MOUNT DORA CITY COUNCIL
December 3, 2019, 5:30 PM
City Hall Board Room, 510 N. Baker Street

REGULAR AGENDA

CALL TO ORDER

MOMENT OF SILENCE & PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATIONS

1. Honoring Nonprofit Sponsors of the Children's Library Remodel

2. Introducing 1000 Books Before Kindergarten at W.T. Bland Public Library

PUBLIC COMMENTS

- This is the time for the public to come forward with any comments on any subject related to City business that is not listed on the Agenda, however the following rules apply when speaking on an item that is listed on the Agenda.
- Please complete a speaker card and provide it to the City Clerk prior to the meeting.
- Please clearly state your name and address for the record. Comments will be limited to 3 minutes or less. If you are part of a group, try to designate a speaker.
- Please address all comments to the Chair and only the Chair.
- Please do not make any disparaging or personal attacks on the Mayor, Council, Staff or Residents.
- Please speak to the City Council with Civility and Decorum.
- Answers to your questions may not be given at the end of your speech. However, your question along with an answer will be placed on the City’s website under Frequently Asked Questions within 10 business days.

APPROVAL OF AGENDA
CONSENT AGENDA


ACTION ITEMS

PUBLIC HEARINGS

RESOLUTIONS

1. Resolution No. 2019-169, Transfer of Heim Field

2. Resolution No. 2019-180, Solar II Project, Power Sales Contract between Florida Municipal Power Agency (FMPA and the City of Mount Dora)

3. Resolution No. 2019-140, Construction Manager at Risk (CMAR) Services-Fire Department: Approval of Pre-Construction Services Agreement


DISCUSSION ITEMS

1. Entertainment District Update

2. Downtown Parking Implementation Plan Update

ORDINANCES

1. First Reading of Ordinance No. 2019-20, Final PUD Cottages on 11th

CITY MANAGER

1. City Manager Discussion
   - Trails Update
   - Construction Projects Update
   - Campaigning & Soliciting at Events
BOARD APPOINTMENTS

CITY ATTORNEY'S REPORT

COMMUNICATIONS AND REPORTS

• Council Member Pamela Burtnett
• Council Member Crissy Stile
• Council Member John Tucker
• Council Member Marc Crail
• Council Member Harmon Massey
• Vice-Mayor Cal Rolfson
• Mayor Cathy Hoechst

FUTURE MEETING DATES

• December 17, 2019, 5:30 PM, Regular Session
• January 7, 2020, 5:30 PM, Regular Session
• January 17, 2019, Strategic Plan Work Session, Location TBD
• January 21, 2020, 5:30 PM, Regular Session
• February 4, 2020, 5:30 PM, Regular Session
• February 18, 2020, 5:30 PM, Regular Session

ADJOURNMENT

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE AT THIS MEETING WITH RESPECT TO ANY MATTER CONSIDERED AT ANY MEETING OR HEARING, SUCH PERSON MAY NEED A RECORD OF THESE PROCEEDINGS. FOR SUCH PURPOSE, A PERSON 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. VERBATIM RECORD WILL NOT BE PROVIDED BY THE CITY OF MOUNT DORA.

NOTICE: IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT GWEN JOHNS, CITY CLERK, AT LEAST 48 HOURS PRIOR TO THE PROCEEDINGS. TELEPHONE (352) 735-7126 FOR ASSISTANCE. IF HEARING IMPAIRED, TELEPHONE THE FLORIDA RELAY SERVICE NUMBERS, (800) 955-8771 (TDD) OR (800) 955-8770 (VOICE) FOR ASSISTANCE.
DATE: December 3, 2019

TO: Honorable Mayor and City Council Members

FROM: Robin R. Hayes, City Manager

SUBJECT: Honoring Nonprofit Sponsors of the Children's Library Remodel

Introduction:
The Children's Library at the W.T. Bland Public Library has been completely remodeled, thanks to the generosity of the Mount Dora Community Trust, the Friends of the Library and the Mount Dora Library Association.

Discussion:
The Children's Library at the W.T. Bland Public Library was initially constructed in 1995 and a Children's Program Room was added in 2013. Since that time, the Children's Library has become Lake County's second highest circulating juvenile collection and produces the most story times of any area library, with six per week (including Saturdays and Sundays). In order to accommodate that growth, in both attendance and circulation, an ambitious remodeling plan was designed in 2017.

This plan included spacious new shelving that utilized all wall space and maximized the on-the-floor shelving footprint, so our collection could grow. It provided comfortable seating for all ages that would encourage lingering and exploration. It included a new wall, finally separating the space from adults, and a visually stimulating Wonder Wall that delivers passive learning and provides 52 weeks of new programming. All these features added up to $168,000 in furniture, construction, decor and technology expenses.

Once the remodel plan was finalized, it was shared with City staff, community stakeholders, peer librarians and the Library's two supporting nonprofit organizations. Both the Friends of the Library and the Mount Dora Library Association gave the plan their wholehearted support. The Friends of the Library made an early commitment of $52,000 to the project, and later increased that to $62,000, due to successful fundraising.

The Mount Dora Library Association followed suit, and in 2018, gave its unanimous support for the project, with an undetermined ceiling which ultimately translated into a $100,000 gift. At the same time, the Mount Dora Community Trust came on board with the project, and donated $6,000, bringing the total project balance to $168,000.
Thanks to the generosity of each of these civic-minded organizations, Mount Dora families and children have a world-class children's library, with current fiction and nonfiction collections whose circulation continues to surpass the Library's peers.

**Budget Impact:**
The City accepted donations of shelving, carpeting, furniture, educational materials and toys, circulating materials, signs and construction costs relating to the remodel totaling $168,000. These costs were either incurred by City staff and reimbursed by the nonprofits or directly donated to the City by the nonprofits.

The general ledger revenue account for this project is 001-0000-366.20-01 LB1801 - Donations - Children's Library. The general ledger expense account for this project is 001-5710-546.00-00 LB1801 - Children's Library Remodel.

A separate resolution (Resolution No. 2019-182) accepting materials donations specifically into inventory is also being presented for City Council approval on December 3, 2019.

**Strategic Impact:**
Unlike the national public library trend, the W.T. Bland Public Library has sustained two years of significant growth. Both the collection and programming conducted in the Children's Library are the leading drivers for this growth. With the commitment from three local nonprofit organizations, the Mount Dora Library is well-positioned to accommodate and attract young families moving into the area.

**Recommendation** In recognition of their gifts to the City of Mount Dora, staff recommends City Council present plaques of appreciation to the Mount Dora Community Trust, the Friends of the Library and the Mount Dora Library Association.

**Attachment(s):**
1. Children's Library Before Remodel Photos

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Prepared by: Cathy Lunday, Library Manager
Reviewed by: Gwen Johns, City Clerk  Misty Sommer, Deputy City Clerk  Robin R. Hayes, City Manager
DATE: December 3, 2019

TO: Honorable Mayor and City Council Members

FROM: Robin R. Hayes, City Manager

SUBJECT: Introducing 1000 Books Before Kindergarten at W.T. Bland Public Library

Introduction:
This is an opportunity for City staff to introduce the new 1000 Books Before Kindergarten program at the W.T. Bland Public Library.

Discussion:
Recent research has shown that reading five books a day to young children exposes them to about 1.4 million more words by kindergarten than those children who did not have books read to them. If parents or caregivers read just one book a day, that still offers children the chance to hear about 290,000 more words by the time they reach kindergarten than if they never had story time.

Unfortunately, about half of all children in a national sample are seldom or are never read to by their parents or caregivers. These children enter kindergarten knowing far fewer words, placing them at an immediate disadvantage before learning has actually begun at school.

The objectives of the national program, 1000 Books Before Kindergarten, promote reading to newborns, infants and toddlers and encourage parent and child bonding through reading (see Attachment #1. Numerous studies estimate that as many as one in five children have difficulties learning to read. Reading has been associated as an early indicator of academic success. Public formal education does not typically start until ages 5-6. Before then, parents and caregivers are the first education providers during the 0-5 years, which are critical for development.

The 1000 Books Before Kindergarten (1BBK challenge is a simple and easy-to-implement and manage program. The W.T. Bland Public Library is committed to providing young children with the confidence and skills necessary to become strong readers. As a partner with the Library, the Friends of the Library have agreed to underwrite up to $2,000 in costs for the first year of the program (see Attachment #2. These costs include a custom-designed library card just for children, with the Mount Dora logo on it, and free new books given to children reaching milestones of 100, 500 and 1,000 books read. All reading logs and marketing materials are already professionally designed and available from 1BBK.
The Library will market this program to the several thousand families already using its services each week and will conduct outreach and social media marketing to reach new families.

**Budget Impact:**
Due to the Friends of the Library underwriting this program, there will be no direct costs to the City to offer 1000 Books Before Kindergarten.

The general ledger revenue account used for reimbursements is 001-0000-360.35-00 Juvenile Program Reimbursements. The general ledger expense account used for expenses is 001-5710-552.71-00 Juvenile Programs.

**Strategic Impact:**
As Mount Dora continues to grow and attract more young families, new Library programs are developed and tailored to this important demographic. Partnering with supportive nonprofits, who underwrite these programs, provides the City with highly effective programming at little or no additional expense.

**Recommendation** City Council help promote the 1000 Books Before Kindergarten program to families of young children.

**Attachment(s):**
1. 1000 Books Before Kindergarten Flyer
2. Friends of the Library 1BBK Commitment Letter

Prepared by: Cathy Lunday, Library Manager
Reviewed by: Gwen Johns, City Clerk  Approved - 11/25/2019
Misty Sommer, Deputy City Clerk  Approved - 11/25/2019
Robin R. Hayes, City Manager  Final Approval - 11/25/2019
1000 Books Before Kindergarten

The 1BBK Mission
The 1000 Books Foundation is operated exclusively for charitable, literary, and educational purposes.

The objectives of this organization are:

- to promote reading to newborns, infants, and toddlers
- to encourage parent and child bonding through reading

Numerous studies estimate that as many as one in five children have difficulties learning to read. Reading has been associated as an early indicator of academic success. Public formal education does not typically start until ages 5-6. Before then, parents and caregivers are the first education providers during the 0-5 early critical years.

The 1000 Books Before Kindergarten challenge is a simple (read a book, any book to your child, with the goal of reading 1,000 before kindergarten) and very manageable endeavor.

Our goal is to provide a simple, innovative yet fun approach to establishing strong early literacy skills. We help young children gain the confidence necessary to become strong readers.

1BBK Funders
Initial funding for The 1000 Books Foundation was provided through private charitable contributions from the Luh Family and Borghese Family of Las Vegas, Nevada.

ALL personnel currently associated with the 1000 Books Foundation are non-paid volunteers.

The 1000 Books Before Kindergarten program at W.T. Bland Public Library is sponsored by the Friends of the Library.

W.T. Bland Public Library
1995 N. Donnelly St.
Mount Dora, FL 32757
(352) 735-7180 (option 5)
library@cityofmountdora.com
Did you know …
Snuggling up with the kids for a bedtime story is worth a million in so many ways. But if you need more motivation, consider the results of a recent Ohio State University study that found reading five books a day to your children exposes them to about 1.4 million more words by kindergarten than those children who did not have books read to them.

If parents or caregivers read just one book a day, that still offers children the chance to hear about 290,000 more words by the time they reach kindergarten than if they never had story time.

Unfortunately, about half of all children in a national sample are seldom or never read to by their parents or caregivers. More specifically, about a quarter of children nationwide are read to only once or twice a week, while another quarter of children never hear a book read aloud by a parent or caregiver. These children enter kindergarten knowing far fewer words, placing them at an immediate disadvantage before learning has actually begun at school.

You can help your child or grandchildren avoid this “million word gap” by consistently reading to your young child from the very start. According to this recent study:

- A 5-year-old who is never read to will have heard 4,662 words,
- Versus 63,570 words for a child who hears books read once or twice a week.
- Increasing reading to between three and five times a week ups the number to 169,520 words, and
- Reading just one book daily exposes a child to 296,660 words.
- When five books are read daily, the number multiplies to an astronomical 1,483,300 words.

November 12, 2019

Friends Of The Library, Mount Dora, Inc.
P.O. Box 3
Mount Dora, FL 32756-0003

Dear Cathy,

The Friends of the Library Board unanimously voted to fully fund the 1000 Books Before Kindergarten program over the next three years.

The first year commitment is $2000.00 with additional funds available upon request.

Along with the Mount Dora Library Staff, we have a deep commitment to this program and we are looking forward to its success.

Wishing you great success with this program,

Arliss Turner, President
Friends of the Library, Mount Dora, Inc
DATE: December 3, 2019

TO: Honorable Mayor and City Council Members

FROM: Robin R. Hayes, City Manager


Introduction:
This is a request for City Council to approve Resolution No. 2019-182, formally accepting materials donated for the Children's Library Remodel from the Friends of the Library and the Mount Dora Library Association, and the Mount Dora Community Trust into the City's inventory into the City's inventory.

Discussion:
When the W.T. Bland Public Library was designed and constructed at its current location at 1995 N. Donnelly Street in Mount Dora in 1995, very little consideration was given to best practices for children’s library design, flow or utilization. Nearly twenty years later, at the time of the 2013 expansion, again no consideration was given to modernizing the space, other than the construction of large room dedicated to children’s programming.

A complete assessment of the Children’s Library was long overdue, and conducted in 2017. Understanding and caring about what patrons want, their customer service experiences and the current children’s library collection is necessary in order to deliver excellent customer service. While the circulation rate of Mount Dora’s children’s collection has steadily grown to be the second highest in Lake County, this is more due to excellent story time programming than offering a compelling space. The following considerations were made in assessing the Children’s Library:

• Current condition and state of the children’s library
• Overall look of the room and theme
• The customer service model for the children’s library
• Are we preparing for growth?
• Staffing issues
• Juvenile collection, especially non-fiction collection
• Best practices elsewhere in Florida
The resulting 28-page Children's Library Remodel Project study was completed in early 2017 and is ambitious in scope and expectations, touching all aspects of what the W.T. Bland Public Library’s youngest patrons can expect from their public library. Best practices in collection development have been considered, and the wisdom of peers has been consulted with the determination to avoid design mistakes. Completion of this project will yield a destination Children’s Library that will enhance the City of Mount Dora’s reputation as a progressive place to raise a family.

**Budget Impact:**
Funding, totaling $168,000 from the Friends of the Library ($62,000), the Mount Dora Library Association ($100,000) and the Mount Dora Community Trust ($6,000) was provided in support of the renovations to the Children’s Library.

A project budget, totaling $168,000 in both amounts paid directly to vendors (i.e. donated services and assets totaling $59,117) and contributions in support of City funded renovation costs ($106,355) was utilized in providing the planned improvements. A total of $165,472 of this amount has been expended to date as detailed below:

<table>
<thead>
<tr>
<th>Description</th>
<th>Friends of the Library</th>
<th>Mount Dora Library Assoc.</th>
<th>Mount Dora Comm. Trust</th>
<th>Totals</th>
</tr>
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<tbody>
<tr>
<td>Amounts Paid Directly to Vendors:</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>New carpeting in the Children’s Library and Children’s Program Room</td>
<td>$11,500</td>
<td></td>
<td>$11,500</td>
<td></td>
</tr>
<tr>
<td>AWE table</td>
<td></td>
<td>7,929</td>
<td></td>
<td>7,929</td>
</tr>
<tr>
<td>Modular furniture and rugs</td>
<td></td>
<td>418</td>
<td>6,000</td>
<td>6,418</td>
</tr>
<tr>
<td>Artist’s Mural</td>
<td></td>
<td>4,600</td>
<td></td>
<td>4,600</td>
</tr>
<tr>
<td>Slatwall panels</td>
<td>$5,195</td>
<td></td>
<td></td>
<td>5,195</td>
</tr>
<tr>
<td>Tables and chairs</td>
<td>$17,973</td>
<td></td>
<td></td>
<td>17,973</td>
</tr>
<tr>
<td>Illuminated globe and signage</td>
<td></td>
<td>5,502</td>
<td></td>
<td>5,502</td>
</tr>
<tr>
<td>Total: Amts Paid Directly to Vendors</td>
<td>$28,670</td>
<td>$24,447</td>
<td>$6,000</td>
<td>$59,117</td>
</tr>
</tbody>
</table>

**Plus:** Contributions in Support of City Funded Renovation Costs

<table>
<thead>
<tr>
<th>Description</th>
<th>Friends of the Library</th>
<th>Mount Dora Library Assoc.</th>
<th>Mount Dora Comm. Trust</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Funded Renovation Costs</td>
<td>$30,906</td>
<td>$75,449</td>
<td>$0</td>
<td>$106,355</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>$59,576</strong></td>
<td><strong>$99,896</strong></td>
<td><strong>$6,000</strong></td>
<td><strong>$165,472</strong></td>
</tr>
</tbody>
</table>

**Plus:** Remaining Amounts Available

<table>
<thead>
<tr>
<th>Description</th>
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<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remaining Amounts Available</td>
<td>$2,424</td>
<td>$104</td>
<td>$0</td>
<td>$2,528</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>$62,000</strong></td>
<td><strong>$100,000</strong></td>
<td><strong>$6,000</strong></td>
<td><strong>$168,000</strong></td>
</tr>
</tbody>
</table>

Of the $165,472 spent thus far, $59,117 represents payments made by the three nonprofits directly to vendors providing services to the City. By means of this agenda item, the City wishes to recognize and accept the contribution of these improvements.
The remaining $106,355 in project costs represents additional cash contributions to the City made by the Friends of the Library ($30,906) and the Mount Dora Library Association ($75,449). These amounts were deposited into revenue account number 001-0000-366.20-01-LB1801 (General Fund/Donations-Library/Children’s Library Renovation), the majority of which occurred during fiscal year 2018-19.

**Strategic Impact:**
Unlike the national public library trend, the W.T. Bland Public Library has sustained two years of significant growth. Both the collection and programming conducted in the Children's Library are the leading drivers for this growth. Thanks to these donations, the Mount Dora Library is well-positioned to accommodate and attract young families moving into the area.

