY AND TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME

WHEREAS, Florida Power & Light Company ("FPL") owns an approximately 1.5-mile long corridor along Northwest 136th Court, between NW 12th Street and SW 6th Street, consisting of approximately 26.46 acres (the "Property"), in an area of Miami-Dade County that would substantially benefit from the use of the Property as a recreational facility, specifically as a multi-use recreational trail for biking, walking, and running; and

WHEREAS, FPL has agreed to enter into a license agreement with Miami-Dade County for a term of 27 years, in substantially the form attached hereto as Exhibit A, for the County to develop and utilize the Property as a publicly accessible park, including continuous bike paths and walkways; and

WHEREAS, under the terms of the license agreement, the County is responsible for the payment of all development costs of the Property, estimated at approximately \$700,000.00, inclusive of any necessary surveys and soil studies, which amount will be funded from park impact fees collected within Park Benefit District No. 1; and

WHEREAS, in addition to paying for all development costs of the Property, the license agreement requires the County to pay all real property taxes attributable to the Property, estimated at approximately \$14,000.00 per year; an annual \$7,500.00 license fee; and all costs associated with maintaining the Property, estimated at \$38,000.00 per year; and

WHEREAS, the Parks, Recreation and Open Spaces Department has represented that sufficient legally available funding exists within the FY 2016-17 budget to pay for each of the aforementioned obligations (property taxes, license fee, and maintenance costs), all of which are estimated to have a fiscal impact of \$1,606,500.00 during the 27-year term of the license agreement; and

WHEREAS, as part of the maintenance/operation costs for the Property, FPL will require the County to purchase insurance, as specified in section 13 of the license agreement, in order to provide coverage for losses and liabilities that may arise during the term of the license agreement, but the cost of said insurance has not yet been determined, and this Board desires to direct the County Mayor or designee to ascertain the cost of such insurance and, if there are sufficient funds for the purchase of that insurance in the FY 2016-17 budget, to purchase said insurance upon the commencement of construction activities, as required under the license agreement; and

WHEREAS, the Parks, Recreation and Open Spaces Department has indicated that a park of the type contemplated by the license agreement would benefit the community and provide a recreational facility in an area that has a need for a public park and that it has sufficient funding in its budget for the payment of all costs associated with the development, use, and maintenance of the proposed park; and

WHEREAS, in order to protect the County's investment in the development of the Property, the County and FPL have agreed, through the license agreement, that (1) if FPL terminates the agreement for a reason other than a County default, then FPL shall be required to reimburse the County its development costs, up to \$2.5 million and (2) if FPL needs the Property as a result of an emergency (e.g., as a staging area for response to a natural disaster) or safety investigation then the term of the license agreement shall be tolled, effectively extending the agreement such that the County has 27 years of use of the Property; and

WHEREAS, in connection with the development of the proposed park, FPL and the County desire to enter into an agreement, in substantially the form attached hereto as Exhibit B, to allow the County to enter onto the Property to conduct soil studies to determine whether the land is suitable for the development of the proposed park,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The foregoing recitals are approved and adopted by the Board.

Section 2. This Board approves, in substantially the form attached hereto as Exhibit A, the license agreement between the County and FPL for the development and use of the Property as a recreational trail, with an estimated fiscal impact of \$700,000.00 in development costs, to be

funded from park impact fees collected within Park Benefit District No.1, and \$1,606,500.00 in operational costs and fees, exclusive of insurance costs, during the 27-year term of the license agreement.

Section 3. The Board directs the County Mayor or designee to obtain price quotations for the insurance required under the license agreement and, if sufficient legally available funds for the purchase of that insurance exist in the FY 2016-17 budget, to purchase said insurance upon the commencement of construction and to maintain said insurance during the term of the agreement. If sufficient funds are not available in the FY 2016-17 budget to accommodate the purchase of the insurance required under the license agreement, then the County Mayor or designee is directed to provide a written report to this Board setting forth (1) the price of the required insurance, (2) the budgetary shortfall, and (3) proposed reductions in expenses in an amount necessary to fund the purchase of the insurance required by the license agreement. If sufficient funds are not available, the County Mayor or designee is directed to provide the written report required under this Section within 60 days of the effective date of this resolution and to place the completed report on an agenda of this Board pursuant to Ordinance No. 14-65.

Section 4. This Board approves, in substantially the form attached hereto as Exhibit B, the right-of-entry agreement between the County and FPL for the County to conduct any soil studies necessary of the Property to determine whether the Property is suitable for the development of the proposed park.

Section 5. Subject to the availability of funding for the insurance required under the license agreement, as set forth in Section 3 of this resolution, this Board directs the County Mayor or designee to execute the license agreement and, if necessary, the right-of-entry agreement for and on behalf of the County and to take all actions necessary to effectuate same.