**Recommendation** City Council approve Resolution No. 2019-182.
RESOLUTION NO. 2019-182

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO CERTAIN DONATIONS MADE TO THE W.T. BLAND PUBLIC LIBRARY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR RECOGNITION AND ACCEPTANCE OF DONATED ITEMS; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER’S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City operates the W.T. Bland Public Library for the benefit of Mount Dora citizens and area residents; and

WHEREAS, from time to time organizations donate needed materials and items to the W.T. Bland Public Library in order to ensure the continued successful operation of the same; and

WHEREAS, the City must recognize these items and materials and, where applicable, accept the donated items and materials into its inventory.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Recognition and Acceptance of Donated Materials and Items.

A. The following materials and items were donated by the Mount Dora Library Association as part of the 2019 Children’s Library Remodel:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Description</th>
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<tbody>
<tr>
<td>$11,500</td>
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<td>$ 4,600</td>
<td>Artist’s mural</td>
</tr>
<tr>
<td>$24,447</td>
<td>TOTAL</td>
</tr>
</tbody>
</table>
B. The following materials and items were donated by the Friends of the Library as part of the 2019 Children’s Library Remodel:

$ 5,195 Slatwall panels
$17,973 Tables and chairs
$ 5,502 Illuminated globe and signage

$28,670 TOTAL

C. The following materials were donated by the Mount Dora Community Trust as part of the 2019 Children’s Library Remodel:

$ 6,000 Modular furniture and rugs

D. To the extent necessary, the above listed items donated by the Mount Dora Library Association, the Friends of the Library and the Mount Dora Community Trust are hereby accepted into the inventory of the City of Mount Dora.

SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such actions and execute said lease agreements as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to acceptance of certain donations made to the W.T. Bland Public Library, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener’s Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

Signatures on following page

Resolution No. 2019-182
Page 2 of 2
PASSED AND ADOPTED this ___ day of December 2019.

__________________________________________
CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

____________________________
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora
Only. Approved as to form and legal sufficiency.

__________________________
Sherry G. Sutphen, City Attorney
DATE: December 3, 2019  

TO: Honorable Mayor and City Council Members  

FROM: Robin R. Hayes, City Manager  

SUBJECT: Resolution No. 2019-169, Transfer of Heim Field  

Introduction:  
This is a request for City Council to approve Resolution No. 2019-169, approving an agreement to authorize the transfer of the Heim Field property to the Lake County School Board, authorizing the Mayor to execute a transfer agreement and quit claim deed, authorizing the City Attorney to process the appropriate documents for such transfer, and authorizing the City Manager to delegate the powers of implementation as needed to effect the transfer of property.  

Discussion:  
Heim Field is a 3.94-acre City-owned park located on 400 South Simpson Street at the southeast corner of Simpson Street and Liberty Avenue (see Attachments 1-2). The land was donated to the City by Mr. L.R. Heim in 1925 with the dedicated use of being an athletic field. This parcel has been used by the Mount Dora High School for baseball practices and games since at least 2005. In 2007, the school began to enjoy exclusive use of the field in exchange for maintaining the field and property (see Attachment 3). This allowed the school to control usage of the site, the level of maintenance, and any capital improvements, ensuring that the facility continues to develop to meet the needs of students.  

The field is surrounding by neighborhood homes and does not lend itself toward expansion. The Parks and Recreation Master Plan has no recommendations for a different use of the land. As such, transferring the property, including the ball field, utility building(s), scoreboard, fencing, etc., to the Lake County School Board is a logical extension of current practice and in the best interest of the City, School Board, and parks stakeholders. The Parks and Recreation Advisory Board discussed this option at their March and July 2019 meetings in favor of the transfer. As an ongoing stipulation of the transfer, the School Board would agree to maintain the property as a baseball field in perpetuity, preserving Mr. Heim's intention for the property.  

Budget Impact:  
No budget impact. Currently the School Board is responsible for all field maintenance (see Attachment 3). Prior to that (circa 2007), the City spent approximately $36,000 per year on maintenance of the site (see Attachment 4).
Strategic Impact:
Transferring ownership of Heim Field to the School Board will ensure that the grounds and buildings are well maintained and meet the particular needs of students for generations to come. This transfer will also allow the City to focus on developing other properties that have been prioritized in the Parks and Recreation Master Plan due to their strategic impact, such as the baseball fields at Lincoln Park which serve a wider cross-section of the community.

Recommendation
City Council approve Resolution No. 2019-169.

Attachment(s):
1. Heim Field Map
2. Heim Field Property Details
3. Heim Field Lease Agreement
4. 2007 Operating Costs
5. Heim Field Deed

Prepared by: Caroline Zeglen, Administrative Assistant
Reviewed by: Jennifer Schwarz, Administrative Assistant, Approved - 10/10/2019
Jason Maurer, Parks and Recreation Manager, Approved - 10/10/2019
Troy Shonk, Leisure Services Administrator, Approved - 10/18/2019
Amy Jewell, Leisure Services Director, Approved - 10/18/2019
Tim Wilson, Approved - 10/21/2019
Vince Sandersfeld, Planning and Development Director, Approved - 10/21/2019
Sherry Sutphen, City Attorney, Approved - 11/22/2019
Amy Jewell, Leisure Services Director, Approved - 11/25/2019
Merry Lovern, Approved - 11/25/2019
Misty Sommer, Deputy City Clerk, Approved - 11/25/2019
Robin R. Hayes, City Manager, Final Approval - 11/25/2019
Subject Property
**PROPERTY RECORD CARD**

**General Information**

<table>
<thead>
<tr>
<th>Owner Name:</th>
<th>CITY OF MOUNT DORA</th>
<th>Alternate Key:</th>
<th>1729751</th>
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</thead>
<tbody>
<tr>
<td>Mailing Address:</td>
<td>PO BOX 176 MOUNT DORA, FL 32756-0176</td>
<td>Parcel Number:</td>
<td>32-19-27-2100-000-0000</td>
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<tr>
<td>Millage Group and City:</td>
<td>00MD (MOUNT DORA)</td>
<td>Total Certified Millage Rate:</td>
<td>20.2764</td>
</tr>
<tr>
<td>Trash/Recycling/Water/Info:</td>
<td><a href="#">My Public Services Map</a></td>
<td>School Information:</td>
<td><a href="#">School Locator &amp; Bus Stop Map</a> <a href="#">School Boundary Maps</a></td>
</tr>
<tr>
<td>Property Location:</td>
<td>400 SOUTH SIMPSON ST MOUNT DORA FL 32757</td>
<td>Property Name:</td>
<td>--</td>
</tr>
<tr>
<td>Property Description:</td>
<td>MOUNT DORA, PALMA CEIA BALL PARK AS PER MAP OF PALM CEIA PB</td>
<td></td>
<td><a href="#">Submit Property Name</a></td>
</tr>
</tbody>
</table>

*NOTE: This property description is a condensed/abbreviated version of the original description as recorded on deeds or other legal instruments in the public records of the Lake County Clerk of Court. It may not include the Public Land Survey System’s Section, Township, Range information or the county in which the property is located. It is intended to represent the land boundary only and does not include easements or other interests of record. This description should not be used for purposes of conveying property title. The Property Appraiser assumes no responsibility for the consequences of inappropriate uses or interpretations of the property description.*

**Land Data**

<table>
<thead>
<tr>
<th>Line</th>
<th>Land Use</th>
<th>Frontage</th>
<th>Depth</th>
<th>Notes</th>
<th>No. Units</th>
<th>Type</th>
<th>Class Value</th>
<th>Land Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>VACANT GOVT MUNICIPAL (8089)</td>
<td>0</td>
<td>0</td>
<td></td>
<td>1</td>
<td>LT</td>
<td>$0.00</td>
<td>$49,500.00</td>
</tr>
</tbody>
</table>

*Click here for Zoning Info* [Zoning Info](#)  [FEMA Flood Map](#)

**Miscellaneous Improvements**

<table>
<thead>
<tr>
<th>No.</th>
<th>Type</th>
<th>No. Units</th>
<th>Unit Type</th>
<th>Year</th>
<th>Depreciated Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>0001</td>
<td>UTILITY BUILDING - FINISHED (UBF)</td>
<td>360</td>
<td>SF</td>
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<td>UTILITY BUILDING - FINISHED (UBF)</td>
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<td>SF</td>
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<tr>
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<td>UTILITY BUILDING - FINISHED (UBF)</td>
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<td>SF</td>
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<tr>
<td>0004</td>
<td>UTILITY BUILDING - UNFINISHED (UBU)</td>
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<td>SF</td>
<td>2004</td>
<td>$186.00</td>
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<tr>
<td>0005</td>
<td>UTILITY BUILDING - UNFINISHED (UBU)</td>
<td>240</td>
<td>SF</td>
<td>2004</td>
<td>$494.00</td>
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<td>Property Details</td>
<td>Lake County Property Appraiser</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------</td>
<td>--------------------------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0006 FENCING (FEN)</td>
<td>10020 SF 2004 $4,810.00</td>
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<td>0007 PARKING LOT LIGHT FIXTURE (PFL)</td>
<td>6 UT 2004 $2,336.00</td>
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<td>0008 PARKING LOT LIGHT FIXTURE (PFL)</td>
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<td>0009 PAVING (PAV)</td>
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</table>

**Sales History**

NOTE: This section is not intended to be a complete chain of title. Additional official book/page numbers may be listed in the property description above and/or recorded and indexed with the Clerk of Court. Follow this link to search all documents by owner's name.

There is no sales history information to display.

Click here to search for mortgages, liens, and other legal documents.

**Values and Estimated Ad Valorem Taxes**

Values shown are 2019 CERTIFIED VALUES.
The Market Value listed below is not intended to represent the anticipated selling price of the property and should not be relied upon by any individual or entity as a determination of current market value.

<table>
<thead>
<tr>
<th>Tax Authority</th>
<th>Market Value</th>
<th>Assessed Value</th>
<th>Taxable Value</th>
<th>Millage</th>
<th>Estimated Taxes</th>
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</thead>
<tbody>
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<td>SCHOOL BOARD LOCAL</td>
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<tr>
<td>CITY OF MOUNT DORA</td>
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<td>$0</td>
<td>6.20000</td>
<td>$0.00</td>
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<td>LAKE COUNTY WATER AUTHORITY</td>
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<tr>
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<td>$77,205</td>
<td>$0</td>
<td>20.2764</td>
<td><strong>Total:</strong> $0.00</td>
</tr>
</tbody>
</table>

**Exemptions Information**

This property is benefitting from the following exemptions with a checkmark ✓

- Homestead Exemption (first exemption up to $25,000) [Learn More](#) [View the Law](#)
- Additional Homestead Exemption (up to an additional $25,000) [Learn More](#) [View the Law](#)
- Limited Income Senior Exemption (applied to county millage - up to $50,000) [Learn More](#) [View the Law](#)
- Limited Income Senior Exemption (applied to city millage - up to $25,000) [Learn More](#) [View the Law](#)
- Limited Income Senior 25 Year Residency (county millage only-exemption amount varies) [Learn More](#) [View the Law](#)
- Widow / Widower Exemption (up to $500) [Learn More](#) [View the Law](#)
- Blind Exemption (up to $500) [Learn More](#) [View the Law](#)
- Disability Exemption (up to $500) [Learn More](#) [View the Law](#)
Exemption Savings

The exemptions marked with a ✓ above are providing a tax dollar savings of:
$1,565.43

Assessment Reduction Information (3% cap, 10% cap, Agricultural, Portability, etc.)

This property is benefitting from the following assessment reductions with a checkmark ✓

Save Our Homes Assessment Limitation (3% assessed value cap)
Save Our Homes Assessment Transfer (Portability)
Non-Homestead Assessment Limitation (10% assessed value cap)
Conservation Classification Assessment Limitation
Agricultural Classification

Assessment Reduction Savings

The assessment reductions marked with a ✓ above are providing a tax dollar savings of: $0.00

NOTE: Information on this Property Record Card is compiled and used by the Lake County Property Appraiser for the sole purpose of ad valorem property tax assessment administration in accordance with the Florida Constitution, Statutes, and Administrative Code. The Lake County Property Appraiser makes no representations or warranties regarding the completeness and accuracy of the data herein, its use or interpretation, the fee or beneficial/ equitable title ownership or encumbrances of the property, and assumes no liability associated with its use or misuse. See the posted Site Notice.
DATE: October 16, 2007

TO: City Council

FROM: Michael Quinn, City Manager

RE: Heim Field Lease Agreement

Recommendation: Approve the Lease Agreement with the Lake County School Board transferring usage and maintenance responsibilities to the School District.

References/Support: Attached Lease Agreement

Background/Information: Heim Field is a 4 acre park site that is a baseball field with the typical amenities of a scoreboard, field lights, concession/restroom building, etc. The land was donated to the City by Mr. L.R. Heim in 1925 with the dedicated use of being a public athletic field that was retained under City ownership. For many years the usage of this park has been dedicated toward High School Baseball with maintenance by the City. The park is surrounded by neighborhood homes and does not lend itself toward expansion. In fact, the only suggestion from the Parks Master Plan was that if the ballfield operation could be relocated, the site could be converted into a future neighborhood park.

The City expends approximately $36,000 per year on maintenance of this site according to the attached chart provided by John Burt of our Parks Division. The School District may or may not continue with this level of maintenance, but they are the sole user and will maintain accordingly. One of the future issues is that the field will be in need of reconstruction, especially if it is to be developed at a playoff caliber field. In any case, the transfer of the site’s maintenance and usage to the School District will not materially affect how the field has been traditionally used, but will transfer the maintenance costs to the School District. The value to the School District to take on these extra costs is to secure the controlled usage of the site for the future through the lease agreement and be in the position to control the level of future maintenance and any capital improvements to the facility. It assures them control to meet their facility needs required through Federal mandates. This control may allow them to develop a tournament level facility to host school playoffs, etc. It will also solidify the facility control into one public agency responsible about being a good neighbor and steward of the property. The City has been under recent budgetary pressure that affects our ability to maintain our parks system at a
consistently high level, and the School District may be in a better position to develop this field’s potential than we could in the near future. In fact, the additional acreage and responsibilities for maintenance will assist the High School in requesting additional maintenance support for their staff. The important point is that this ballfield has a greater chance of being improved under this proposed lease agreement while still maintaining public ownership by the City.

The Lease Agreement essentially mirrors the same format that was just recently approved between the School Board and the City Council concerning the Roseborough site. Therefore, I do not see any legal concerns since both Attorneys had previously reviewed the basic lease agreement. This Agreement has only the additional provisions below:

Section 3: Use – The Lessee has the added responsibility for scheduling the facility. This makes sense since they control the usage for baseball practices and games.

Section 8: Fire Equipment – This equipment is required since the site has building structures in need of protection.

Section 9: Entry & Inspection – This was added to assure access by the City to review the status of approved improvements and facility maintenance.

Our City Attorney wrote this particular lease, and my preliminary discussions with the School District’s Attorney is that it is typical and reasonable, especially to the recent lease just approved.
LEASE AGREEMENT

THIS INSTRUMENT, made and entered into this __th__ day of ___, 2007, by and between THE SCHOOL BOARD OF LAKE COUNTY, FLORIDA, (hereinafter "Lessor"), and THE CITY OF MOUNT DORA, (hereinafter "Lessee"),

WITNESSETH:

Lessor owns Heim field located at the intersection of Simpson St. and Liberty Ave., Mount Dora, Florida 32757.

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. PROPERTY AND TERM. The property which shall be subject to this Lease is identified as follows:

 Tax Parcel ID #32-19-27-210000000000 and described as

 Tax Parcel ID #32-19-27-210000000000 and described as land lying in Lake County, State of Florida as follows: Blocks 361, 362, 367 and 368 LESS and EXCEPT: Lots 8, 9, 14, and the South 185 feet of lots 1 through 7, inclusive, and the East 135 feet of Lots 10 through 13, inclusive, all in the City of Mount Dora, Section 32, Township 19-South, Range 27-East, according to the Official Map of the Town of Mount Dora as recorded in Plat Book 3, Pages 37, 39, 41 and 43 of the Public Records of Lake County, Florida.

The term of this Lease shall commence as of the fist day of the first calendar month following the approval of this Lease by the Lessor at a public meeting, and shall continue for a term of ten (10) years and shall be renewed automatically for additional five (5) year terms thereafter unless either party notifies the other in writing of its intent to not renew the lease within thirty (30) days of the end of the current term.
2. **RENT.** Lessee shall pay rent of One and 00/100 ($1.00) Dollars per month for the term of the lease, plus any applicable sales or other taxes levied on rental payments, which shall be due in advance upon the execution of this Lease, and prior to occupancy by Lessee.

3. **USE.** Lessee shall use the premises only for such community related activities that are permitted under current Building Code requirements now in force or hereafter enacted. No other use shall be made of the premises without the prior, written consent of Lessor. Lessee shall make no unlawful or offensive use of the premises, nor shall any activity be carried on at the premises which constitutes a nuisance to surrounding property.

   Specifically, except as provided below, Lessee shall not allow the production, use, handling or storage, of dangerous or toxic chemicals or substances, machines or equipment causing excessive noise or dust particles or anything else of any nature whatsoever which would be injurious to the premises in the reasonable opinion of Lessor.

   Lessee shall be responsible for scheduling activities to be conducted on the premises. Lessee shall have the right to give priority use to the organized athletics of the Lake County Schools. Subject to the foregoing priority use, Lessor may request that its own events be scheduled on the premises, which request shall not be unreasonably denied.

4. **UTILITIES.** All utilities serving the premises, including but not limited to electricity, water, refuse and garbage service, sewage disposal and pollution abatement charges, telephone and other telecommunications, cable television, impact fees (of any type or purpose, including but not limited to water and sewer, roadways, police and fire protection, public schools, parks and recreation or otherwise) and janitorial service shall be secured and paid for by Lessee, who shall hold Lessor harmless from any loss or damage, including attorney’s fees, arising out of failure by Lessee to pay all utility charges when due.
6. INSURANCE. Lessee shall insure the property against damage by fire and other casualties. This coverage shall include a declaration that The City of Mount Dora, Florida is an additional named insured for the premises. Lessee is responsible for insuring its own personal property on the premises. Insurance liability limits shall be a minimum of $1,000,000.00.

7. MAINTENANCE. Lessee shall maintain the interior and exterior of the premises, along with the lawn and grounds. All plumbing, air conditioning, heating, electrical and natural gas equipment, infrastructure and fixtures shall be maintained in full compliance with all applicable codes now in effect or hereafter enacted or amended. The exterior shall be maintained in a clean and sightly condition. Lessee shall bear the expense of repairing any damage or destruction caused by the Lessee its agents, servants, employees, patrons, licensees, invitees, clients, or others on the premises at the behest of, or under the auspices of, the Lessee.

8. FIRE EQUIPMENT. Lessee will provide such fire protection equipment as is required to comply with applicable rules and regulations.

9. ENTRY AND INSPECTION. At any reasonable time, Lessor may enter the leased premises personally or through a designated agent and conduct an inspection to determine if Lessee is complying with the terms of this lease. If such inspection reveals deficiencies, Lessor may, but shall not be obligated to, make such repairs, or take any other action, as may be necessary to bring Lessee into compliance, and recover the costs thereof from Lessee, in which case the costs shall be considered additional rent due immediately from Lessee; failure by Lessee to pay these sums shall be grounds for termination of this lease.

10. ADDITIONAL RENT. All taxes, costs, charges, and expenses which Lessee is required by this Lease to pay, together with all interest and penalties thereon which may accrue in the event Lessee fails to pay such amounts, and all damages, costs and expenses (including
attorney’s fees) which Lessor may incur by reason of any failure by Lessee to comply with the terms of this Lease, shall be deemed to be additional rent, and in the event of nonpayment thereof by Lessee, the Lessor shall have the same rights and remedies with respect thereto as Lessor may have, at law, in equity, or under this lease, for nonpayment of the rent itself.

11. ALTERATIONS AND IMPROVEMENTS. No alterations or improvements to the premises shall be made by Lessee, nor shall any signs be erected, unless Lessor has reviewed the plans and specifications and given its written consent before commencement of any such work. Lessor may require Lessee to remove any unauthorized signs, alterations, or improvements, and to return the premises to their original condition, and if Lessee fails or refuses to do so then Lessor may have the necessary work done and assess the cost against Lessee, to be paid immediately upon demand. All work must conform to applicable codes and be performed by licensed and bonded contractors, and all required building permits, as well as statutory performance and payment bonds with Lessor shown as an additional beneficiary thereof, shall be secured. At the end of the term or upon any earlier termination of this lease, all alterations and improvements on the premises shall become the property of Lessor and shall not be removed by Lessee, unless prior to termination or within 5 days thereafter Lessor directs removal of any such improvements, in which case Lessee shall at its expense remove those improvements specified within 15 days after termination and return the premises to their original condition.

12. LIENS. The Lessee shall not have the power or authority to subject the Lessor’s interest in the premises to mechanics’, laborers’ or materialmen’s liens of any kind against Lessor’s interest during this Lease. If such a lien is filed, Lessee shall cause the premises to be released therefrom within five (5) days of written demand by Lessor, either by payment in full,
or by posting of bond which by law releases Lessor’s interest from the legal effect of such lien. Prior to commencing work, Lessee shall obtain from any contractor, subcontractor, laborer or materialmen performing work or providing materials for the premises, a waiver of lien whereby such person specifies that he or she will not impose any lien or claim against the real property by reason of the work done or materials provided. Any such work shall be done only under written contract and Lessor shall have the opportunity to approve such contract before work commences.

13. REPRESENTATIONS OF LESSOR. In order to induce Lessee to enter into this lease, the Lessor has made the following representations and no others:

A. Lessor has good title to the premises, and the right to enter into this Lease without the joinder or consent of any other person or entity;

B. So long as Lessee performs all the covenants and agreements of this lease, Lessee shall have quiet and undisturbed possession of the premises.

14. REPRESENTATIONS OF LESSEE. In order to induce Lessor to enter into this Lease, the Lessee has made the following representations, and no others:

A. Lessee has inspected the premises and found them to be fit for its intended purposes.

B. Lessee has assured itself that the zoning of the premises will permit the intended use, and will not violate any zoning or land use rules during occupancy, and will obtain and keep in force all licenses and permits required for the operation of Lessee’s business at the premises.

C. Lessee is acting solely on its own behalf, and not on behalf of any third party or undisclosed principal whomsoever.

D. Lessee will perform and abide by each and every term, covenant and agreement of this lease.
E. Lessee shall comply with all laws, rules and regulations, including but not limited to building codes, housing codes, and other codes of any nature, and shall cause its subtenants to do likewise.

F. EXCEPT FOR THE ITEMS SET FORTH SPECIFICALLY IN THIS LEASE, ALL WARRANTIES OF ANY NATURE CONCERNING THE PREMISES, EITHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED, ARE WAIVED BY LESSEE. LESSEE UNDERSTANDS AND AGREES THAT LESSOR DOES NOT WARRANT THE CONDITION OF ANY IMPROVEMENTS ON THE PROPERTY, THEIR HABITABILITY OR THEIR FITNESS FOR ANY PARTICULAR PURPOSE, AND THAT ALL SUCH WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARE HEREBY WAIVED BY LESSEE AND DISCLAIMED BY LESSOR.

15. DAMAGE BY LESSEE OR BY FIRE AND CASUALTY. In the event the premises are damaged by fire or other casualty, not caused by the negligent or deliberate acts of Lessee, its agents, servants, subtenants, employees or guests, Lessor may elect to repair the damage within a reasonable time, and the rent due hereunder shall abate until repairs are completed, by the proportion by which the damage prevents Lessee’s use of the premises, or in the alternative Lessor may at its sole option elect to terminate this Lease. If Lessor elects to terminate this Lease rather than repair the premises, any insurance proceeds payable due to fire or other casualty shall be the sole property of Lessor.

If the premises are damaged by the intentional or negligent acts or omissions of Lessee or any of its agents, servants subtenants, employees or guests, Lessee shall be obligated to restore the premises within a reasonable time at its expense, and if it fails to do so, then Lessor may repair such damage and restore the premises to their original condition without notice to or
consent by Lessee, and recover the entire costs of the repair from Lessee immediately, together with any lost rent and other consequential damages suffered by Lessor as a result of the intentional or negligent acts of the Lessee, its agents, servants, employees or guests.

16. NO WAIVER. No failure by Lessor to exercise any remedy available to it in the event of a breach of this lease by Lessee shall be deemed a waiver of any subsequent breach, whether of the same or a different provision of this lease, nor shall it be considered a justification of any subsequent breach by Lessee. No waiver or indulgence granted by Lessor to Lessee, express or implied, shall be taken as an estoppel against Lessor, it being expressly understood that if Lessee is in default and Lessor permits the continuance of such default or fails promptly to avail itself of its remedies for such default, this shall not constitute a waiver of such default, but Lessor may at any time, if such default continues, terminate this lease on account thereof.

17. DEFAULT. In the event of a default by Lessee under this Lease, which default continues longer than five (5) days after the giving of written notice to Lessee by Lessor demanding that the default be cured, Lessor may terminate this lease and resume possession of the premises immediately, or at its option Lessor may take such action and expend such sums as may be necessary to cure the default, and recover the cost to cure from the deposit or charge it to Lessee. Any breach or default under the Charter Contract will also constitute a default under this Lease.

Upon termination of this lease, Lessee shall surrender the premises peaceably to Lessor immediately. This lease shall be considered terminated immediately upon the giving to Lessee by Lessor of written notice of termination. Liquidated damages of Fifty ($50.00) dollars per day shall be paid by Lessee for each day or portion thereof that Lessee fails to surrender possession of the premises to Lessor in accordance with this lease, after termination or expiration hereof.
In any event, in addition to recovery of possession and liquidated damages, Lessor shall also recover all costs and attorney’s fees incurred by it as a result of the default by Lessee. Lessee agrees that it would be impossible to compute the general damages suffered by Lessor should Lessee default, that it is therefore proper to provide for liquidated damages, and that the amount of liquidated damages set forth herein is reasonable and does not constitute a penalty or forfeiture.

18. **REMEDIES CUMULATIVE.** Lessor’s remedies under this lease are cumulative, and no one remedy shall be exclusive, in law or equity, of any other rights which Lessor may have, and the exercise of one right or remedy shall not impair Lessor’s standing to exercise any other right or remedy.

19. **ARREARAGES.** Any amount of money to be paid to Lessor by Lessee under this lease, which is not paid within 10 days of the date when it first falls due, shall bear interest at the highest rate allowed by law until paid in full. Lessor, at its sole option, may elect to apply any payment by Lessee either to amounts most recently due, to amounts farthest in arrears, or to interest due on the arrearages.

20. **ASSIGNMENT.** This lease may not be assigned by Lessee without prior written permission from Lessor, which may not be withheld unreasonably so long as no default exists hereunder, provided that no change in use is made and the assignment will not violate any other agreements by Lessor. Lessor shall not be required to consent to any sublease or assignment whatsoever as long as any default by Lessee remains in existence.

21. **MEMORANDUM.** Lessor may, at its option, record a memorandum of this lease in the Public Records of Lake County, Florida, so as to alert third parties of the nature and duration of Lessee’s interests in the premises.
22. ESTOPPEL CERTIFICATE. At any time, upon request by Lessor, the Lessee agrees to execute a certificate stating:

A. That no default exists at the time on the part of Lessor, or setting forth the nature of the default if one does exist;

B. The termination date of this lease;

C. That Lessee’s interest is inferior and subordinate to the lien of any mortgage now encumbering Lessor’s interest in the premises, or hereafter executed by Lessor.

23. RELATIONSHIP OF PARTIES. Nothing in this Lease shall be deemed to create a relationship of partnership, principal and agent, or any other relationship between the parties other than landlord and tenant. Lessee agrees that it shall not challenge the fee title of lessor in the premises or claim any interest superior thereto.

24. COSTS AND FEES. In the event it is necessary for Lessor to employ counsel to enforce the obligations of Lessee hereunder, the Lessee shall reimburse Lessor for reasonable attorney’s fees so incurred, whether or not suit is filed; and if a legal actions commenced by either party, then at the conclusion of such action the prevailing party shall be entitled to recover its reasonable costs and attorneys fees, in addition to any other relief granted.

25. GOVERNING LAW. This lease shall be applied and construed in accordance with the Laws of Florida. Venue for any action hereunder shall be in Lake County, Florida. The courts of the State of Florida shall have jurisdiction to hear and decide any and all disputes which arise under this lease.

26. NOTICES. Any notice required by this lease shall be in writing and shall be either delivered in person, or mailed by United States Mail, certified with return receipt requested and all postage charges prepaid. Except where receipt is specifically required in this lease, any
notice mailed in accordance with these standards to the proper address as set forth below shall be
demed to be effective upon the date of postmark, and anytime period shall begin running as of
that date, whether or not the notice is actually received. Notices shall be given in the following
manner, or in such other manner as may be directed by either party, in writing, from time to
time:

A. To Lessor: Parks and Recreation Director, 510 N. Baker Street, Mount Dora, Florida 32757.

B. To Lessee: Superintendent of Schools, 201 West Burleigh Boulevard, Tavares, Florida 32778.

27. CONSTRUCTION. Any word in this lease shall be read as either singular or
plural, and as either masculine, feminine or neuter gender as the context may require. Captions
are included for convenience only, and shall not be construed to limit, expand, or otherwise
modify the text of this lease in any manner.

28. NATURE OF AGREEMENT. This lease sets forth the entire agreement of the
parties; it takes precedence over all prior representations, negotiations and agreements, whether
oral or written, which are deemed to have merged into this lease and to have been extinguished
to the extent not set forth specifically herein. The execution of this lease has not been induced
by either party by any representations, promises or understandings not expressed herein, and
there are no collateral agreements, promises or undertakings whatsoever in any way touching on
the subject matter of this lease which are not expressly contained herein. This lease may not be
amended in any manner whatsoever, other than by written instrument signed by all parties
hereto.
29. BINDING EFFECT. This lease shall be binding on, and inure to the benefit of, not only Lessor and Lessee, but also their respective successors and assigns.

30. CONDEMNATION. In the event all or any portion of the building is taken by eminent domain, or is conveyed under threat of such proceedings, all compensation resulting there from shall be the property of Lessor and Lessee hereby assigns to Lessor any interest Lessee may otherwise have in such award. Lessee shall execute any documentation required to achieve this result. In the event of a total taking, this lease shall terminate. In the event of a partial taking, Lessor may elect either to terminate this lease or to repair and restore the remaining portion of the premises at its own expense, and keep this lease in force.

31. SEVERABILITY. If any provision hereof is declared invalid or unenforceable, it shall be severed herefrom and the remainder of the lease shall continue in full force as if executed originally without the invalid portion.

32. NONDISCRIMINATION PROVISIONS.

(a) The Lessee, for itself, its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to, discrimination in the use of said facilities.

(b) In the event of breach of any of the above nondiscrimination covenants, the Lessor shall have the right to terminate the lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued.

(c) Lessee shall furnish its accommodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit or services; provided, that the Lessee may be allowed
to make reasonable and nondiscriminatory discounts, rebates or other similar types of priced reductions to volume purchasers.

(d) Noncompliance with provision (c) above shall constitute a material breach thereof and in the event of such noncompliance the Lessor shall have the right to terminate this lease and the estate hereby created without liability therefore or at the election of the Lessor.

33. ADA COMPLIANCE. The Lessee shall observe and comply with all requirements of the ADA at the premises and shall hold the Lessor harmless from any loss or damage (including court or administrative costs and attorneys' fees) arising out of any violation of ADA by Lessee in the operation of the Charter School and any other activities on the premises. If any alterations or improvements to the premises are necessary to achieve compliance with applicable ADA provisions, Lessee shall at its expense make all such alterations and improvements, subject to the prior approval of Lessor as to design, construction and materials.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK
IN WITNESS WHEREOF, the parties have caused their duly authorized officers to execute this Lease on the day and year first above written.

LESSOR: The City of Mount Dora, Florida

BY: __________________________
    Mayor Melissa DeMarco

APPROVED AS TO FORM:

Clifford B. Shepard

Attest: _________________________
       Michael Quinn, City Manager

LESSEE: The School Board of Lake County, Florida

BY: ___________________________

APPROVED AS TO FORM:

School Board Attorney

Attest: _________________________
### Heim Field Operating Cost

2/1/2007

<table>
<thead>
<tr>
<th>Activity</th>
<th>Per Application</th>
<th>Number of A</th>
<th>Sub Total Costs</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mowing (2 hours @)</td>
<td>$40</td>
<td>70</td>
<td>$2,800.00</td>
<td>2x per week summer/1 x off season</td>
</tr>
<tr>
<td>Clay Conditioning (2 hrs)</td>
<td>$40.00</td>
<td>92</td>
<td>$3,680.00</td>
<td>5x week/season- 1x off season/requests</td>
</tr>
<tr>
<td>Fertilization</td>
<td>$500.00</td>
<td>6</td>
<td>$3,000.00</td>
<td>basic-usually more- includes 2x pre-emergent herb.</td>
</tr>
<tr>
<td>Herbicide Treatments</td>
<td>$400.00</td>
<td>4</td>
<td>$1,600.00</td>
<td>During Summer Months/Nut Sedge/Broadleaf/Grasses</td>
</tr>
<tr>
<td>Crimson Stone/Clay</td>
<td>$3,500.00</td>
<td>1</td>
<td>$3,500.00</td>
<td>Crimson Stone (2500)/ Clay 1000/spring renovation</td>
</tr>
<tr>
<td>Labor/Equipment</td>
<td>$20.00</td>
<td>80</td>
<td>$1,600.00</td>
<td>Spring Revolutions/est. 80 staff hours</td>
</tr>
<tr>
<td>Overseeding</td>
<td>$450.00</td>
<td>1.5</td>
<td>$675.00</td>
<td>winter rye seed/ 1.5 applications/year</td>
</tr>
<tr>
<td>Electricity</td>
<td>$6,646.49</td>
<td>12</td>
<td>$6,646.49</td>
<td>From Jan 2006-Feb 2007/Field Lights</td>
</tr>
<tr>
<td>Electricity</td>
<td>$328.26</td>
<td></td>
<td>$328.26</td>
<td>From Jan 2006-Feb 2007/Building</td>
</tr>
<tr>
<td>Water/Sewer</td>
<td>$500.00</td>
<td>12</td>
<td>$6,000.00</td>
<td>estimate/ awaiting final/includes irrigation</td>
</tr>
<tr>
<td>Routine Services (2hrs)</td>
<td>$40.00</td>
<td>104</td>
<td>$4,160.00</td>
<td>2hr/sitecleaning and restrooms/2x per week</td>
</tr>
<tr>
<td>Repair Services</td>
<td>$20.00</td>
<td>80</td>
<td>$1,600.00</td>
<td>Repair services to chain link fencing/building/electric</td>
</tr>
<tr>
<td>Irrigation Repairs</td>
<td>$20.00</td>
<td>25</td>
<td>$500.00</td>
<td>Repair of irrigation system/heads/setting clock/replace.</td>
</tr>
</tbody>
</table>

green=routine services

### Operating Cost/Yr

$36,089.75
THIS INDENTURE, Made the 16th day of April, in the year of our Lord one thousand nine hundred and twenty-five, between L. R. Heim and Anna E. Heim, his wife, of the County of Lake and State of Florida, of the first part, and "City of Mount Dora," of The County of Lake and State of Florida, party, of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of One Dollar and other valuable considerations lawful money of the United States of America, to them in hand paid by the said party of the second part at or before the en-sealing and delivery of these presents, the receipt whereof is hereby acknowledged have granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part, and its heirs and assigns, forever, all the described land lying and being in the County of Lake and State of Florida described as follows:

Blocks 361 and 362 in Sec. 32, Tp. 19 South R. 27 East, according to the official plat of the Town of Mount Dora, and containing five acres of land, more or less, excepting however, the following described parcel of land. "Begin 240 feet North of iron pin at center point of intersection of Camp Street and Rossiter Avenue, said iron pin being the Southeast Corner of Block 367 of the Plat of Mount Dora, and also the Southeast Corner of the North one-half of the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of Sec. 32, Tp. 19 South Range 27 East, running then in a Northerly direction along the center of Rossiter Avenue, 420 feet to iron pin at intersection of Rossiter Avenue and Liberty Street, thence westerly 190 feet, thence Southerly 420 feet, thence Easterly 190 feet to point of beginning." Also meaning to convey to the "City of Mount Dora" in addition to the above parts of Blocks 361 and 362, the following described lands. "Begin 240 feet North of iron pin at center point of intersection of Camp Street and Simpson Avenue, said pin being the Southwest Corner of Block 366 of the Plat of Mount Dora, and also the Southwest Corner of the North one-half of the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of Sec. 32, Tp. 19, South, Range 27 East, run in Northerly direction on center line of Simpson Avenue, 90 feet, thence Easterly 464.76 feet, thence Southerly 90 feet, thence Westerly 464.76 feet to point of beginning."