The Prime Sponsor of the foregoing resolution is Commissioner Jose "Pepe" Diaz. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Esteban L. Bovo, Jr., Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of July, 2017. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MAG

Miguel A. Gonzalez

LICENSE AGREEMENT
(FPL License # _____)

THIS LICENSE AGREEMENT ("License") is made this 30 day of MAY, 2017 ("**Effective Date**") by and between Florida Power & Light Company, a Florida corporation ("**Licensor**"), whose mailing address is 700 Universe Blvd., CRE/JB, Juno Beach, Florida 33408-0420, and Miami-Dade County, a Political Subdivision of the State of Florida ("**Licensee**"), whose mailing address is 111 Northwest 1st Street, 29th Floor, Miami, Florida 33128.

WITNESSETH

WHEREAS, Licensor is the owner in fee simple of that certain real property located in Miami-Dade County, Florida, more particularly illustrated on Exhibit A attached hereto and incorporated herein by this reference ("**Licensed Premises**"); and

WHEREAS, the Licensee intends to spend approximately Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00) ("**Cost of Improvements**") to develop a linear park on the Licensed Premises; and

WHEREAS, Licensee desires to occupy and use the Licensed Premises as stated herein and Licensor desires to allow such occupancy and use of the Licensed Premises upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual benefits, covenants, agreements and promises contained in this License, the License Fee hereafter set forth and described, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows

TERMS, CONDITIONS, AND PROVISIONS

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein by this reference.
2. **Use.** Licensor hereby grants to Licensee and Licensee hereby accepts from Licensor, a non-exclusive license to occupy and use the Licensed Premises solely for a publicly accessible park including continuous bike paths and walkways, and minor landscaping (and all associated and necessary lighting for the bike paths and walkways) as more particularly shown and described on attached Exhibit A, but not for any other purpose whatsoever, upon the terms and conditions set forth in this License. Promptly after the Effective Date, Licensee shall cause to be prepared a detailed legal description and sketch of the Licensed Premises and deliver a copy of same to Licensor for Licensor's approval; and upon Licensor's approval, a copy of same shall be attached hereto to replace Exhibit A. Licensee shall obtain at its sole cost and expense, all applicable federal, state, and local permits required in connection with Licensee's allowed use of the Licensed Premises and provide copies of each such permit to Licensor. The use of the Licensed Premises by Licensee shall be solely for the purposes approved by Licensor in advance and shown on the plans and specifications to be submitted by Licensee to Licensor for Licensor's review and approval after the Effective Date. Licensee acknowledges and agrees that it shall not use the Licensed Premises or commence any construction thereon until such time as Licensor has approved Licensee's plans and specifications. Once the Licensor has approved said plans and specifications, a copy of same shall be attached hereto as Exhibit B.
3. **Term.** Unless sooner terminated or extended as provided in this License, this License is for a term of twenty-seven (27) years commencing on the the Effective Date and ending on the twenty-seventh (27th) anniversary of the Effective Date ("**Term**").
4. **License Fee.** Commencing on the earlier of (i) the first anniversary of the Effective Date or (ii) the date Licensee starts earthwork activities on the Licensed Premises, whichever occurs first, and on each anniversary of the Effective Date thereafter during the Term, Licensee shall pay Licensor the sum of Seven Thousand Five Hundred and No/100 Dollars (\$7,500.00) per year ("**License Fee**"), in lawful currency of the United States of America in the form of a regular bank check, cashier's check or money order. The License Fee shall be prorated for any partial year during the Term. As of the Effective Date, Licensee is exempt from paying sales taxes. If Licensee becomes not exempt from paying sales taxes, then all applicable sales taxes shall be added to the License Fee and paid by Licensee. The Licensee may opt to pay the License Fee in advance, without penalty, for all or any portion of the Term.

In addition to the License Fee, during the Term hereof, Licensee shall (i) be responsible for and shall pay before delinquency, all municipal, county or state taxes assessed during the Term of this License against any occupancy interest or personal property of any kind, owned by or placed in, upon or about the Licensed Premises by the Licensee, (ii) be responsible for and shall reimburse Licensor for all municipal, county or state real estate and ad valorem taxes and/or assessments assessed during the Term of this License against the Licensed Premises, and (iii) be responsible for and shall reimburse Licensor the incremental increase in real estate taxes, if any, on the adjacent real property of which the Licensed Premises forms a part, caused solely by Licensee's use and occupancy of the Licensed Premises for the purposes permitted under this License. Licensee shall reimburse on a pass-through basis and pay to Licensor an amount equal Licensor's total annual cost for all property taxes paid by Licensor for the Licensed Premises for each immediately preceding year to be paid along with with each the annual License Fee. The License Fee shall be separate from and in addition to Licensee's reimbursement to Licensor of Licensor's costs for property taxes.

5. Licensor's Rights. Licensee agrees to never claim any interest or estate of any kind or extent whatsoever to or in the Licensed Premises by virtue of this License or the occupancy or use hereunder. Licensee's use of the Licensed Premises shall always be subordinate to Licensor's rights to and in the Licensed Premises. Licensor hereby reserves the right to enter upon the Licensed Premises at any time and for any purposes and Licensee shall notify its employees, agents, contractors, subcontractors, licensees, and invitees accordingly. Licensor, its employees and contractors are not and shall not be responsible or liable for any injury, damage or loss to Licensee resulting from Licensor's use and/or Licensee's use of the Licensed Premises. Licensor may at its sole discretion, install and/or permit others to install facilities upon, over and/or under the surface of the Licensed Premises at any time and from time to time during the Term.