It is a part of the consideration of this transfer that the property above described be in charge of the City Council or a committee appointed by it, whose term shall not exceed one year unless re-appointed, whose duty it shall be to see that the grounds and buildings are kept in suitable repair and that no charge shall be made to the citizens of Mount Dora for the use of this property as an athletic field, and that this property shall be used for this purpose, and it shall not be sold by the City of Mount Dora.

TOGETHER with all and singular the said tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; AND, ALSO, all the estate, right, title, interest, dower, and right of dower, separate estate, property, possession, claim and
demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in and to the same, and every part and parcel thereof, with the appurtenances.

TO HAVE AND TO HOLD the above granted, bargained and described premises, with the appurtenances, unto the said party of the second part, its heirs and assigns, to its own proper use, benefit and behoof forever.

And the said parties of the first part jointly for their heirs, executors and administrators, do covenant, promise and agree to and with the said party of the second part, its heirs and assigns, that the said parties of the first part at the time of the sealing and delivery of these presents, are lawfully seized in fee simple of a good, absolute and indefeasible estate of inheritance, of and in all and singular the above granted, bargained and described premises, with the appurtenances, and have good right, full power and lawful authority to grant, bargain, sell and convey the same in the manner and form aforesaid.

And that the said party of the second part, its heirs or assigns, shall and may at all times hereafter, peacefully and quietly have, hold, use, occupy, possess and enjoy the above granted premises, and every part and parcel thereof, with the appurtenances, without any let, suit, trouble, molestation, eviction or disturbance of the said parties of the first part, their heirs or assigns, or of any other person or persons lawfully claiming or to claim the same. And that the same are now free, clear, discharged and unencumbered of and from all former and other grants, titles, charges estates, judgments, taxes, assessments and incumbrances of what nature and kind soever.

(State of Rev. Stamp Can.)

And the said parties of the first part, for themselves and their heirs, the above described and hereby granted and released premises, and every part and parcel thereof, with the appurtenances, unto the said party of the second part, its heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person or persons whomsoever, lawfully claiming or to claim the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF The said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in the presence of us:

Mary M. True                        L. R. Heim                  (Seal)
Marguerite Lindeman                 Anna E. Heim            (Seal)

STATE OF FLORIDA,
COUNTY OF LAKE

KNOW ALL MEN BY THESE PRESENTS, That I Anna E. Heim wife of the above named L. R. Heim do by these presents, made and executed by me separate and apart from my said husband, and in the presence of Mary M. True, a Notary Public of the State of Florida, acknowledge and declare that I did make myself a party to, and executed the foregoing Deed of Conveyance for the purpose of conveying my interest in and to the lands in said conveyance therein described and granted, and that I did the same freely and voluntarily, and without any compulsion, constraint, apprehension or fear of or from my said husband.

IN WITNESS WHEREOF I hereunto subscribe my name and affix my seal, this 16th day of April, A. D. one thousand nine hundred and twenty-five.

Anna E. Heim                  (Seal)
STATE OF FLORIDA,
COUNTY OF LAKE

TO ALL WHOM IT MAY CONCERN: Be it known that on this 16th day of April, 1926 A. D., personally appeared before me, a Notary Public of the State of Florida, the above named Anna E. Heim to me well known as the wife of L.R. Heim and as one of the persons described in, and who executed the foregoing Deed of Conveyance, who being at the time separate and apart from her husband, the said Anna E. Heim did then and there make and execute the foregoing acknowledgment, her name being with her own hand subscribed, and her seal affixed in my presence.

WITNESS my hand and seal at Mt. Dora, the day and year above written.

Mary M. True (Seal)
Notary Public.

Notary Public for the State of Florida at Large,

(Notarial Seal)
My Commission Expires March 13, 1927,

STATE OF FLORIDA,
COUNTY OF LAKE

On this day personally appeared before me L. R. Heim to me well known as the person described in, and who executed the foregoing Deed of Conveyance, and acknowledged that he executed the same for the purpose therein expressed, whereupon it is prayed that the same may be recorded.

IN WITNESS WHEREOF, I have hereunto affixed my hand and seal, this 16th day of April, 1926 A. D.

Mary M. True (Seal)
Notary Public for the State of Florida at Large.

(Notarial Seal)
My Commission Expires March 13, 1927.

Filed for record and recorded on the 22nd day of May A. D. 1926, and, I hereby certify the foregoing is a true and correct copy of the original.

RECORD VERIFIED

T. C. Smyth

WARRANTY DEED

THIS INDENTURE, made this 14th day of April A. D. 1925, between BELLEAUX ESTATES, INC., a Florida Corporation, of Mt. Dora, Fla., party of the first part, and C.W.Knapp of Freeport, County, State of New York party of the second part,

WITNESSETH: That the said party of the first part for and in consideration of the sum of Five hundred Dollars to it in hand paid, by the party of the second part, receipt of which is hereby acknowledged, has granted, bargained and sold, aliened, remised, released, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, remise, release, convey and confirm, unto the said part of the second part his heirs and assigns, the following lot, piece or parcel of land situate, lying and being in the County of Lake, State of Florida, to-wit:

Lot No. 22 of block No. 1 of Belleaux Estates, subdivision of Government Lot No. 2&3 in Sections 17 & 18 Township 19 S Range 27 E according to plat No.1 of Belleaux Estates, as made by A. H. Mayne, C. E. Subject to the following restrictions:
RESOLUTION NO. 2019-169

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THAT THE HEIM FIELD PROPERTY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF PROPERTY TRANSFER AGREEMENT AND AUTHORIZATION TO EXECUTE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER’S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City owns certain real property located in the City of Mount Dora known as Heim Field; and

WHEREAS, ownership of the Heim Field property was transferred to the City in 1925 with limitations requiring use of the same as an athletic field; and

WHEREAS, since 2007 the Mount Dora High School has maintained exclusive use and control of the Heim Field property for athletic purposes; and

WHEREAS, the City does not have a charter provision, ordinance, rule or other policy for the disposal of surplus real property, thus, it may use its discretion and utilize whatever method it deems to be in the best interest of the City when disposing of real property; and

WHEREAS, the City does not currently have a municipal use for the Heim Field property and believes that the citizens of Mount Dora are best served by the Lake County School Board taking over ownership and continued maintenance of the Heim Field property for athletic purposes; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Property Transfer Agreement and Authorization to Execute. The Property Transfer Agreement with Lake County School Board attached hereto as Exhibit “A” is hereby approved and the Mayor is hereby authorized to execute the same and the Quit Claim Deed attached thereto on behalf of the City.
SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to the Property Transfer Agreement with the Lake County School Board, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener’s Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this _______ day of ________________, 2019.

CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only.
Approved as to form and legality.

Sherry G. Sutphen
City Attorney
EXHIBIT “A”
Property Transfer Agreement with
Lake County School Board
PROPERTY TRANSFER AGREEMENT

THIS AGREEMENT is made by and between the City of Mount Dora, Florida, a municipal corporation of the state of Florida (City), 510 N. Baker Street, Mount Dora, Florida 32757 and the School Board of Lake County, Florida (School), 201 W. Burleigh Boulevard, Tavares, Florida 32778.

WITNESSETH

WHEREAS, the City owns certain real property located in the City of Mount Dora known as Heim Field; and

WHEREAS, ownership of the Heim Field property was transferred to the City in 1925 with limitations requiring use of the same as an athletic field; and

WHEREAS, since 2007 the School has maintained exclusive use of the Heim Field property for athletic purposes; and

WHEREAS, the City and the School have determined that it is in their mutual best interest for the School to take over ownership and continued maintenance of the Heim Field property for athletic purposes.

NOW THEREFORE, in consideration of the terms, conditions, promises and covenants set forth herein, the parties agree as follows:

Section 1. Recitals Incorporated. The above recitals are true and correct and incorporated herein.

Section 2. Property. The Heim Field property is located at 400 S. Simpson Road, Mount Dora, Florida, 32757, is identified by the Lake County Property Appraiser through Alternate Key: 1729751 (Property), and is more particularly described as follows:

SEE ATTACHED EXHIBIT “A”

Section 3. Property Transfer. Within ten (10) days of the Effective Date, the City shall transfer the Property to the School by Quit Claim Deed, in substantially the form attached hereto as Exhibit B, which contains a clause mandating that the School maintain the Property in perpetuity as an athletic field as required by the 1925 instrument of transfer to the City.

Section 4. School Responsibility. In consideration of the City’s transfer of ownership and exclusive control of the Property to the School, the School agrees to indemnify and defend the City, including attorney’s fees, expert costs and expenses in any and all causes of action arising out of or in any way stemming from the School’s use of the Property between the time period of January 1, 2007, through and including the date the Quit Claim Deed transferring ownership of the Property to the School is recorded in the official records of Lake County, Florida. Upon transfer of ownership of the Property to the School, the School shall be solely responsible
for maintaining the Property for athletic purposes in a manner which it deems appropriate and at its sole cost and expense. This provision shall survive the recording of the Quit Claim Deed transferring ownership of the Property to the School.

Section 5. Entire Agreement.

This Agreement, and any amendments hereto, constitutes the entire Agreement between the parties relating to the specific matters set forth herein, and no other prior agreements or understandings shall have any force or affect whatsoever on this Agreement or the parties hereto.


The laws of the State of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall lie in Lake County, Florida. The parties hereby waive their right to trial by jury in any action, proceeding or claim, arising out of this Agreement, which may be brought by either of the parties hereto.

Section 7. Severability.

All clauses found herein shall act independently of each other. If a clause is found to be illegal or unenforceable, it shall have no effect on any other provision of this Agreement. It is understood by the parties hereto that if any part, term or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Florida or the United States, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

Section 8. Waiver.

Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions of this Agreement or to exercise any right of option herein contained, shall not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, or condition, or right of election, but same shall remain in full force and effect.

Section 9. Notice.

The parties hereto agree and understand that written notice, mailed or delivered, to the last known mailing address, or address provided by the other party, shall constitute sufficient notice to the City and the School. All notices required and/or made pursuant to this Agreement to be given to the City and the School shall be in writing and given by way of the United States Postal Service, first class mail, postage prepaid, addressed to the following addresses of record:

City: City of Mount Dora
       City Manager
       510 N. Baker Street
       Mount Dora, Florida 32757
Section 10. Amendment.
The covenants, terms, and provisions of this Agreement may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this Agreement and any written Amendment(s) hereto, the provisions of the latest executed instrument shall take precedence.

Section 11. Joint Negotiations.
This Agreement shall be construed as resulting from joint negotiation and authorship. No part of this Agreement shall be construed as the product of any one of the parties hereto.

Section 12. Effective Date.
This Agreement shall become effective upon execution by both parties.

Signatures on following page
IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed through their authorized representatives, on the respective dates set forth below.

CITY OF MOUNT DORA:

ATTEST:

Gwen Keough-Johns, MMC
City Clerk

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

Sherry G. Sutphen
City Attorney

SCHOOL BOARD OF LAKE COUNTY:

Kristi L. Burns, Ph.D.
Print: Kristi L. Burns
Title: Chairman

ATTEST:

Diane Kometa
Print: Diane Kometa
Approved as to form and legal sufficiency

School Board Attorney
EXHIBIT A
Legal Description

PALMA CEIA BALLPARK, AS PER MAP OF PALMA CEIRA SUBDIVISION, AS RECORDED IN PLAT BOOK 5, PAGE 35, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.

AND

THE NORTH 30.00 FET OF LOTS 1, 2, 3, 4, 5, 6 AND 7, PALMA CEIRA SUBDIVISION, AS RECORDED IN PLAT BOOK 5, PAGE 35, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.
EXHIBIT B
Quit Claim Deed
QUIT CLAIM DEED

THIS QUIT CLAIM DEED, executed this ___ day of ________________, 2019, by the CITY OF MOUNT DORA, first party, whose address is 510 N. Baker Street, Mount Dora, Florida 32757, to the SCHOOL BOARD OF LAKE COUNTY, second party, whose address is 201 W. Burleigh Boulevard, Tavares, Florida 32778. (Wherever used herein the terms "first party" and "second party" shall include singular and plural heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires).

WITNESSETH, That the said first party, for and in consideration of the sum of One Dollar ($1.00) in hand paid by the second party, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release and quit-claim unto the second party forever, all the right, title, interest, claim and demand which the first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Lake, State of Florida, to wit:

SEE ATTACHED EXHIBIT “A”

TOGETHER with all tenements, hereditaments and appurtenances thereto and subject to all easement, rights of way and restrictions of record.

If Grantee shall ever cease utilizing the lands described herein for athletic field purposes, then ownership of such land shall revert back to Grantor and thereafter, Grantee shall have no further right, title or interest therein.

In Witness Whereof, the said first party has signed and sealed these presents the day and year first above written.

Witness Signature

CITY OF MOUNT DORA

Catherine T. Hoechst, MAYOR

Printed Name

Witness Signature

Printed Name

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this ____ day of ________________, 2019, by Catherine T. Hoechst, Mayor of the City of Mount Dora, who is personally known to me.

(SEAL)

By: ____________________________
NOTARY
EXHIBIT A
Legal Description

PALMA CEIA BALLPARK, AS PER MAP OF PALMA CEIRA SUBDIVISION, AS RECORDED IN PLAT BOOK 5, PAGE 35, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.

AND

THE NORTH 30.00 FET OF LOTS 1, 2, 3, 4, 5, 6 AND 7, PALMA CEIRA SUBDIVISION, AS RECORDED IN PLAT BOOK 5, PAGE 35, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.
QUIT CLAIM DEED

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WITNESSETH, That the said first party, for and in consideration of the sum of One Dollar ($1.00) in hand paid by the second party, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release and quit-claim unto the second party forever, all the right, title, interest, claim and demand which the first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Lake, State of Florida, to wit:

SEE ATTACHED EXHIBIT “A”

TOGETHER with all tenements, hereditaments and appurtenances thereto and subject to all easement, rights of way and restrictions of record.

If Grantee shall ever cease utilizing the lands described herein for athletic field purposes, then ownership of such land shall revert back to Grantor and thereafter, Grantee shall have no further right, title or interest therein.

In Witness Whereof, the said first party has signed and sealed these presents the day and year first above written.

____________________________ ______________________________
Witness Signature CITY OF MOUNT DORA

____________________________ Catherine T. Hoechst, MAYOR
Printed Name

____________________________
Witness Signature

____________________________
Printed Name

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this ____ day of ________________, 2019, by Catherine T. Hoechst, Mayor of the City of Mount Dora, who is personally known to me.

(SEAL) By: ____________________________
NOTARY
DATE: December 3, 2019

TO: Honorable Mayor and City Council Members

FROM: Robin R. Hayes, City Manager

SUBJECT: Resolution No. 2019-180, Solar II Project, Power Sales Contract between Florida Municipal Power Agency (FMPA and the City of Mount Dora)

Introduction:
This request is for City Council to approve Resolution No. 2019-180, Solar II Project, Power Sales Contract. A contract for the purchase of solar power from FMPA which in turn has a Power Purchase Agreement with Origis Energy to provide solar energy.

Discussion:
On October 15, 2019, Steve Langley presented to Council an opportunity to participate in a large-scale solar project with other municipal utilities through FMPA. FMPA is entering into a Power Purchase Agreement with Origis Energy who is financing, constructing, and operating two photovoltaic electric generating facilities with a capacity of approximately 149 MW in North Central Florida.

Under this contract with FMPA, the City will be able to purchase its respective share of 2 MW that Origis will deliver to FMPA under the Power Purchase Agreement and in turn FMPA will ensure the energy is delivered to the City under this contract. This Power Sales Contract has significant potential to offset total generation cost for the City with a price ceiling at $ 28/MWh while increasing our renewable energy portfolio to approximately 8% of Mount Dora’s system capacity. There will be additional cost for transmission from the solar facility delivery point to the City’s delivery point, which will be determined by Duke Energy/Florida Power & Light. There will also be administrative and general cost (A&G) from FMPA to administer the Power Purchase Agreement and Sales contracts between the cities. This A&G cost is expected to be less than $0.50/MWh.

The Power Purchase Agreement between FMPA and Origis is set for a 20-year term with options for two 5-year extensions at predetermined prices. The term of this agreement between the City and FMPA will be from the date of signature until the Power Purchase Agreement ends with Origis. As part of the Power Purchase Agreement the commercial date of operation is set for December 31, 2023. This is when Mount Dora can expect to purchase solar energy from these sites.
The FMPA Solar II project will have participation from thirteen (13) municipalities across the state of Florida providing a means for Florida municipal utilities to cooperate on a basis of mutual advantage in the generation of renewable energy.

**Budget Impact:**
The City of Mount Dora will not be responsible for any of the costs of constructing (or readying for operation) the two photovoltaic electric generating facilities proposed to be constructed by Origis Energy. The City’s costs associated with this project (other than the cost of purchased solar power which will actually be purchased through FMPA) will be limited to the costs associated with constructing electric transmission facilities from the solar facility delivery point to the City’s delivery point. Power generation from the two photovoltaic electric generating facilities which serve as the subject of this agreement are not expected to commence until fiscal year 2022-23. Therefore, there should be no significant cost impact for fiscal years 2019-20, 2020-21, or 2021-22. During fiscal year 2022-23, there may be testing to deliver energy to Mount Dora, which may require the city to purchase a small amount of test energy. During fiscal year 2023-24, the City of Mount Dora is expected to begin purchasing solar energy from this project. The cost of purchased solar energy will be expended from and budgeted in general ledger account number 410-5311-543.40-00 (Electric Utility Fund/Purchased Power Cost/Solar Energy Charges).

**Strategic Impact:**
Infrastructural
Participating in the Solar II Project will allow the City of Mount Dora to maintain and operate a sustainable city that will ensure its longevity.

**Fiscal Resources**
The low cost of solar energy for a 20-year period will allow the City to maintain its budget from one year to the next.

**Recommendation** City Council approve Resolution No. 2019-180.
RESOLUTION NO. 2019-180

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THE SOLAR II PROJECT, POWER SALES CONTRACT WITH FLORIDA MUNICIPAL POWER AGENCY; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF AGREEMENT AND AUTHORIZATION TO EXECUTE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER’S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mount Dora owns, operates and maintains an electric utility for the health, safety and welfare of its residential and business customers; and

WHEREAS, Florida Municipal Power Agency (FMPA) was created to, among other things, provide a means for Florida municipal corporations and other entities which are members of FMPA to cooperate with each other on a basis of mutual advantage in the generation of Electric Energy; and

WHEREAS, FMPA has entered into Power Purchase Agreements with Origis Energy to purchase and receive a portion of the as-available net Electric Energy output and associated Renewable Energy Attributes and Facility Attributes produced by the Origis Energy Solar Facility for the benefit of certain participating members of FMPA; and

WHEREAS, the City’s Electric Utility Department has determined that it is in the best interest of the City of Mount Dora to participate in the FMPA Solar II Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of and Authorization to Execute Agreement.

A. The Agreement with Florida Municipal Power Agency, attached hereto as Exhibit A, is hereby approved with the understanding that certain dates and values may need to be adjusted pursuant to the final program approvals authorized by FMPA.

B. The Mayor or a designee thereof is hereby authorized to execute the Agreement on behalf of the City upon verification by the City Attorney of the final Agreement terms.
SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such action as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to the Agreement with FMPA related to the Solar II Project, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener’s Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 3rd day of December, 2019.

__________________________
CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

__________________________
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

__________________________
Sherry G. Sutphen, City Attorney

Resolution No. 2019-180
Page 2 of 3
Exhibit “A”
Agreement with Florida Municipal Power Agency
Exhibit A

Solar II Project

Power Sales Contract

Between

Florida Municipal Power Agency,
Solar II Power Project

and

The City of Mount Dora
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SOLAR II PROJECT
POWER SALES CONTRACT

This POWER SALES CONTRACT is made and entered into as of ______ __, 2019, by and between FLORIDA MUNICIPAL POWER AGENCY, a legal entity organized under the laws of the State of Florida ("FMPA") and the CITY OF MOUNT DORA, a municipal corporation of the State of Florida and a member of FMPA (the "Project Participant").

WITNESSETH:

WHEREAS, FMPA was created to, among other things, provide a means for the Florida municipal corporations and other entities which are members of FMPA to cooperate with each other on a basis of mutual advantage in the generation of Electric Energy; and

WHEREAS, FMPA is authorized and empowered, among other things, (i) to plan, finance, acquire, construct, reconstruct, own, lease, operate, maintain, repair, improve, extend or otherwise participate jointly in one or more electric projects; (ii) to issue its bonds, notes or other evidences of indebtedness to pay all or part of the costs of acquiring such electric projects; and (iii) to exercise all other powers which may be necessary and proper to further the purposes of FMPA which have been or may be granted to FMPA under the laws of the State of Florida; and;

WHEREAS, Origis Energy, including its successors or assigns, ("Seller") is developing solar photovoltaic single-axis tracking electric generating facilities having nameplate capacities of 74.9 MW alternating current ("ac"), which will be designed, financed, constructed and operated by Seller in Alachua and Putnam Counties, Florida ("Solar Facility"); and

WHEREAS, FMPA has entered into Power Purchase Agreements between Seller and FMPA on behalf of the Solar II Project ("Solar PPA"), a copies of which are attached to this Power Sales Contract as "Attachment A," and FMPA will purchase and receive a portion of the as-available net Electric Energy output and associated Renewable Energy Attributes and Facility Attributes produced by Solar Facility (referred to cumulatively in this Power Sales Contract as the “Solar Product”); and

WHEREAS, FMPA will take or cause to be taken all steps necessary for delivery to Project Participant and the other Project Participants of their respective share of the Solar Product produced from or attributable to the Solar Facility and delivered to FMPA under the Solar PPA, and will sell the Solar Product from the Solar Facility pursuant to this Power Sales Contract and pursuant to contracts substantially similar to this contract with such other Project Participants; and

WHEREAS, the execution of the Solar PPA for the supply of Solar Product produced by or attributable to the Solar Facility to the Project Participant and the other Project Participants contracting with FMPA therefore is authorized by the Interlocal Agreement creating the FMPA, as amended to date and as such Interlocal Agreement has been supplemented by a resolution adopted by the Board of FMPA at a meeting duly called and duly held on December 12, 2019, which Interlocal Agreement, as so amended and supplemented, constitutes “an agreement to implement a project” and a “joint power agreement” for the Solar II Project, as such terms are used in Chapter 361, Part II, Florida Statutes, as amended; and

WHEREAS, in order to pay the cost of acquiring the Solar Product produced by or attributable to the Solar Facility under the Solar PPA, it is necessary for FMPA to have substantially similar binding contracts with the Project Participant and such other Project Participants purchasing Solar Product produced by or attributable to the Solar Facility.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto as follows:
SECTION 1. Definitions and Explanations of Terms. As used herein:

Allocable A&G Costs shall mean administrative and general costs incurred by FMPA that have been allocated to the Solar II Project by the FMPA Board of Directors. The initial allocation of Allocable A&G Costs is attached to this Power Sales Contract as “Attachment B,” as it may be amended from time to time at the discretion of the FMPA Board of Directors.

Annual Budget means the budget adopted by the Board of FMPA pursuant to paragraph (a) of SECTION 4 hereof which itemizes the estimated Monthly Energy Costs and Project Related Costs for the following Contract Year, or, in the case of an amended Annual Budget adopted by the Board of FMPA, during the remainder of a Contract Year, and the Project Participant’s share, if any, of each.

Board shall mean the Board of Directors of FMPA, or if said Board shall be abolished, the board, body, commission or agency succeeding to the principal functions thereof.

Contract Year shall mean the twelve (12) month period commencing at 12:01 a.m. on October 1 of each year, except that the first Contract Year shall commence on 12:01 a.m. on December 12, 2019, and shall expire at 12:00 a.m. the next succeeding October 1.

Discretionary Term Decision shall have the meaning set forth in SECTION 7(a) of this Power Sales Contract.

Downgrade Event shall have the meaning set forth in the Solar PPA.

Effective Date shall have the meaning set forth in SECTION 2 of this Power Sales Contract.

Electric Energy shall mean kilowatt hours (kWh).

Energy Price means the price ($/MWh) to be paid by FMPA under the Solar PPA for Solar Product produced by the Solar Facility and delivered by Seller to FMPA.

Energy Share shall mean FMPA’s xx MW share under the Solar PPA in the Solar Product produced by or associated with the Solar Facility.

Facility Attributes has the meaning given in the Solar PPA.

Initial Energy Delivery Date shall have the meaning provided for in the Solar PPA.

Interlocal Agreement means the Interlocal Agreement creating the Florida Municipal Power Agency, as amended and supplemented to date, and as the same may be amended or supplemented in the future.

Month shall mean a calendar month.

Monthly Energy Costs shall mean, with respect to each Month of each Contract Year, the product of (i) the Energy Price and (ii) the quantity of Solar Product delivered by Seller to FMPA.

Point of Delivery shall mean the high side of the generator step-up transformer of the Solar Facility.

Power Sales Contracts shall mean this Power Sales Contract and the other Power Sales Contracts, dated the date hereof, between FMPA and the other Project Participants, all relating to the Solar PPA and Solar Facility, as the same may be amended from time to time, and any substantially similar contract entered into by FMPA in connection with any transfer or assignment in accordance with this Power Sales Contract.

Project Development Fund Costs shall mean those costs incurred by FMPA and funded by the FMPA Project Development Fund used for the establishment of the FMPA Solar II Project. The Project Development Fund Costs as of the Effective Date are set forth in “Attachment D” of this Power Sales Contract.
Project Related Costs shall mean the costs incurred under the Solar PPA other than Monthly Energy Costs, as well as any other costs incurred by FMPA directly attributable to the Solar II Project, including, without limitation, Allocable A&G Costs, any amounts to reimburse FMPA Project Development Fund Costs, a Working Capital Allowance, any costs associated with real-time monitoring of the output from the Solar Facility to facilitate Project Participants’ transmission scheduling requirements, any credit or payment assurance amounts that may be required under the Solar PPA due to a Downgrade Event, as such term is defined in the Solar PPA, among others.

Project Participants shall mean the parties, including the Project Participant, other than FMPA, to Power Sales Contracts substantially similar hereto.

Renewable Attributes has the meaning given in the Solar PPA.

Schedule of Project Participants shall mean the Schedule of Project Participants contained in Schedule 1 attached hereto, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

Seller shall have the meaning set forth in the Recitals of this Power Sales Contract.

Solar Entitlement Share shall mean, with respect to each project Participant, that percentage of FMPA's Energy Share from the Solar Facility shown opposite the name of such Project Participant in the Schedule of Project Participants as the same may be adjusted from time to time in accordance with the provisions hereof.

Solar II Project shall mean the contractual arrangements and agreements for the purchase of Solar Product by FMPA pursuant to the Solar PPA and sale of the Solar Product to Project Participant pursuant to this Power Sales Contract.

Solar II Project Committee has the meaning set forth in SECTION 7 of this Power Sales Contract.

Solar Facility shall have the meaning set forth in the recitals of this Power Sales Contract.

Solar Product shall have the meaning set forth in the recitals of this Power Sales Contract.

Solar PPA shall have the meaning set forth in the recitals of this Power Sales Contract.

Transmission Service Provider shall mean the transmission service provider(s) to which the Solar Facility is interconnected.

Uniform System of Accounts shall mean the Federal Energy Regulatory Commission (or its successor in function) Uniform Systems of Accounts prescribed for Class A and Class B Public Utilities and Licensees, as the same may be modified, amended or supplemented from time to time.

Working Capital Allowance shall mean funds acquired by the Solar II Project in such amounts as shall be deemed reasonably necessary by the FMPA Board of Directors to provide for any working capital needs, including providing for the Solar II Project’s ability to pay the Seller in the event of non-payment by one or more Project Participants. The initial Working Capital Allowance and the method of funding is described in “Attachment C” to this Power Sales Contract.

SECTION 2. Term & Termination.

(a) Effective Date. This Power Sales Contract shall become effective upon the last date of execution and delivery of all Power Sales Contracts by all Project Participants originally listed in the Schedule of Project Participants and by FMPA (the “Effective Date”) and shall, unless this Power Sales Contract is terminated early pursuant hereto, continue until the expiration or earlier termination of the Solar PPA. Unless a Project Participant terminates this Agreement pursuant to Section 19(a) by paying all stranded cost obligations, neither termination nor expiration of this Power Sales Contract shall affect any
accrued liability or obligation hereunder. Notwithstanding the foregoing, in the event it is ultimately
determined that any other Project Participant failed to duly and validly execute and deliver its Power Sales
Contract, or if any other Power Sales Contract, or any portion thereof, shall be deemed invalid or
unenforceable for any other reason whatsoever, such determination shall in no way affect the
commencement, term or enforceability of this Power Sales Contract or the Project Participant's obligations
hereunder.

(b) Early Termination. Project Participant may terminate this Power Sales Contract pursuant
to SECTION 19 of this Power Sales Contract.

SECTION 3. Sale and Purchase.

Commencing on the Initial Energy Delivery Date of the Solar Facility, FMPA shall purchase from
Seller in accordance with the terms and conditions of the Solar PPA, and FMPA agrees to and does sell,
and the Project Participant agrees to and does hereby purchase, the Project Participant's Solar Entitlement
Share. The Project Participant shall, in accordance with and subject to the provisions of SECTION 5 hereof,
pay FMPA (i) for its Solar Entitlement Share, an amount determined by multiplying Monthly Energy Costs
by the Project Participant’s Solar Entitlement Share, and (ii) for its share of monthly Project Related Costs,
an amount determined by multiplying the Project Related Costs for such Month by Project Participant’s
Solar Entitlement Share. FMPA shall provide documentation evidencing the conveyance of the Renewable
Attributes associated with the Solar Product to Project Participant in a form acceptable to FMPA and Project
Participant.

SECTION 4. Project Budget.

(a) In accordance with the FMPA Board of Directors’ annual schedule for budget
development, the Solar II Project Committee shall develop and approve a budget for the Solar II Project
and submit the same to the FMPA Board of Directors for approval. As part of the budget process, the Solar
II Project Committee will review Project Related Costs, including the Allocable A&G and the Working
Capital Allowance, to ensure the appropriate amount of resources are allocated the Solar II Project.

(b) On or before August 1, 2020, and on or before August 1 prior to the beginning of each
Contract Year thereafter, the Board of FMPA shall review the proposed Solar II Project budget submitted
by the Solar II Project Committee, and shall adopt and submit to the Project Participant an Annual Budget
for the following Contract Year which shall provide an estimate of the Project Participant's monthly
payments hereunder and serve as a basis for Project Participants’ payments hereunder for Monthly Energy
Costs and Project Related Costs for such Contract Year.

(c) During each Contract Year, the Solar II Project Committee or Board may review its Annual
Budget for the remainder of the Contract Year at any time as it shall deem desirable. In the event such or
any other review indicates that such Annual Budget will not substantially correspond with actual Monthly
Energy Costs, or actual Project Related Costs, or if at any time during such Contract Year there are or are
expected to be extraordinary receipts, credits or costs substantially affecting the Monthly Energy Costs, or
Project Related Costs, the Solar II Project Committee shall recommend and the Board of FMPA shall adopt
and submit to each Project Participant an amended Annual Budget applicable to the remainder of such
Contract Year which shall provide an estimate of the Project Participant's monthly payments hereunder for
the remainder of such Contract Year and serve as the basis for the Project Participant's monthly payments
for Monthly Energy Costs and Project Related Costs hereunder for the remainder of such Contract Year.

SECTION 5. Billing, Payment, Disputed Amounts.

(a) On or before the 10th day of each Month beginning with the second Month of the first
Contract Year following the Effective Date, FMPA shall render to the Project Participant a monthly
statement showing, in each case with respect to the prior Month, the amount of energy delivered for each hour and the amounts payable by Project Participant in respect of the following (i) the Monthly Energy Costs; (ii) the Project Related Costs; and (iii) any amount, if any, to be credited to or paid by the Project Participant pursuant to the terms of this Power Sales Contract.

(b) Monthly payments required to be paid to FMPA pursuant to this SECTION 5 shall be due and payable to FMPA on the 25th day of the Month in which the monthly statement was rendered. The Project Participant shall make payment to FMPA by the transfer of funds from the Project Participant’s bank account, using an ACH Push or domestic Wire Transfer, through instructions to be provided by FMPA to the Project Participant.

(c) If payment in full is not made on or before the close of business on the due date, a delayed payment charge on the unpaid amount due for each day overdue will be imposed at a rate equal to the annual percentage prime rate of interest plus 5%, or the maximum rate lawfully payable by the Project Participant, whichever is less. If said due date is Saturday, Sunday or a holiday, the next following business day shall be the last day on which payment may be made without the addition of the delayed payment charge.

(d) In the event of any dispute that is known by Project Participant, or should have reasonably been known, as to any portion of any monthly statement, the Project Participant shall nevertheless pay the full amount of such disputed charges when due and shall give written notice of such dispute to FMPA not later than the date such payment is due. Such notice shall identify the disputed bill, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. FMPA shall give consideration to such dispute and shall advise the Project Participant with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be properly reflected in the statement next submitted to the Project Participant after such determination. If it is determined that the disputed amount is in the favor of the Participant, to the extent that FMPA earned any interest on the amount withheld, then interest actually earned shall be applied to the overpaid amount.

(e) The obligation of the Project Participant to make the payments under this SECTION 5 shall constitute an obligation of the Project Participant payable as an operating expense of the Project Participant’s electric utility system solely from the revenues and other available funds of the electric utility system. The obligation of the Project Participant to make payments under this Power Sales Contract shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not be otherwise conditioned upon performance of FMPA or Seller under the Solar PPA or the performance by FMPA under this or any other agreement or instrument or the validity or enforceability of any other Power Sales Contract or any other agreement between FMPA and any other Project Participant; provided, however, that the Monthly Energy Costs payable by Project Participant shall reflect the Project Participant’s Solar Entitlement Share of the quantity of Solar Product made available by the Seller at the Point of Delivery, and payable by FMPA under the Solar PPA, during that month. The obligation of the Project Participant to make payments under this SECTION 5 shall not constitute a debt of the Project Participant within the meaning of any constitutional or statutory provision or limitation or a general obligation of or pledge of the full faith and credit of the Project Participant, and neither the Project Participant nor the State of Florida or any agency or political subdivision thereof shall ever be obligated or compelled to levy ad valorem taxes to make the revenues provided for in this SECTION 5, and the obligation of the Project Participant to make payments pursuant to this SECTION 5 shall not give rise to or constitute a lien upon any property of the Project Participant or any property located within its boundaries or service area.

SECTION 6. Scheduling of Deliveries; Transmission.
(a) FMPA shall cause Seller, or Seller’s agent, to schedule and deliver FMPA's Energy Share to the Point(s) of Delivery in accordance with standard scheduling and dispatching procedures. Unless otherwise agreed to in writing by FMPA and Project Participant, Project Participant shall be responsible for scheduling the delivery of its Solar Entitlement Share of Electric Energy, as well as the associated transmission service, from the Point(s) of Delivery to Project Participant’s electric system. Upon request, FMPA, or its agent, shall provide such Project Participant with the Seller’s daily forecasted output of the Solar Facility as provided by Seller pursuant to the Solar PPA. FMPA, or its agent, shall maintain communication with the Project Participant regarding Solar Facility forecasts and real-time output in order to enable Project Participant to modify its transmission schedules with its transmission service provider to align with the Solar Facility’s actual output.

(b) Project Participant shall be responsible for securing transmission service necessary to deliver the Solar Energy from the Point of Delivery to Project Participant’s electric system. To the extent this transmission service requires upgrades to Project Participant’s transmission service provider’s transmission system, Project Participant shall be responsible for ensuring all upgrades are complete and Project Participant is able to receive its Solar Entitlement Share prior to the Initial Energy Delivery Date, as defined in the Solar PPA, or otherwise arrange for alternative transmission arrangement for, or disposal of, its Solar Entitlement Share until such time as Project Participant can receive it. Project Participant shall be responsible for enforcing its rights under its transmission service agreement(s) and its transmission service provider’s Open Access Transmission Tariff (“OATT”) regarding the transmission service provider’s obligation to make such upgrades.

(c) All of the provisions of this SECTION 6 are subject to the provisions of the Solar PPA, and in the event of any inconsistencies between this SECTION 6 and the provisions of the Solar PPA governing scheduling, the terms of the Solar PPA shall govern.