6. Conditions and Restrictions on Use.

(a) Licensee shall, at its sole cost and expense, comply with all laws, rules, and regulations of all governmental authorities having jurisdiction over the Licensed Premises or use of the Licensed Premises. Except as otherwise depicted on **Exhibit B** (to be attached after the Effective Date), Licensee shall not within the Licensed Premises, construct or erect any permanent or temporary building, structure, fixture, fence, shelter, attachment or improvement without the prior written consent of Licensor. All work to be performed by Licensee upon the Licensed Premises shall be in accordance with detailed plans and specifications to be prepared by Licensee and submitted to Licensor for Licensor's prior written approval thereof, which approval shall not be unreasonably withheld. Licensee shall not commence any work on the Licensed Premises unless and until such plans and specifications have been approved in writing by Licensor. Licensee shall pay directly on its own behalf for all costs and expenses associated with the construction and maintenance of all improvements and facilities that it constructs, operates and maintains upon the Licensed Premises. All fences, gates, metallic structures and objects, lighting systems, and irrigation systems installed by Licensee shall be electrically grounded according to Licensor's specifications. Licensee shall not cause or allow any waste of the Licensed Premises and shall not remove soil, import soil or alter the existing surface elevation of the Licensed Premises without first obtaining Licensor's prior written consent, which Licensor shall not unreasonably withhold. Licensor shall make electric service available to the Licensed Premises for Licensee, at Licensee's sole cost and expense, to hook-up into for electric utility service for the Licensed Premises. Licensee shall pay for all maintenance costs for the Licensed Premises and utility costs and other services furnished to or for Licensee upon the Licensed Premises. Licensee shall remove trash, rodents, insects and vermin from the Licensed Premises as necessary.

(b) Licensee shall not use the Licensed Premises in any manner which, interferes with Licensor's use of the Licensed Premises or might cause a hazardous condition to exist. Licensee acknowledges that electrical equipment and appurtenances including, but not limited to, utility poles, overhead and underground wires, cables, conduits, circuits, insulators, transformers, guy wires and guy wire anchors (collectively "**Licensor Facilities**"), are installed or may be installed over, upon and under the surface of the Licensed Premises by Licensor and/or by others and are conductors of high-voltage electricity. Licensee understands that contact with or disturbance of any of these Licensor Facilities may cause a condition hazardous to persons and/or property. Licensee shall exercise reasonable precautions to prevent injury or damage to persons and/or property that could result from contact with or disturbance of Licensor Facilities. Licensee shall notify its employees, agents, contractors, subcontractors, licensees and invitees of the existence of Licensor Facilities when working in the vicinity of Licensor Facilities.

(c) Licensee shall not install any improvements within seventy-five (75) feet of Licensor Facilities, unless Licensee first obtains prior written approval from Licensor. Licensee shall not cause or allow anything to exceed fourteen (14) feet in height above the surface of the Licensed Premises, nor allow any equipment capable of extending greater than fourteen (14) feet above the surface of the Licensed Premises to be brought upon the Licensed Premises, except that this provision shall not apply to equipment and items brought onto the Licensed Premises by Licensor or Licensor's employees, agents, and contractors. Licensee shall utilize effective dust control measures to prevent contamination of high-voltage circuit insulators. In each and every location where an electrical circuit exists above the ground surface of the Licensed Premises, Licensee shall not allow to be planted or rooted in the ground within less than fifty (50) lateral feet of such circuit, any type of vegetation that is capable of growing to a height of fourteen (14) feet or more above the ground surface. Licensor shall have the right, but no form of obligation, to inspect the Licensed Premises to determine if Licensee is in compliance with all terms, conditions and provisions of this License.

(d) Licensee shall, at Licensee's sole cost and expense, install signage on and around the Licensed Premises at the point of access (to the extent allowed by applicable law) for the following purposes: (i) identifying Licensor's ownership of the Licensed Premises and prominently displaying Licensor's corporate name, trade name(s), trademark(s), and logo(s); (ii) describing the Licensed Premises and its purpose and operation to interested parties accessing the Licensed Premises (i.e. telling the relationship and story between Licensee and Licensor with respect to the Licensed Premises); (iii) instructing parties accessing the Licensed Premises to use caution so as not to damage the Licensed Premises; and (iv) provide all necessary safety and hazard warnings. The location, design and content of such signage shall be subject to the prior approval of Licensor, which approval shall not be unreasonably withheld, conditioned or delayed. Such signage shall be removed by Licensee upon the expiration or earlier termination of this License. The location, design and content of such signage shall be subject to the prior approval of Licensor, which approval shall not be unreasonably withheld, conditioned or delayed. Such signage shall be removed by Licensee upon the expiration or earlier termination of this License. Licensee shall have the right, at Licensee's sole cost and expense to co-brand on such signage, provided that Licensee first obtains Licensor's prior written consent, which Licensor may approve or withhold such consent in its absolute and sole discretion.