SECTION 7. Solar PPA Early Termination and Term Extension, other Solar PPA Business Matters, and Solar II Project Committee.

(a) The Solar PPA includes several provisions that allow the Solar II Project to exercise discretion regarding whether to extend the Term of the Solar PPA or to continue the existing Term of the Solar PPA despite a triggering event under the terms of the Solar PPA that permit early termination (hereinafter referred to as “Discretionary Term Decisions”). Such Discretionary Term Decisions may include, for example but without limitation, options for extension of the Term of the Solar PPA beyond the Initial Term, options for continuing or terminating obligations related to portions of the solar capacity that do not make commercial operation deadlines, and options for early termination of the Solar PPA if certain conditions precedent are not met. Project Participant and all other Project Participants will each designate a representative to serve on the Solar II Project Committee. The Committee will meet in advance of any Discretionary Term Decisions provided for under the Solar PPA, and as FMPA or any Project Participant may request, with 30 day advance Notice (or less if the matter at hand so requires). The Solar II Project Committee shall meet not less than 180 days prior to the expiration of the Initial Term or a Renewal Term, as defined in the Solar PPA, if any, to decide whether to extend the Term of the Solar PPA. In making any Discretionary Term Decision, the Solar II Project Committee will vote on the matter. If the Solar II Project Committee unanimously decides to exercise a Discretionary Term Decision, then such unanimous consent shall be presented to the FMPA Board of Directors as a recommendation for action on the matter. If one or more Solar II Project Participants do not wish to exercise a Discretionary Term Decision, then the other Solar II Project Participants may elect to assume the Solar Entitlement Share of those Project Participant(s) that do not wish to exercise the Discretionary Term Decision. In such event, the non-exercising Project Participant(s)’ Solar II Project Power Sales Contract shall be terminated, and the Power Sales Contract of the assuming Project Participant(s)’ shall be amended to reflect the revised Solar Entitlement Shares. In the event that the Project Participant(s) that wish to exercise the Discretionary Term Decision cannot agree to
assume 100% of the terminating Project Participant(s)’ Solar Entitlement Share, then the Discretionary Term Decision shall not be exercised.

(b) All other, non-Discretionary Term Decisions made by the Solar II Project Committee shall be by a simple majority, with each Project Participant having one equally-weighted vote on Solar II Project matters. After formation of the Solar II Project, each Project Participant shall designate a representative to serve on the Solar II Project Committee. The Solar II Project Committee shall develop a Solar II Project Committee Charter for review and approval of the Board of Directors.

SECTION 8. Availability of Entitlement Shares.

Except as provided otherwise by this Power Sales Contract, and subject to the provisions of the Solar PPA, the Project Participant’s Solar Entitlement Share shall be made available for delivery to each Project Participant by FMPA in accordance with this Power Sales Contract during the term of this Power Sales Contract; provided, however, that, regardless of the amount of Solar Product actually delivered in any given month, Project Participant shall be obligated to make its payments under SECTION 5 hereof all for non-energy related Project Related Costs.

SECTION 9. Accounting.

(a) FMPA agrees to keep accurate records and accounts relating to the Solar II Project and relating to Monthly Energy Costs, and Project Related Costs, in accordance with the Uniform System of Accounts, separate and distinct from its other records and accounts. Said accounts shall be audited annually, which audit may be conducted as part of and in connection with the normal year-end audit of FMPA, by a firm of certified public accountants, experienced in public finance and electric utility accounting and of national reputation, to be employed by FMPA. A copy of each annual audit, including all written comments and recommendations of such accountants, shall be furnished by FMPA to the Project Participant not later than 120 days after the end of each Contract Year.

(b) The Project Participant shall supply to FMPA upon request a copy of the Project Participant’s annual financial audit. Project Participant shall notify FMPA in writing immediately upon becoming aware of any event that may negatively affect the Project Participant’s credit rating or cause a Downgrade Event, as defined in the Solar PPA.

SECTION 10. Information to be Made Available.

(a) Based, in each case, upon the data most recently available to FMPA pursuant to the Solar PPA, at intervals requested by Project Participant, FMPA will prepare and issue to the Project Participant the following reports:

1. status of the Solar II Project annual budget,
2. status of construction of the Solar Facility during construction, as received from Seller, and
3. operating statistics relating to Solar II Project, as received from Seller.

(b) Upon request, FMPA shall furnish or otherwise make available to the Project Participant all other information which FMPA receives from Seller pursuant to the Solar PPA.

(c) FMPA shall promptly provide Project Participant copies of any notices made or received by FMPA pursuant to the Solar PPA.

(d) Project Participant shall, upon request, furnish to FMPA all such information as is reasonably required by FMPA to carry out its obligations under this Power Sales Contract and the Solar PPA. As the Solar II Project is obligated to demonstrate creditworthiness as a requirement of the Solar
PPA and report to Seller any Downgrade Event. Project Participants will cooperate with FMPA and will promptly notify FMPA of any event experienced by Project Participant that may cause or contribute to a Downgrade Event.

SECTION 11. Covenants.

(a) Project Participant Covenants. Project Participant agrees (1) to maintain its electric utility system in good repair and operating condition; (2) to cooperate with FMPA in the performance of the respective obligations of such Project Participant and FMPA under this Power Sales Contract; (3) to establish, levy and collect rents, rates and other charges for the products and services provided by its electric utility system, which rents, rates, and other charges shall be at least sufficient (i) to meet the operation and maintenance expenses of such electric utility system, (ii) to comply with all covenants pertaining thereto contained in, and all other provisions of, any resolution, trust indenture, or other security agreement relating to any bonds or other evidences of indebtedness issued or to be issued by the Project Participant, (iii) to generate funds sufficient to fulfill the terms of all other contracts and agreements made by the Project Participant, including, without limitation, this Power Sales Contract, and (iv) to pay all other amounts payable from or constituting a lien or charge on the revenues of its electric utility system; and (4) take such action and execute and deliver all documents and information reasonably necessary to enable FMPA to perform its obligations under the Solar PPA.

Project Participant agrees that any power purchase agreement entered into by Project Participant after the Effective Date of this Power Sales Contract, including, without limitation, any full-requirements power supply agreement, with any third party shall permit Project Participant to purchase and receive Solar Product pursuant to this Power Sales Contract.

(b) FMPA Covenants. FMPA covenants that it shall administer and enforce against the Seller the terms and conditions of the Solar PPA, including complying with any covenants required therein, as advised by the Solar II Project Committee and directed by the FMPA Board of Directors.


(a) Failure of the Project Participant to make to FMPA when due any of the payments for which provision is made in this Power Sales Contract shall constitute an immediate default on the part of the Project Participant.

(b) Continuing Obligation, Right to Discontinue Service. In the event of any default referred to in this SECTION 12 hereof, the Project Participant shall not be relieved of its liability for payment of the amounts in default, plus reasonable attorney’s fees and costs, and FMPA shall have the right to recover from the Project Participant any amount in default. In enforcement of any such right of recovery, FMPA may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation to make any payment for which provision is made in this Power Sales Contract against the Project Participant, and FMPA shall, upon ten (10) days written notice to the Project Participant, cease and discontinue, either permanently or on a temporary basis, providing all or any portion of the Project Participant's Solar Entitlement Share, at the discretion of the Solar II Project Committee.

(c) Transfer of Solar Entitlement Shares Following Default. In the event of a default by any Project Participant and permanent discontinuance of service pursuant to this SECTION 12 of such Project Participant's Power Sales Contract, FMPA is hereby appointed the agent of such Project Participant for the purpose of disposing of such Project Participant's Solar Entitlement Share and as such agent, FMPA shall proceed to dispose of such defaulting Project Participant's Solar Entitlement Share as follows:
(1) FMPA shall first offer to transfer to all other non-defaulting Project Participants a pro rata portion of the defaulting Project Participant's Solar Entitlement Share which shall have been discontinued by reason of such default. Any part of such Solar Entitlement Share of a defaulting Project Participant which shall be declined by any non-defaulting Project Participant shall be reoffered pro rata to the non-defaulting Project Participants which have accepted in full the first such offer; such reoffering shall be repeated until such defaulting Project Participant's Solar Entitlement Share has been reallocated in full or until all non-defaulting Project Participants have declined to take any portion or additional portion of such defaulting Project Participant's Solar Entitlement Share.

(2) In the event less than all of a defaulting Project Participant's Solar Entitlement Share shall be accepted by the other non-defaulting Project Participants pursuant to clause (1), FMPA shall, to the extent permitted by law, use commercially reasonable efforts to sell the remaining portion of a defaulting Project Participant's Solar Entitlement Share for the remaining term of such defaulting Project Participant's Power Sales Contract with FMPA. The agreement for such sale shall contain such terms and conditions, including provisions for discontinuance of service upon default, and as are otherwise acceptable to the Solar II Project Committee.

(3) Any portion of the Solar Entitlement Share of a defaulting Project Participant transferred pursuant to SECTION 12(c)(1) to a non-defaulting Project Participant shall become a part of and shall be added to the Solar Entitlement Share of such Project Participant(s), and each such Project Participant(s) shall be obligated to pay for its Solar Entitlement Share increased as aforesaid, as if the Solar Entitlement Share of such Project Participant(s), increased as aforesaid, had been stated originally as the Solar Entitlement Share of such Project Participant(s) in its Power Sales Contract with FMPA; provided, however, that the Project Participant assuming the defaulting Project Participant’s Power Entitlement share shall not be liable for, and the defaulting Project Participant shall remain liable for, any amounts owed by the defaulting Project Participant prior to the assignment and assumption of the defaulting Project Participant’s Power Entitlement Share.

(4) The defaulting Project Participant shall remain liable for all payments to be made on its part pursuant to the Power Sales Contract, except that the obligation of the defaulting Project Participant to pay FMPA shall be reduced to the extent that payments shall be received by FMPA, net of any administrative and reasonable attorney’s fees and costs incurred by FMPA that is caused by the default, for that portion of the defaulting Project Participant's Solar Entitlement Share which may be transferred or sold or for the Solar Product associated therewith which may be sold as provided in clauses (1), (2), or (3) of this SECTION 12. Notwithstanding the foregoing, to the extent a defaulting Project Participant has failed to pay its Solar II Project invoice, in order to prevent FMPA from defaulting under the Solar PPA, the non-defaulting Project Participants’ monthly Solar II Project invoices shall be increased on a pro rata basis, based on such Project Participants Solar Entitlement Shares, unless and until FMPA shall recover from the defaulting Project Participants amounts owed, upon which FMPA shall reimburse the non-defaulting Project Participants.

(d) Other Default by Project Participant. In the event of any default by the Project Participant under any other covenant, agreement or obligation of this Power Sales Contract which has not been cured within thirty (30) days after receipt of notice by FMPA, FMPA may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Power Sales Contract against the Project Participant. Such remedies shall be in addition to all other remedies provided for herein.
SECTION 13. Default by FMPA.

In the event of any default by FMPA under any other covenant, agreement or obligation of this Power Sales Contract, Project Participant may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Power Sales Contract against FMPA. Such remedies shall be in addition to all other remedies provided for herein.


In case any proceeding taken on account of any default shall have been discontinued or abandoned for any reason, the parties to such proceedings shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of FMPA and the Project Participant shall continue as though no such proceedings had been taken.

SECTION 15. Waiver of Default.

Any waiver at any time by either FMPA or the Project Participant of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with this Power Sales Contract, shall not be a waiver with respect to any subsequent default, right or matter.

SECTION 16. Relationship to and Compliance with Other Instruments.

The performance of FMPA under this Power Sales Contract is made subject to the terms and provisions of the Solar PPA.


FMPA will or will cause Seller to install, maintain, and operate the metering equipment, required to measure the quantities of Electric Energy produced and delivered from the Solar Facility in accordance with the Solar PPA. Each meter used pursuant to this SECTION 17 shall be tested and calibrated in accordance with the Solar PPA.

SECTION 18. Liability of Parties.

Any liability which is incurred by FMPA pursuant to the Solar PPA and not covered, or not covered sufficiently, by insurance shall be paid solely from the revenues of FMPA derived from the Solar II Project, and any payments made by FMPA, or which FMPA is obligated to make, to satisfy such liability shall become part of Monthly Energy Costs, as required in order to satisfy the obligation of FMPA to make such payments as provided in the Solar PPA.

SECTION 19. Assignment or Sale of Project Participant's Solar Entitlement Share.

(a) Project Participant may terminate this Power Sales Contract upon 90 days advance written notice to FMPA and provided that Project Participant pay, prior to the termination date, the amounts set forth in this SECTION 19(a). Prior to the termination date, Project Participant shall pay to FMPA all stranded cost obligations, as determined by FMPA, to hold the other, non-terminating, Project Participants harmless from the costs associated with Project Participant’s termination. For purposes of this SECTION 19(a), stranded cost obligations are defined as an estimate of the solar energy costs that FMPA will pay for the terminating Project Participant’s Solar Entitlement Share during each remaining month of the remaining Initial Term of the Solar PPA based on a forecast of expected solar production. The forecast of expected solar production is defined as a P50 (probability of exceedance is 50 percent) production estimate under typical meteorological year conditions using an industry standard modeling tool (PVsyst or its successor/peer products) reflective of a degradation rate of 0.5% per year relative to the original nominal alternating current capacity of the solar resource in the current year (prorated over a partial year as applicable) and each subsequent remaining year of the Solar PPA Initial Term. Upon such payment and
termination, Project Participant shall have no further obligation to the Solar II Project or other Project Participants under this Power Sales Contract. The terminating Project Participant’s Solar Entitlement Share shall be allocated to the remaining Project Participants on a pro rata basis based on their Solar Entitlement Shares.

(b) Project Participant may assign this Power Sales Contract to another Project Participant or another FMPA member, provided that such assignee agrees to fully assume, and fully accept all terms and conditions of, this Power Sales Contract for the Term hereof. If assigned to a FMPA member that is not a Project Participant, such assuming FMPA member shall become a Project Participant upon its assumption of the Power Sales Contract. Upon such assignment and assumption, this Power Sales Contract shall terminate, and Project Participant shall have no further obligation to the Solar II Project or other Project Participants under this Power Sales Contract.

(c) In the event the Project Participant shall determine that all or any amount of the Solar Product which can be produced from the Project Participant's Solar Entitlement Share are in excess of the requirements of the Project Participant, or Project Participant no longer desires to purchase and receive its Solar Entitlement Share, at the written request of the Project Participant, FMPA shall use commercially reasonable efforts to sell and transfer on behalf of such Project Participant for any period of time all or any part of such excess Solar Product to such other Project Participant or Participants as shall agree to take such Solar Product at such prices as may be agreed to, provided, however, that in the event the other Project Participants do not agree to take the entire amount of such excess, FMPA shall have the right, to the extent permitted by law, to dispose of such excess to other utilities. If all or any portion of such excess of the Project Participant's Solar Entitlement Share is sold pursuant to this SECTION 19(c), then the Project Participant's Solar Entitlement Share shall not be reduced, and the Project Participant shall remain liable to FMPA to pay the full amount due as if such sale had not been made; except that such liability shall be discharged to the extent that FMPA shall receive payment for such excess from the purchaser or purchasers thereof and that any amounts received by FMPA as payment for such excess which is greater than the liability owed by the Project Participant to FMPA in respect of such excess shall be promptly paid or credited by FMPA to the Project Participant.


(a) This Power Sales Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Power Sales Contract; provided, however, that, except as provided in (1) SECTION 12 hereof in the event of a default; (2) SECTION 19(a), and (3) SECTION 20(b), neither this Power Sales Contract nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto, which consent shall not be unreasonably withheld. The Solar II Project Committee shall make a recommendation on any assignment of a Power Sales Contract hereunder to the FMPA Board of Directors for their action.

(b) Project Participant agrees that it will not sell, lease, abandon or otherwise dispose of all or substantially all of its electric utility system except upon ninety (90) days prior written notice to FMPA and, in any event, will not sell, lease, abandon or otherwise dispose of the same unless the following conditions are met: (i) the Project Participant shall, subject to the Solar PPA, assign this Power Sales Contract and its rights and interest hereunder to the purchaser or lessee of said electric system, if any, and any such purchaser or lessee shall assume all obligations of the Project Participant under this Power Sales Contract; and (ii) FMPA shall by affirmative vote of the FMPA Solar II Project Committee reasonably determine that such sale, lease, abandonment or other disposition will not materially adversely affect FMPA's ability to meet its obligations under the Solar PPA.

SECTION 21. Termination or Amendment of Contract.
(a) This Power Sales Contract shall not be terminated by either party under any circumstances, whether based upon the default of the other party under this Power Sales Contract or any other instrument or otherwise except as specifically provided in this Power Sales Contract.

(b) This Power Sales Contract may be terminated by FMPA by notice to the Project Participant upon an event of default by Project Participant that has not been cured in accordance with this Power Sales Contract.

(c) No Power Sales Contract entered into between FMPA and another Project Participant may be amended so as to provide terms and conditions different from those herein contained except upon written notice to and written consent or waiver by each of the other Project Participants, and upon similar amendment being made to the Power Sales Contract of any other Project Participants requesting such amendment after receipt by such Project Participant of notice of such amendment.

SECTION 22. Notice and Computation of Time.

Any notice or demand by the Project Participant to FMPA under this Power Sales Contract shall be deemed properly given if sent by overnight mail or courier, or by facsimile or email transmission to the following:

Florida Municipal Power Agency
Attn: Chief Operating Officer
8553 Commodity Circle
Orlando, FL 32819
Email: ken.rutter@fmpa.com
Fax: 407-355-5794

With a required copy to:
FMPA Office of the General Counsel
2061-2 Delta Way
P.O. Box 3209 (32315-3209)
Tallahassee, FL 32303
Email: jody.lamar.finkea@fmpa.com
dan.ohagan@fmpa.com
Fax: 850-297-2014

Any notice or demand by FMPA to the Project Participant under this Power Sales Contract shall be deemed properly given if sent by overnight mail or courier, or by facsimile or email transmission, and addressed to the Project Participant at the address set forth on Schedule 1 hereto.

A notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the business day on which such notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next business day) and a notice of overnight mail or courier shall be deemed to have been received two (2) business days after it was sent or such earlier time as is confirmed by the receiving Party.

The designations of the name and address to which any such notice or demand is directed may be changed at any time and from time to time by either party giving notice as above provided.

SECTION 23. Applicable Law; Construction.

This Power Sales Contract is made under and shall be governed by the laws of the State of Florida. Headings herein are for convenience only and shall not influence the construction hereof.

If any section, paragraph, clause or provision of this Power Sales Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Power Sales Contract shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein.

SECTION 25. Solar II Project Responsibility

This Power Sales Contract is a liability and obligation of the Solar II Project only. No liability or obligation under this Power Sales Contract shall inure to or bind any of the funds, accounts, monies, property, instruments, or rights of FMPA generally, any individual FMPA member other than Project Participant, or any of any other “project” of FMPA as that term is defined in the Interlocal Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Power Sales Contract to be executed by their proper officers respectively, being thereunto duly authorized, and their respective seals to be hereto affixed, as of the day and year first above written.

Signatures on following pages

FLORIDA MUNICIPAL POWER AGENCY

(SEAL)

By:________________________________________
General Manager & CEO

Attest:

Date:_______________________________________

Secretary or Assistant Secretary

CITY OF MOUNT DORA

___________________________________________
CATHERINE T. HOECHST
MAYOR of the City of Mount Dora

ATTEST:

Date:_______________________________________

GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only
Approved as to form and legal sufficiency

Sherry G. Sutphen
City Attorney
ATTACHMENT B

FMPA PROCESS FOR DETERMINING ALLOCABLE A&G COSTS

FMPA uses a process to determine the Administrative and General costs (A&G) that will be incurred to effectively manage its non-ARP power supply projects. FMPA’s Board approves the process and the allocations to power supply project participants when the Board approves each annual power supply project budget. The process is subject to annual review and approval by the Board, and thus, may change from time to time.

The total A&G allocated to the Solar II Project will not exceed 100% of the cost associated with the single highest cost non-executive level FMPA position essential to the effective management of the Projects, and annual increases in total A&G allocated shall be commensurate with annual salary increases of such highest costs non-executive level FMPA position. Any revision to this approach shall require the approval of the Solar II Project Committee. As of the Effective Date of this Agreement, the amount equal to 100% of the cost associated with the single highest cost non-executive level FMPA position essential to the effective management of the Projects is $232,447.

The following describes the power supply project A&G cost determination process for the FY2018 Budget and provides an example of how A&G costs will be allocated to Solar II Project and ARP Solar Participants, starting with the FY2020 budget:

1) Staff determines the FMPA positions that are essential to effective management of the Projects.
2) Staff determines the percent time each position spends serving the needs of each the Projects and the ARP.
3) The allocable cost of each position to each of the Projects is the percent time this position spends serving the needs of each the Projects determined in 2) multiplied by the current mid-point of the salary range of the position as maintained by FMPA’s Human Resources Department and approved by the Board, and multiplied by FMPA’s overhead adder percentage.
4) The total A&G allocated to each Project is the sum of the allocable costs of each position essential to effective management of the Project.
5) Once the annual A&G costs to be allocated to the Solar II Project is determined, the amount is divided by 12 to arrive at the monthly allocable A&G costs.
6) For Solar II Project, the monthly allocable A&G costs will be divided by the total amount of the solar energy received by the Solar II Project for the billing month to determine a monthly allocable A&G rate ($/MWh). Each Solar II Project pays this rate times the amount of solar energy each Participant received during the billing month.
7) The table below is an example of the calculation of annual and monthly allocable A&G costs to each power supply project and the Solar II Project for the FY2020 Budget using cost data and the process approved for the FY2020 Budget. This allocation process is subject to Board approval each year.
<table>
<thead>
<tr>
<th>Position</th>
<th>FY 2019 Mid Point Salary</th>
<th>ARP</th>
<th>STN</th>
<th>Tri-City</th>
<th>STN 2</th>
<th>St Lucie</th>
<th>Solar</th>
<th>Solar 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Manager</td>
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<td>19.2%</td>
<td>19.2%</td>
<td>19.2%</td>
<td>19.2%</td>
<td>2.0%</td>
<td>2.0%</td>
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<tr>
<td>Admin Asst.</td>
<td>$57,712</td>
<td>19.2%</td>
<td>19.2%</td>
<td>19.2%</td>
<td>19.2%</td>
<td>19.2%</td>
<td>2.0%</td>
<td>2.0%</td>
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<tr>
<td>Director of Engineering</td>
<td>$196,197</td>
<td>19.2%</td>
<td>19.2%</td>
<td>19.2%</td>
<td>19.2%</td>
<td>19.2%</td>
<td>2.0%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Engineer</td>
<td>$116,129</td>
<td>18.0%</td>
<td>18.0%</td>
<td>18.0%</td>
<td>18.0%</td>
<td>18.0%</td>
<td>5.0%</td>
<td>5.0%</td>
</tr>
<tr>
<td>Engineering Assistant</td>
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<td>19.2%</td>
<td>19.2%</td>
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<tr>
<td>Director of Finance</td>
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<td>16.0%</td>
<td>16.0%</td>
<td>16.0%</td>
<td>16.0%</td>
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<tr>
<td>Mgr. Contracts Compliance</td>
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<tr>
<td>Accountant III</td>
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<td>16.0%</td>
<td>16.0%</td>
<td>16.0%</td>
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<tr>
<td>Accounting Clerk</td>
<td>$43,126</td>
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<tr>
<td>Payroll Clerk PT</td>
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<td>19.2%</td>
<td>19.2%</td>
<td>19.2%</td>
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<tr>
<td>Total</td>
<td>$1,165,908</td>
<td>$207,503</td>
<td>$207,503</td>
<td>$207,503</td>
<td>$207,503</td>
<td>$207,503</td>
<td>$64,198</td>
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<td>Overhead Adder</td>
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<td>88.83%</td>
<td>88.83%</td>
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<td>88.83%</td>
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<tr>
<td>Annual Allocable A&amp;G</td>
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<td>$391,833</td>
<td>$391,833</td>
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<td>Monthly Allocable A&amp;G</td>
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<td>$32,653</td>
<td>$32,653</td>
<td>$10,102</td>
<td>$10,102</td>
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</table>
ATTACHMENT C
WORKING CAPITAL ALLOWANCE

In order to provide for working capital for the Solar II Project, and to provide for the Solar II Project’s ability to pay Seller in the event of non-payment by one or more Project Participants, the Solar II Project shall maintain a working capital fund in the principal amount of $250,000 as cash on hand, or other financial instrument as determined by the Solar II Project Committee. The working capital fund will be funded at the time solar energy starts to be provided under the Solar PPA and will remain in place for the remaining term of this Power Sales Contract. Working capital expenses, including payment of interest on any amounts drawn on any financial instruments, shall constitute Project Related Costs.
ATTACHMENT D

PROJECT DEVELOPMENT FUND COSTS

As of the Effective Date of this Agreement, FMPA has incurred $0 in Project Development Fund costs.

The amount of Project Development Fund costs allocable to Project Participants shall be calculated by dividing the total balance of Development Fund Costs incurred for solar development by the total expected energy production allocated to the Solar II Project over the first 20 years of the Solar PPA. The resulting dollar per MWh cost shall be allocated as a Project Related Cost.

<table>
<thead>
<tr>
<th>Project Development Fund Cost</th>
<th>Units</th>
<th>Value</th>
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</thead>
<tbody>
<tr>
<td>Total Development Fund Expenditure</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Participant Capacity</td>
<td>MW-AC</td>
<td></td>
</tr>
<tr>
<td>Est. Annual Capacity Factor</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td>Est. Annual Project Energy</td>
<td>MWh</td>
<td></td>
</tr>
<tr>
<td>20 Year Buy down Per Year</td>
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<tr>
<td>20 Year Buy down Per MWh</td>
<td>$/MWh</td>
<td></td>
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## SCHEDULE 1
### SCHEDULE OF PROJECT PARTICIPANTS

<table>
<thead>
<tr>
<th>Name of Project Participant</th>
<th>Solar Entitlement</th>
<th>Solar Entitlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Alachua</td>
<td>5</td>
<td>6.173%</td>
</tr>
<tr>
<td>City of Bartow</td>
<td>8</td>
<td>9.876%</td>
</tr>
<tr>
<td>Homestead Public Services</td>
<td>5</td>
<td>6.173%</td>
</tr>
<tr>
<td>City of Lake Worth Utilities</td>
<td>30</td>
<td>37.037%</td>
</tr>
<tr>
<td>City of Mount Dora</td>
<td>2</td>
<td>6.173%</td>
</tr>
<tr>
<td>New Smyrna Beach Utilities Commission</td>
<td>10</td>
<td>12.346%</td>
</tr>
<tr>
<td>City of Wauchula</td>
<td>3</td>
<td>3.704%</td>
</tr>
<tr>
<td>Winter Park Electric Utility</td>
<td>15</td>
<td>18.518%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>81</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

### Notice Information of Project Participants

<table>
<thead>
<tr>
<th>City of Alachua</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Alachua, City Manager</td>
</tr>
<tr>
<td>P.O. Box 9</td>
</tr>
<tr>
<td>Alachua, FL 32616</td>
</tr>
<tr>
<td>Tel: (386) 418-6100</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City of Bartow</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Bartow, City Manager</td>
</tr>
<tr>
<td>450 N. Wilson Ave.</td>
</tr>
<tr>
<td>Bartow, Florida 33831</td>
</tr>
<tr>
<td>Tel: (863) 534-3883</td>
</tr>
<tr>
<td>Fax: (863) 519-3883</td>
</tr>
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<table>
<thead>
<tr>
<th>Homestead Public Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>George Gretsas, City Manager</td>
</tr>
<tr>
<td>The City of Homestead</td>
</tr>
<tr>
<td>100 Civic Court</td>
</tr>
<tr>
<td>Homestead, FL 33033</td>
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<table>
<thead>
<tr>
<th>City of Lake Worth Utilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Lake Worth, Electric Utilities Director</td>
</tr>
<tr>
<td>1900 2nd Avenue North</td>
</tr>
<tr>
<td>Lake Worth, FL 33461</td>
</tr>
<tr>
<td>Tel: (561) 586-1670</td>
</tr>
</tbody>
</table>

With a copy to: 
City of Lake Worth 
Attn: City Attorney 
7 N. Dixie Highway 
Lake Worth, FL 33460
<table>
<thead>
<tr>
<th>City of Mount Dora</th>
<th>City of New Smyrna Beach Utilities Commission</th>
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<tbody>
<tr>
<td>City of Mount Dora</td>
<td>Utilities Commission, City of New Smyrna Beach</td>
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<tr>
<td>Attention: City Manager</td>
<td>200 Canal Street</td>
</tr>
<tr>
<td>510 N. Baker Street</td>
<td>New Smyrna Beach, FL 32168</td>
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<tr>
<td>Mount Dora, FL 32757</td>
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With Copy to:

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<tr>
<th>City of Mount Dora</th>
<th>Winter Park Electric Utility</th>
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<tr>
<td>Attention: City Attorney</td>
<td>City of Winter Park</td>
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<tr>
<td>Bell &amp; Roper, P.A.</td>
<td>Randy Knight, City Manager</td>
</tr>
<tr>
<td>2707 E. Jefferson Street</td>
<td>401 South Park Avenue</td>
</tr>
<tr>
<td>Orlando, Florida 32803</td>
<td>Winter Park, FL 32789-4386</td>
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</tbody>
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City of Wauchula

Terry Atchley, City Manager

126 S 7th Ave.

Wauchula, FL 33873

Tel: (863) 773-3535

Fax: (863) 773-0773
SOLAR POWER PURCHASE AGREEMENT

between

Florida Municipal Power Agency

as Buyer

and

FL Solar [], LLC

as Seller

dated as of

___________ __, 2019
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Exhibit A  Contract Price & Option Price
Exhibit B  Description of Project
Exhibit C  Description of the Delivery Point
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Exhibit E  Form of Guaranty
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Exhibit H  Form of Surety Bond
Exhibit I  Form of Environmental Attributes Attestation and Bill of Sale
Exhibit J  Form of Lender Consent
Exhibit K  Participant List
Exhibit L  Form of Progress Report
This SOLAR POWER PURCHASE AGREEMENT (this “Agreement”) is made this [_____] day of [____________], 2019 (the “Effective Date”), by and between the Florida Municipal Power Agency, a separate governmental legal entity creating and existing pursuant to Section 163.01, Florida Statutes, and exercising powers under that provision or Part II, Chapter 361, Florida Statutes or both (“Buyer”) and FL Solar [___], LLC, a Delaware limited liability company (“Seller”). Buyer and Seller are each individually referred to herein as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Seller intends to develop a photovoltaic solar energy generation facility of approximately [___] MW aggregate nameplate capacity on a site located in [LOCATION], as further described in Exhibit B (the “Project”); and

WHEREAS, Seller desires to sell, and Buyer desires to purchase and receive, all of the electric Energy and associated Capacity Attributes and Environmental Attributes from Buyer’s Share of the Project, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants herein set forth, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties hereto, intending to be legally bound, do hereby agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions.

“AC” means alternating current.

“Abandon” means after having commenced construction of the Project, Seller stops construction of the Project for more than ninety (90) consecutive days excluding cessation of construction work caused by the occurrence of a Force Majeure Event, Permitting Delay, or Transmission Delay and because of such stoppage Seller cannot reasonably demonstrate to Buyer that it will nonetheless be able to complete the Facility within the timeframe contemplated by this Agreement.

“Adjustment Period” has the meaning set forth in Section 5.2.

“Affiliate” means, with respect to any Person, any entity controlled, directly or indirectly, by such Person, any entity that controls, directly or indirectly, such Person or any entity directly or indirectly under common control with such Person. For the purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and
“under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or by contract or otherwise.

“Agreement” has the meaning set forth in the first paragraph hereof.

“Annual Energy Output Guarantee” has the meaning set forth in Exhibit D.

“Applicable Law” means, with respect to any Person or the Project, all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, directives and requirements of all regulatory and other Governmental Authorities, in each case applicable to or binding upon such Person or the Project (as the case may be).

“Applicable REC Program” means, except as otherwise agreed by the Parties, the Green-e Renewable Energy Standard for the United States published by the Center for Resource Solutions, as may be amended, restated, supplemented, or otherwise modified from time to time, and any successor voluntary renewable energy program established as a replacement for such program.

“Bankrupt” means, with respect to a Party, such Party (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) is generally unable to pay its debts as they fall due, (v) been adjudicated bankruptcy or has filed a petition or an answer seeking an arrangement with creditors, (vi) taken advantage of any insolvency law or shall have submitted an answer admitting the material allegations of a petition in bankruptcy or insolvency proceeding, (vii) become subject to an order, judgment or decree for relief, entered in an involuntary case, without the application, approval or consent of such Party by any court of competent jurisdiction appointing a receiver, trustee, assignee, custodian or liquidator, for a substantial part of any of its assets and such order, judgment or decree shall continue unstayed and in effect for any period of one hundred eighty (180) consecutive Days, (viii) failed to remove an involuntary petition in bankruptcy filed against it within one hundred eighty (180) Days of the filing thereof, or (ix) become subject to an order for relief under the provisions of the United States Bankruptcy Act, 11 U.S.C. § 301.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day commences at 8:00 a.m. and ends at 5:00 p.m. local time for the location of the Site.

“Buyer” has the meaning set forth in the first paragraph of this Agreement.
“Buyer Curtailment Cap” means 33% of the Buyer’s Share of the Annual Energy Output listed in Table A of Exhibit D.

“Buyer Curtailment Order” means the instruction from Buyer to Seller to reduce Buyer’s Share of generation from the Project by the amount, and for the period of time set forth in such order, for reasons unrelated to a Planned Outage, Forced Outage, Force Majeure and/or Curtailment Period.

“Buyer Curtailment Period” means the period of time during which Seller reduces generation from the Project pursuant to a Buyer Curtailment Order. The Buyer Curtailment Period shall be inclusive of the time required for the Project to ramp down and ramp up.

“Buyer Excuses” has the meaning set forth in Section 3.5(b).

“Buyer’s Share” means [XX]%.

“Capacity Attributes” means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project intended to value any aspect of the capacity of the Project to produce Energy or ancillary services. Notwithstanding any other provision hereof, Capacity Attributes do not include Environmental Attributes or Tax Attributes.

“Capacity Shortfall” means the difference between Buyer’s Share of the Expected Project Capacity and Buyer’s Share of the amount of Project capacity that has achieved Commercial Operation as of the applicable date.

“Capacity Shortfall Damages” has the meaning set forth in Section 4.4(b).

“Change of Law” means any enactment, adoption, promulgation, modification or repeal of any Applicable Law, or in the administration, interpretation or application thereof by any Governmental Authority occurring on or after the Effective Date.

“Commercially Reasonable” or “Commercially Reasonable Efforts” means, with respect to any purchase, sale, decision, or other action made, attempted or taken by a Party, such efforts as a reasonably prudent business would undertake for the protection of its own interest under the conditions affecting such purchase, sale, decision or other action, consistent with Prudent Operating Practices, including, without limitation, electric system reliability and stability, state or other regulatory mandates relating to renewable energy portfolio requirements, the cost of such action (including whether such cost is reasonable), the amount of notice of the need to take a particular action, the duration and type of purchase or sale or other action, and the commercial environment in which such purchase, sale, decision or other action occurs. “Commercially Reasonable” or “Commercially Reasonable Efforts” shall be reviewed and determined based upon the facts and circumstances known, or which could have been known with the exercise of reasonable
efforts, at the time that a sale, purchase, or other action is taken and shall not be based upon a retroactive review of what would have been optimal at such time.

“Commercial Operation” means that (a) Seller has delivered to Buyer the Performance Assurance required under Section 9.3; (b) Seller has received all material Governmental Approvals as may be required prior to commencing commercial operations by Applicable Law for the construction, operation and maintenance of the Project; and (c) the Project or any portion thereof, as applicable, is operating and able to produce and deliver, or make available for delivery, Energy at the Delivery Point.

“Commercial Operation Date” means the earlier of (a) the date on which Commercial Operation has occurred with respect to the full Expected Project Capacity; (b) 180 days after the Target Commercial Operation Date; and (c) the date the Termination Option is exercised.

“Compliance Cost Cap” has the meaning set forth in Section 3.18.