7. Environmental.

(a) Licensee agrees that no hazardous substance, as the term is defined in Section 101 (14) of the Comprehensive Environmental Response Compensation and Liability Act ("**CERCLA**") (42 USC Section 9601 [14]), petroleum products, liquids or flammables shall be placed upon, under, transported across, or stored upon the Licensed Premises, which restricts, impairs, interferes with, or hinders the use of the Licensed Premises by Licensor or the exercise by Licensor of any of its rights thereto.

(b) After the Effective Date, Licensee may perform a Phase I and/or Phase II environmental site assessment as per ASTM criteria to investigate the existing environmental condition of the Licensed Premises that is the subject of this License. The performance or the failure to perform an environmental site assessment does not relieve the Licensee from compliance with any other provision of this section of this License. Licensee shall maintain copies of any local, state or federal permits, licenses or other authorizations required for any and all of its activities on the Licensed Premises and present copies of such permits, licenses or other authorizations to Licensor and to any local, state and federal governmental agency official that requests to see the same.

(c) Licensee shall not create or contribute to any Environmental Contamination, Unauthorized or Unpermitted Wetland Impacts, Unpermitted Groundwater Wells, Illegal Use of Ground or Surface Waters or any Other Environmental Impacts (individually and collectively referred to as "**Environmental Conditions**") as a result of its use of the Licensed Premises.

(1) Environmental Contamination is defined as any spilling or discharge of any chemical constituent by the Licensee to the environment that results in any pollution, seepage or contamination of the groundwater, surface water, soil, or any other environmental media, on or from the Licensed Premises, above the federal, state or local regulatory levels; including: (i) for groundwater: Chapters 62-777, Table I, 62-520, or 62-550 of the Florida Administrative Code ("**FAC**"); (ii) for surface waters: Chapters 62-777, Table I, or 62-302 of the FAC; and (iii) for soils: Chapters 62-777, FAC, Table II; or above natural background levels.

(2) Wetland Impacts are defined as activities impacting areas defined as "wetland" under the following: (i) federal law (for example, Section 404 of the Clean Water Act); (ii) federal rules (for example, current approved Army Corps of Engineers ("ACOE") Delineation Manual); (iii) federal guidance; (iv) state law (for example, Section 373.019(22), Florida Statutes); (v) state rules (for example, Chapter 62-340, FAC); (vi) state guidance; (vii) case law as formulated that further explains wetland jurisdictional criteria; (viii) local law (for example, county ordinances; (ix) local guidance; or (x) local policy. Unauthorized or Unpermitted Wetland Impacts shall mean the failure to obtain all required federal, state and local permits to impact the wetland or undertaking any action or activity in violation of any such permits. Some examples of permits needed to impact the wetland are the county environmental resources management permits, the State of Florida Department of Environmental Protection or Water Management district permits, and the Federal ACOE permits.

(3) Unpermitted Groundwater Wells means the installation or the use of an existing groundwater well without obtaining the appropriate state and local permits for the well installation and/or well pumping for use of groundwater or surface water in the area.

(4) Illegal Use of Ground or Surface Waters means the withdrawal or use of either ground water or surface water without obtaining any required consumptive use or water use permits from the South Florida Water Management District ("SFWMD") or in violation of any consumptive use or water use permit issued by the SFWMD.

(5) Other Environmental Impacts, include, but are not limited to: failure to apply pesticides consistent with labeling instructions; failure to dispose of pesticide containers as per label instructions; failure to have licensed and trained personnel applying pesticides; failure to properly manage pesticide mix/load sites to avoid pesticide release to soils or surface waters in quantities or concentrations other than that specified on the label application instructions; or any violations of Federal Insecticide, Fungicide, and Rodenticide Act, or its state law equivalent; or any violations of the Florida Department of Agriculture and Consumer Services rules or Best Management Practices for the activities contemplated by this License.

(d) If the Licensee causes any Environmental Conditions to occur because of the performance of activities contemplated by this License, Licensee shall notify Licensors immediately upon discovery. Licensee acknowledges that the failure to deliver such notification may cause Licensors to file a damage claim against Licensee and confers to Licensors the right to terminate this License as set forth below in Section 9. Within seventy-two (72) hours of discovering such Environmental Conditions, Licensee shall, at its sole cost and expense, correct such condition or situation; provided that the Licensors retain the right to enter upon the Licensed Premises and correct any such condition or situation at any time. Any release notifications required to be submitted to federal, state or local regulatory agencies, because of the actions of Licensee pursuant to this License or any other notifications based on Environmental Conditions, shall be coordinated with Licensors.

(e) If Licensee, or its employees, contractors, subcontractors or anyone else working at the direction of Licensee causes Environmental Conditions on the Licensed Premises, or causes contamination that originates on the Licensed Premises, Licensee, on its own behalf and on behalf of its shareholders, officers, directors, employees, servants, agents, and affiliates, shall and hereby does forever hold harmless, indemnify, and release Licensors, and its shareholders, officers, directors, employees, servants, agents and affiliates (collectively, "**Licensors Entities**") of and from all claims, demands, costs, loss of services, compensation, actions or investigations on account of or in any way growing out of the Environmental Conditions, and from any and all known and unknown, foreseen and unforeseen damages, and the consequences thereof, resulting from the Environmental Conditions, including but not limited to, restoration of the Licensed Premises to the condition it existing prior to the occurrence of the Environmental Conditions. Notwithstanding the foregoing, and subject to the insurance obligations of Licensee set forth in Section 13 below, this paragraph shall not be construed or interpreted as a waiver of the Licensee's sovereign immunity and the limits established in Section 768.28, Florida Statutes.

8. Right to Cure. Licensors, at its sole discretion, may remove or cause to be removed by it or by its employees, agents, contractors, subcontractors, licensees, and invitees, any and all objects, materials, debris, or structures that could create a condition hazardous to persons or property or interfere with Licensors's use of the Licensed Premises or with Licensors Facilities, including trimming and removal of trees and other vegetation. All costs incurred and/or expended by Licensors pursuant to this section which are caused by Licensee, its employees,

agents, contractors, subcontractors, licensees, and invitees, are and shall be the sole obligation of Licensee, who shall reimburse Licensor immediately upon demand. If any of Licensee's activities or Licensee's use of the Licensed Premises results in an interruption of electric utility service, then Licensee shall reimburse Licensor for all costs related to each such interruption, including, but not limited to Licensor's lost revenue and costs to restore electric utility service.

9. Suspension and Termination. In the event of a Licensee default, Licensor may terminate this License upon sixty (60) days' written notice to Licensee during which time the Licensee may cure any defaults, in which event Licensor shall not have the right to terminate this License. Licensor may immediately suspend this License if Licensor reasonably determines that there is an actual or imminent threat of serious and permanent harm (including death) to person or property in connection with the Licensee's use of the Licensed Premises (collectively, "**Safety Concerns**"), which suspension shall continue until lifted by the Licensor or until the Licensee has put a reasonable mechanism in place approved by Licensor, which approval shall not be unreasonably withheld, to prevent future Safety Concerns occurrences. If Licensor elects to suspend this License as a result of any Safety Concerns resulting in a police investigation, the Licensed Premises will remain closed to Licensee and all third parties until such police investigation has concluded. During any period of suspension as a result of Safety Concerns, the Term of the License shall be tolled. In the event that Licensor elects to terminate this License early for convenience and not as a result of a Licensee default, Licensor agrees to reimburse Licensee for the prorated portion of the Cost of Improvements divided by the number days remaining in the Term from and after the date of termination, but in no event more than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) ("**Termination Fee**"). Licensor may immediately suspend this License at any time, and from time to time, if Licensor reasonably determines that the Licensed Premises is required for immediate operational or restoration purposes in the event of an emergency (i.e. hurricane or other natural catastrophe) ("**Emergency Situation**"), and in such event, any License Fee and/or other payments due and payable to Licensor by Licensee hereunder shall likewise be suspended for the period of time this License is suspended, and the Term of this License shall be tolled during the period of suspension as a result of the Emergency Situation. Notwithstanding the foregoing, it shall not be deemed a loss of site control of the Licensed Premises by Licensee hereunder in the event this License is suspended for a Safety Concern or Emergency Situation.

At any time after the Effective Date, either party may terminate this License for convenience upon ninety (90) days' written notice. If the Licensee terminates for convenience pursuant to this paragraph, it shall be required to pay the prorated share of any amount due under Section 4 of this License for the year of the termination up to the effective date of the termination. If Licensor terminates for convenience pursuant to this paragraph, it shall be required to pay the Termination Fee which shall be deemed liquidated and agreed upon damages, consideration for the execution of this License, and the parties shall be relieved of all further obligations under this License except those that are specifically stated herein to survive termination hereof. Licensor and Licensee agree that the actual damages to Licensee are impractical to ascertain as of the date of this License and the amount of the Termination Fee paid to Licensee at the time of the termination is a reasonable estimate thereof.

10. Surrender. Upon expiration or earlier termination of this License, Licensee shall vacate and leave the Licensed Premises in as good a condition as existed prior to the Effective Date. No later than ninety (90) calendar days following the date upon which this License expires or terminates, Licensee shall remove all personal property and improvements placed upon the Licensed Premises by Licensee and shall repair and restore and save Licensor harmless from all damage caused by such removal. If any or all such personal property and improvements placed upon the Licensed Premises by Licensee is not so removed by Licensee within the above prescribed ninety (90) day time period, then Licensor shall have the right, but not the obligation, to take possession of and appropriate unto itself, without any payment or offset thereof, any personal property and improvements placed upon the Licensed Premises by Licensee or any other entity acting on behalf of Licensee. Licensor shall have the right, but not the obligation, to effect removal of such personal property, improvements and items.

11. No Encumbrances. Licensee expressly covenants and agrees that the Licensed Premises shall not be subject to any encumbrance by any mortgage, lien, financial instrument or other agreement outside of or in addition to this License, nor shall the Licensed Premises be liable to satisfy any indebtedness that may result from Licensee's operation or activity.

12. Indemnify. Licensee shall exercise its privileges herein at its sole risk and agrees to indemnify and save harmless Licensor and Licensor Entities, from all liability, loss, cost, and expense, including attorneys' and paralegals'

fees and court costs at all trial and appellate levels, which may be sustained by Licensor Entities, to any person, natural or artificial, by reason of the death of or injury to any person or damage to any property, whether or not due to or caused by the negligence of Licensor Entities, arising from or in connection with the use of the Licensed Premises by Licensee, and its employees, agents, contractors, subcontractors, licensees, and invitees. Licensee agrees to defend, at its sole cost and expense, but at no cost and expense to Licensor Entities, any and all suits or actions instituted against Licensor Entities for the imposition of such liability, loss, cost, and expense arising from the use of the Licensed Premises by Licensee and its employees, agents, contractors, subcontractors, licensees, and invitees. Notwithstanding the foregoing, and subject to the insurance obligations of Licensee set forth in Section 13 below, this paragraph shall not be construed or interpreted as a waiver of the Licensee's sovereign immunity and the limits established in Section 768.28, Florida Statutes, if applicable, nor shall this paragraph be construed or interpreted to impose contractual liability on the Licensee beyond the limits specified in Section 768.28, Florida Statutes, if applicable.

13. Insurance.

(a) Immediately upon Licensee commencing any construction activities on the Licensed Premises, and thereafter at all times during the Term, Licensee shall have and maintain, at Licensee's sole cost and expense, at least the following insurance policies with insurer(s) rated "A-, VII" or higher by A.M. Best's Key Rating Guide (or a similar insurance ranking guide designated by FPL) and licensed to do business in the State of Florida:

(1) Commercial general liability insurance with a minimum limit of Three Million Dollars (\$3,000,000) covering use and activity contemplated by this License, as well as bodily injury or death of a person(s) and property damage, per occurrence, which may be met by a combination of primary and excess or umbrella insurance;

(2) Workers' compensation in the statutory amount(s) and with benefits required by the laws of the state in which the work is performed and the state in which employees are hired, if the state is other than that in which the work is performed;

(3) Employers' Liability Insurance, including Occupational Disease, with minimum limits of: (i) One Million Dollars (\$1,000,000) for bodily injury per accident; (ii) One Million Dollars (\$1,000,000) for bodily injury by disease per policy; and (iii) One Million Dollars (\$1,000,000) for bodily injury by disease per employee; and

(4) Business automobile liability insurance including coverage for owned, hired, and non-owned vehicles with a minimum limit of One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage per accident.

(b) Licensee shall require each of its agents, contractors, and subcontractors performing work in connection with this License to obtain and maintain insurance policies equivalent to that stated in Section 13(a) above, with similar limits, as determined adequate by the Licensee based on the applicable scope of work. Licensee shall obtain from its insurers a waiver of all rights of subrogation or recovery in favor of Licensor.

(c) Licensee shall require the policies set out in Section 13(a) above to: (1) name Licensee as the named insured; (2) but for workers compensation and employers liability insurance, name Licensor as an additional insured and name Licensor as the certificate holder; and (3) be primary and non-contributory to any coverage maintained by Licensor.

(d) Each year, Licensee shall provide Licensor with ACORDs or similar certificates of insurance evidencing: (1) the minimum insurance requirements set out in this Section 13; and (2) that each policy will not be canceled or non-renewed without providing Licensor thirty (30) days prior written notice of cancellation when the insurer cancels for any reason other than non-payment of premium. Upon Licensor's request, Licensee shall furnish Licensor relevant and non-confidential portions of such policies.

(e) Licensee releases and waives and will require its insurer to release and waive all rights of subrogation against Licensor for any damage to or loss to Licensee's property.

(f) To the extent Licensee fails to maintain the insurance policies required under this Section 13, Licenser has the right (but not the obligation) to obtain insurance on Licensee's behalf and to charge Licensee for Licenser's reasonable costs and expenses in obtaining such insurance.

For all times during the Term that Licensee is not required to obtain and maintain insurance (i.e. prior to commencing construction activities on the Licensed Premises), in consideration of Licenser allowing Licensee to enter onto the Licensed Premises for the purposes stated hereinabove and activities incidental thereto, in addition to any other indemnities afforded Licenser herein, Licensee hereby releases, discharges, defends, saves harmless and indemnifies Licenser Entities from liability or claim for injury or death to Licensee, or any other persons, and for loss of or damage to any property which occurs as a result of Licensee's, or Licensee's agents, servants, employees, contractors or subcontractors, activities on the Licensed Premises under this License.

14. No Transfer. Licensee shall not, without the prior written consent of Licenser, transfer, assign, lease, sublease, license, sublicense or in any other manner, convey this License to any entity or party not specifically named herein by Licenser as a party to this License. Licensee shall not hypothecate this License, nor enter into any license, concession agreement, mortgage, contract or other agreement which conflicts with or is contradictory to the terms and provisions of this License.

15. Holding Over. If Licensee continues to occupy and/or use the Licensed Premises, or any part thereof, after the expiration or earlier termination of this License, then no tenancy, ownership or other legal interest in the Licensed Premises to the benefit of Licensee shall result therefrom, but such holding over shall be an unlawful detainer and all parties occupying and/or using the Licensed Premises shall be subject to immediate eviction and removal, and Licensee shall upon demand pay to Licenser, as liquidated damages, a sum equal to double the rate of the License Fee as set forth above in Section 4 for and during any and all period(s) which Licensee and/or its employees, agents, contractors, subcontractors, licensees, and invitees fail to vacate the Licensed Premises after the date upon which this License becomes expired or terminated.

16. Waiver of Jury Trial. LICENSEE KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY AND ALL RIGHT(S) IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED UPON, OR ARISING FROM, UNDER, OR IN CONNECTION WITH THIS LICENSE, OR ANY DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENT (WHETHER ORAL OR WRITTEN) OR ACTION OF LICENSEE.

17. Attorneys' Fees. In the event of any litigation arising between the parties under this License, the prevailing party shall be entitled to reasonable attorneys' fees and paralegals' fees and court costs at all trial and appellate levels. This paragraph shall survive expiration or earlier termination of this License coextensively with other surviving provisions of this License.

18. Applicable Law and Venue. This License, including each and all of its terms, conditions and provisions, is governed by and interpreted according to the laws of the State of Florida. All legal matters arising out of, or in connection with this License are and shall be subject to a court of competent jurisdiction within the State of Florida. The parties agree that jurisdiction to adjudicate any case or controversy involving this License shall exclusively be in the state courts located in County wherein the Licensed Premises is located. If any term, condition or provision, or any part thereof, is found by a Florida court to be unlawful, void or unenforceable, then that term, condition, provision or part thereof shall be deemed severable and will not affect the validity and enforceability of any of the remaining terms, conditions and provisions of this License.

19. Time and Entire Agreement. Time is of the essence, and no extension of time shall be deemed granted unless made in writing and executed by both Licenser and Licensee. This instrument constitutes the entire agreement between the parties hereto and relative to the License, and any agreement or representation which is not expressly set forth herein and covered hereby is null and void. All amendments, modifications, changes, alterations and supplements to this License must be in writing and executed by both Licenser and Licensee in order to be deemed valid and enforceable. If Licenser fails or elects to not enforce Licensee's breach of any term, condition or provision of this License, then Licenser's failure or election to not enforce Licensee's breach shall not be deemed a waiver of Licenser's right to enforce one or more subsequent breaches of the same or any other term, condition or provision of this License.

20. Notices. All notices associated with and related to this License shall be deemed to have been served upon the date and time received by Licensor or Licensee at the addresses set forth in the Preamble by: government postal service or private delivery service. Either party may, at any time, designate in writing a substitute address for the address first written above, and thereafter notices shall be directed to such substituted address.

21. Recording. Neither this License, nor any memorandum or document related hereto may be recorded in any official public record.

22. Headings and Gender. All headings in this License are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this License. In construing this License, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders.

23. Construction. This License shall not be construed more strictly against one party than against the other, merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both parties have contributed substantially and materially in the negotiation and preparation of this License, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this License or any exhibits, schedules, addendums or amendments hereto.

24. Counterparts. This License may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

25. Authority. The individuals and entities executing below represent and warrant their corporate authority to execute this License, bind the respective entities hereto, and perform their obligations hereunder.

(Signatures appear on following page.)

IN WITNESS WHEREOF, Licensors and Licensee have caused this License to be signed and executed effective as of the Effective Date.

Witnesses for Licensors:

Signature: _____
Print Name: RICHIE BOSS
Signature: _____
Print Name: PILOUS KRISTEN

Licensors:

Florida Power & Light Company,
a Florida corporation

By: _____
Name: DEAN GILARD
Title: CORPORATE REAL ESTATE DIVISION

Witnesses for Licensee:

Signature: _____
Print Name: _____
Signature: _____
Print Name: _____

Licensee:

Miami-Dade County,
a political subdivision of the State of Florida

By: _____
Name: _____
Title: _____

By: _____
Assistant County Attorney
(As to Form and Legal Sufficiency)

Exhibit A

Legal Description and Sketch of the Licensed Premises

Note: A more complete legal description and sketch of the Licensed Premises to follow.

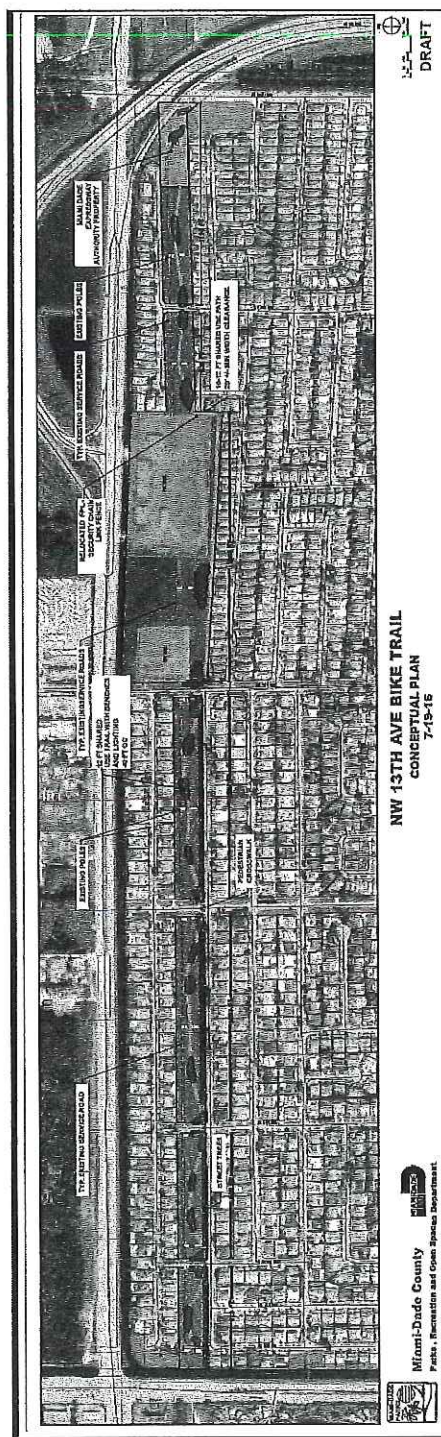


Exhibit B

Approved Plans and Specifications

RIGHT OF ENTRY AGREEMENT

THIS RIGHT OF ENTRY AGREEMENT ("Agreement") is made this 30 day of MAY, 2017, between Florida Power & Light Company, a Florida corporation ("FPL"), whose mailing address is 700 Universe Blvd., CRE/JB, Juno Beach, Florida 33408-0420, and Miami-Dade County, a Political Subdivision of the State of Florida (the "County"), whose mailing address is 111 Northwest 1st Street, 29th Floor, Miami, Florida 33128.

WITNESSETH

WHEREAS, FPL is the owner in fee simple of that certain real property located in Miami-Dade County, Florida, more particularly illustrated on Exhibit A attached hereto and incorporated herein by this reference ("Land"); and

WHEREAS, the County and its employees, agents, servants, contractors and subcontractors desire permission to enter upon the Land for a soil study to be completed with shovels and no heavy machinery to determine whether the Land or land in proximity to the Land is suitable for the construction and operation of a linear park and related facilities (collectively the "Survey").

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, FPL hereby grants to the County and its employees, agents, servants, contractors and subcontractors the right of entry over the Land for purposes of the Survey, subject to the following:

In consideration of FPL allowing the County to enter onto its Land for the purposes stated above and activities incidental thereto, the County HEREBY RELEASES, DISCHARGES, DEFENDS, SAVES HARMLESS AND INDEMNIFIES FPL and its shareholders, officers, directors, employees, servants, agents, and affiliates, shall and hereby does forever hold harmless, indemnify, and release Licensor, and its shareholders, officers, directors, employees, servants, agents and affiliates (collectively, "FPL Entities") from liability or claim for injury or death to the County, or any other persons, and for loss of or damage to any property which occurs as a result of the County's, or the County's agents, servants, employees, contractors or subcontractors, activities on the Land under this Agreement.

The County further agrees, at its expense, in the name and on behalf of FPL, that it shall adjust and settle all claims made against FPL, and shall, at FPL's discretion, appear and defend any suits or actions at law or in equity brought against FPL on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by the County under this Agreement for which FPL is liable or is alleged to be liable. FPL shall give notice to the County, in writing, of the receipt or pendency of such claims and thereupon the County shall proceed to adjust and handle to a conclusion such claims, and in the event of a suit being brought against FPL, FPL may forward summons and complaint or other process in connection therewith to the County, and the County, at FPL's discretion, shall defend, adjust, or settle such suits and protect, indemnify, and save harmless FPL from and against all damages, judgments, decrees, attorney's fees, costs, and expenses growing out of or resulting from or incident to any such claims of suits.

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

Witnesses for FPL:

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____


Rhonda Reed

Nicholas C. Kestenter

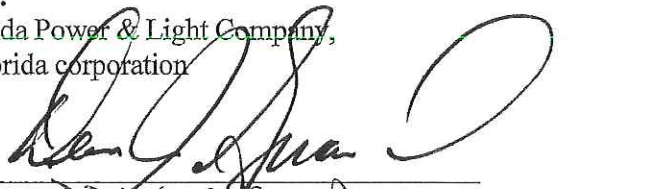
FPL:

Florida Power & Light Company,
a Florida corporation

By: _____

Name: _____

Title: _____


Dean Girard
CORPORATE REAL ESTATE DIRECTOR

Witnesses for the County:

Signature: _____

Print Name: _____

Signature: _____

Print Name: _____

County:

Miami-Dade County,
a political subdivision of the State of Florida

By: _____

Name: _____

Title: _____

By: _____

Assistant County Attorney
(As to Form and Legal Sufficiency)