“Compliance Costs” means all reasonable out-of-pocket costs and expenses, including registration fees, volumetric fees, license renewal fees, external consultant fees and capital costs necessary for compliance, incurred by Seller and paid directly to third parties in connection with Seller’s compliance with obligations under any Applicable Law in connection with, as applicable, the qualification of the Project as a renewable energy resource, the certification and transfer of Environmental Attributes, and compliance with the Transmission Owner and Transmission Provider regulations and requirements applicable to the Project due to a Change of Law after the Effective Date which requires Seller to incur additional costs and expenses in connection with any of such obligations, in excess of the costs and expenses incurred for such obligations under Applicable Law in effect as of the Effective Date.

“Confidential Information” has the meaning set forth in Section 13.1.

“Connecting Utility” means the Person that owns the portion of the electric transmission system at the Interconnection Point.

“Continuation Option” has the meaning set forth in Section 4.4.

“Contract Price” has the meaning set forth in Exhibit A.

“Contract Year” means, after the Commercial Operation Date, a calendar year commencing HE 0100 on January 1 and ending on HE 2400 on December 31 of the same year; provided that, if this Agreement is terminated prior to its expiration, the Contract Year in which such termination occurs will end at HE 2400 on the termination date and if the Commercial Operation Date occurs a date other than January 1, the first Contract Year shall commence HE 0100 on the Commercial Operation Date, and all related provisions of this Agreement shall be adjusted for such condensed Contract Years on a pro rata basis.
“Costs” means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating any arrangement pursuant to which it has hedged its obligations or entering into new arrangements which replace a Terminated Transaction; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with such Terminated Transaction.

[The following bracketed definition only applies to the ARP PPAs:]
“Credit Rating” means, with respect to any entity, the rating then assigned to such entity’s unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issues rating by the Rating Agencies.]

[The following bracketed definition only applies to the Solar II PPAs:]
“Credit Rating” means, (a) with respect to Seller, the rating then assigned to Seller’s unsecured, senior long-term debt obligations (not supported by third-party credit enhancements) or if Seller does not have a rating for its senior unsecured long-term debt, then the rating then assigned to Seller as an issues rating by the Rating Agencies; and (b) with respect to Buyer, the rating then assigned to Buyer’s long-term bonds secured by revenues of the FMPA Solar II Project or, if Buyer does not have a rating for its long-term bonds or no such bonds are issued and outstanding, then either (i) the rating then assigned to the electric or integrated utility system of each FMPA Solar II Project Participant or (ii) the rating then assigned to the municipality of which the FMPA Solar II Project Participant is a department.

“Creditworthy Entity” means an entity has a Credit Rating of BBB- from S&P or Baa3 from Moody’s with a stable outlook.

“Curtailment Period” means the period of time during which there is any curtailment of delivery of the Product resulting from a reduction (including curtailment to zero output or non-dispatch) of the net electrical output of the Project from levels of net electrical output the Project would otherwise be capable of producing, including during a Transmission Interruption that prevents Buyer from receiving Energy at or Seller from delivering Energy to the Delivery Point, as directed or caused by the Transmission Provider, a Governmental Authority, or Transmission Owner not due to actions or omissions of Seller or an Affiliate of Seller.

“Daily Delay Damages” means an amount equal to (a) $[XXXX] multiplied by the number of MWs of Capacity Shortfall, divided by (b) [XXX].

“Damages Rate” has the meaning set forth in Exhibit D.
“Day” or “day” means a period of twenty-four (24) consecutive hours beginning at 00:00 hours local time at the Site location on any calendar day and ending at 24:00 hours local time at the Site location on the same calendar day.

“Deemed Delivered Energy” means the amount of Energy expressed in MWh that the Project would have produced and delivered to the Delivery Point, but that is not produced by the Project and delivered to the Delivery Point during a Buyer Curtailment Period, which amount shall be determined using relevant Project availability, weather and other pertinent data for the period of time during the Buyer Curtailment Period.

“Default Commercial Operation Date” means December 31, 2023 or, if there is an ITC Extension, the deadline for the Project to be placed in service to retain its eligibility for a 30% investment tax credit under such extension.

“Delivered Energy” means Buyer’s Share of all Energy produced from the Project and delivered or made available at the Delivery Point, which shall be net of all Station Service and electrical losses associated with the transmission of the Energy to the Delivery Point, including, if applicable, any transmission or transformation losses between the Metering System and the Delivery Point.

“Delivery Term” means the period of time commencing upon the Initial Energy Delivery Date and terminating at the end of the Term.

“Delivery Point” means the point, more specifically described in Exhibit C, where Seller’s Interconnection Facilities connect to the Transmission Owner’s Interconnection Facilities, which shall be the point of interconnection under the Interconnection Agreement.

“Disclosing Party” has the meaning set forth in Section 13.1.

“Dispute” has the meaning set forth in Section 17.1.

[The following bracketed definition only applies to the ARP PPAs:
“Downgrade Event” refers to any point in time when a Party’s or its Guarantor’s Credit Rating falls below BBB- from S&P or Baa3 from Moody’s, if rated by one or more Ratings Agencies.]

[The following bracketed definition only applies to the Solar II PPAs:
“Downgrade Event” refers to any point in time (a) with respect to either Party or its Guarantor’s Credit Rating falls below Investment Grade; and (b) with respect to Buyer, (i) any Credit Rating of Buyer’s long-term bonds secured by the revenues of the FMPA Solar II Project falls below Investment Grade; (ii) if Buyer does not have a Credit Rating for its long-term bonds or no such bonds are issued and outstanding, then (A) less than 65% of the FMPA Solar II Project Participant Entitlement Shares are held by FMPA Solar II Project Participants that have a Credit Rating, or (B) the Credit Ratings then assigned to the electric or integrated utility systems of FMPA Solar II Project Participants with Credit]
Ratings equals at least thirty-five percent (35%) of Buyer’s Share of the Expected Project Capacity or Installed Capacity, as applicable, falls below Investment Grade; or (iii) if the FMPA Solar II Project Participant Covenants in any FMPA Solar II Project Power Sales Contract are amended, modified or altered in a manner which materially adversely impacts the ability of the FMPA Solar II Project to perform and pay its obligations under this Agreement and Seller does not consent thereto, such consent not to be unreasonably withheld, conditioned or delayed.]

“Early Termination Date” has the meaning set forth in Section 7.2(a).

“Effective Date” has the meaning set forth in the first paragraph of this Agreement.

“Energy” means electric energy generated by the Project, which shall be in the form of three (3)-phase, sixty (60) Hertz, alternating current and expressed in units of megawatt-hours.

“Environmental Attribute” means any and all presently existing or future benefits, emissions reductions, environmental air quality credits, emissions reduction credits, greenhouse gas emissions, Renewable Energy Credits, offsets and allowances, green tag or other transferable indicia attributable to the Project during the Term, howsoever entitled or named, resulting from the generation of renewable energy or the avoidance, reduction, displacement or offset of the emission of any gas, chemical or other substance, including any of the same arising out of presently existing or future legislation or regulation concerned with oxides of nitrogen, sulfur or carbon, with particulate matter, soot or mercury, or implementing the United Nations Framework Convention on Climate Change (“UNFCCC”) or the Kyoto Protocol to the UNFCCC or crediting “early action” emissions reduction, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency, or any successor state or federal agency given jurisdiction over a program involving transferability of Environmental Attributes, and any renewable energy certificate reporting rights to such Environmental Attributes. Notwithstanding any other provision hereof, Environmental Attributes do not include: (a) any Tax Attributes, (b) state, federal or private grants related to the Project, (c) Energy, or (d) Capacity Attributes.

“Equitable Defenses” means any bankruptcy, insolvency, reorganization or other laws affecting creditors’ rights generally and, with regard to equitable remedies, the discretion of the court before which proceedings may be pending to obtain same.

“Event of Default” has the meaning set forth in Section 7.1.

“Executives” has the meaning set forth in Section 17.2(a).

“Expected Project Capacity” has the meaning set forth in Section 3.4.

[The following bracketed definitions only apply to the Solar II PPAs:}
“FMPA Solar II Project” means the joint-action solar project created by the FMPA Board of Directors pursuant to FMPA Resolution [####], dated [date].

“FMPA Solar II Project Participant Covenants” means the covenants by each FMPA Solar II Project Participant in the applicable FMPA Solar II Project Power Sales Contract: (a) that the payments which the FMPA Solar II Project Participant is required to make under the applicable FMPA Solar II Project Power Sales Contract constitute an obligation payable as an operating expense of the FMPA Solar II Project Participant's electric utility system solely from the revenues and other available funds of the electric utility system; (b) that upon the failure of any other FMPA Solar II Project Participant(s) to make payments owed to FMPA under the applicable FMPA Solar II Project Power Sales Contract, to pay to Buyer such non-defaulting FMPA Solar II Project Participant’s pro rata share of the amounts owed by the defaulting FMPA Solar II Project Participant(s), and (c) to establish, levy and collect rents, rates and other charges for the products and services provided by its electric utility system, which rents, rates, and other charges shall be at least sufficient to meet the operation and maintenance expenses of such electric utility system, including all sums owed to Buyer pursuant to the FMPA Solar II Project Power Sales Contract.

“FMPA Solar II Project Participant” means a municipality or municipal electric utility that is a member of Buyer and a member of the FMPA Solar II Project, all of which are listed on Exhibit K, as may be updated from time to time in accordance with this Agreement.

“FMPA Solar II Project Participant Entitlement Share” means, as to each FMPA Solar II Project Participant, the participant’s individual undivided pro rata entitlement share of the Buyer’s Share of the Expected Project Capacity or Installed Capacity, as applicable.

“FMPA Solar II Project Power Sales Contracts” means a Power Sales Contract between a FMPA Solar II Project Participant and Buyer for the sale of FMPA Solar II Project Participant Entitlement Share by Buyer to such FMPA Solar II Project Participant, substantially in the form of Exhibit [___].

“Forced Outage” means any unplanned reduction or suspension of the electrical output from the Project or unavailability of the Project in an amount [_____] of the Installed Capacity in response to a mechanical, electrical, or hydraulic control system trip or operator-initiated trip in response to an alarm or equipment malfunction, or any other unavailability of the Project for maintenance or repair that is not a Planned Outage, due to a Buyer Curtailment Order or during a Curtailment Period, or the result of a Force Majeure Event.

“Force Majeure Event” means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, other than the obligation to pay amounts due, but only to the extent (1) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance
obligation(s) excused thereby, (2) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party’s ability to perform its obligations under this Agreement and which, by the exercise of due diligence, such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (3) such event is not the direct or indirect result of the fault or negligence of the Party seeking to have its performance obligations excused thereby.

(a) Subject to the foregoing, events that could qualify as a Force Majeure Event include, but are not limited to the following:

(i) acts of God, flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, volcano, other natural disaster or unusual or extreme adverse weather-related events;

(ii) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockade, insurrection, revolution, expropriation or confiscation;

(iii) except as set forth in subpart (b)(vii) below, strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable);

(iv) environmental and other contamination at or affecting the Project;

(v) accidents of navigation or breakdown or injury of vessels, accidents to harbors, docks, canals or other assistances to or adjuncts of shipping or navigation, or quarantine;

(vi) nuclear emergency, radioactive contamination or ionizing radiation or the release of any hazardous waste or materials;

(vii) air crash, shipwreck, train wrecks or other failures or delays of transportation;

(viii) vandalism beyond that which could be reasonably prevented by Seller;

(ix) the discovery of Native American burial grounds not evidenced in Seller’s Phase I environmental assessment of the Site;

(x) the discovery of endangered species, as defined by Law; and

(xi) breakdown or failure of equipment as a result of a serial manufacturer defect or flaw.

(b) A Force Majeure Event shall not be based on:
Buyer’s inability economically to use or resell the Product purchased hereunder;

Seller’s ability to sell the Product at a price greater than the price set forth in this Agreement;

Seller’s inability to [XXXXXX], except to the extent caused by a Force Majeure Event;

Seller’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Project, except to the extent Seller’s inability to obtain sufficient labor, equipment, materials, or other resources is caused by a Force Majeure Event;

Seller’s failure to [XXXXXX] pursuant to this Agreement; or

a strike, work stoppage or labor dispute limited only to any one or more of Seller or Seller’s Affiliates.

“Force Majeure Extension” has the meaning set forth in Section 4.2(b)(iii).

“Gains” means with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Delivery Term, determined in a commercially reasonable manner. Factors used in determining economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties, including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NYMEX), all of which should be calculated for the remaining term of this Agreement and include the value, if any, of Environmental Attributes.

“Governmental Approvals” means all authorizations, consents, certifications, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any Governmental Authority and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable environmental law, that are required for the use and operation of the Project.

“Governmental Authority” means any national, state, provincial, local, tribal or municipal government, any political subdivision thereof or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity having jurisdiction over either Party, the Project, the Site, Seller’s Interconnection Facilities, the Transmission Owner’s Interconnection Facilities, or the Transmission System, including the Transmission Provider and NERC; provided, however, that “Governmental Authority” will not in any event include any Party.
“Governmental Charges” has the meaning set forth in Section 12.2.

“Guarantor” means an entity which at the time it is to provide a Guaranty (a) has a Credit Rating of at least BBB from S&P or Baa2 from Moody’s if rated by only one Ratings Agency or at least BBB- from S&P and Baa3 from Moody’s if rated by both Ratings Agencies, and (b) is incorporated or organized in a jurisdiction of the United States and is in good standing in such jurisdiction.

“Guaranty” means a Guaranty substantially in the form of Exhibit E.

“Initial Energy Delivery Date” means the first date that Seller delivers or makes available Energy from the Project to Buyer at the Delivery Point.

“Initial Negotiation End Date” has the meaning set forth in Section 17.2(a).

“Initial Term” has the meaning set forth in Section 2.1.

“Installed Capacity” has the meaning set forth in Section 3.4.

“Interconnection Agreement” means the interconnection service agreement or agreements entered into by and among, as applicable, the Transmission Provider, the Transmission Owner, and the Seller (or Seller’s Affiliate and made available to Seller) pursuant to which the Project will be interconnected with the Transmission System.

“Interconnection Delay” has the meaning set forth in Section 4.2(b)(i).

“Interest Payment Date” means the last Business Day of each calendar month.

“Interest Rate” means the lower of (i) annual rate equal to the Prime Rate then in effect plus ten percent (10%) and (ii) the maximum interest permitted by Applicable Law.

“Interlocal Agreement” means the Interlocal Agreement creating the Florida Municipal Power Agency, as amended and supplemented to date, and as the same may be amended or supplemented in the future.

“Investment Grade” means a Credit Rating of BBB- from S&P or Baa3 from Moody’s with a stable outlook.

“ITC Extension” means an extension of the December 31, 2023 deadline in section 48(a)(7)(B) for the U.S. Tax Code for the Project to be placed in service to qualify for a [XX]% investment tax credit.

“Letter(s) of Credit” means one or more irrevocable, transferable standby letters of credit, substantially in the form of Exhibit F, issued by a U.S. commercial bank or a foreign bank.
with a U.S. branch with such bank having a Credit Rating of at least A- from S&P or A3 from Moody’s, with a “stable outlook” by either S&P or Moody’s and having assets of at least $10 billion, in a form acceptable to the Party in whose favor the letter of credit is issued.

“Losses” means with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from a Terminated Transaction for the remaining term of this Agreement, determined in a commercially reasonable manner. Factors used in determining the loss of economic benefit may include, without limitation, reference to information either available to it internally or supplied by one or more third parties including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g. NYMEX), all of which should be calculated for the remaining term of this Agreement and include the value, if any, of Environmental Attributes and, if applicable, the value of any resulting loss or recapture of Tax Attributes.

“Manager” has the meaning set forth in Section 17.2(a).

“Metering System” means all meters, metering devices and related instruments used to measure and record Energy and to determine the amount of such Energy that is being made available or delivered to Buyer at the Delivery Point for the purpose of this Agreement.

“Meter Owner” shall be the Party that owns the Metering System.

“Moody’s” means Moody’s Investor Service, Inc. or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

“MW” means a megawatt (or 1,000 kilowatts) of AC electric generating capacity.

“MWh” means a megawatt hour of Energy.

“NERC” means the North American Electric Reliability Corporation.

“Non-Defaulting Party” has the meaning set forth in Section 7.2.

“Notice” has the meaning set forth in Section 18.1.

“Operating Procedures” has the meaning set forth in Section 3.11.

“Option Price” means the applicable price set forth in the Option Price Table in Exhibit A.

“PA Beneficiary” has the meaning set forth in Article 9.
“PA Provider” means the Party that has provided or is required to provide the applicable Performance Assurance.

“Parties” has the meaning set forth in the first paragraph of this Agreement.

“Party” has the meaning set forth in the first paragraph of this Agreement.

“Performance Assurance” means collateral provided by a Party to secure such Party’s obligations hereunder. Performance Assurance may be in the form of (i) Letter(s) of Credit, (ii) Cash, (iii) Surety Bond and/or (iv) a Guaranty.

“Permitted Extensions” means the extensions to the Target Commercial Operation Date set forth in Section 4.2.

“Permitting Delay” has the meaning set forth in Section 4.2(b)(ii).

“Person” means an individual, partnership, corporation, business trust, joint stock company, trust, unincorporated association, joint venture, governmental entity, municipality, limited liability company or any other entity of whatever nature.

“Planned Outage” means the removal of the all or a portion of the Project from service availability for inspection and/or general overhaul of one or more major equipment groups. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in Seller’s sole discretion must be of the type that is necessary to reliably maintain the Project, (b) cannot be reasonably conducted during the Project’s operations, and (c) causes the generation level of the Project to be reduced by at least ten percent (10%) of the Installed Capacity. To the extent there are multiple Project Offtakers, any reduction in generation will be allocated to Buyer pro rata based on Buyer’s Share.

“Prime Rate” means the interest per annum equal to the prime rate as published in The Wall Street Journal or comparable successor publication under “Money Rates,” as applied on a daily basis, determined as of the date the obligation to pay interest arises, but in no event more than the maximum rate permitted by Applicable Law.

“Product” has the meaning set forth in Section 3.1.

“Production Guarantee Damages” has the meaning set forth in Exhibit D.

“Production Shortfall” has the meaning set forth in Exhibit D.

“Project” has the meaning set forth in the Recitals to this Agreement.

“Project Cure Period” has the meaning set forth in Section 4.3(a).
“Project Investor” or “Project Investors” means any and all Persons or successors in interest thereof (a) lending money, extending credit or providing loan guarantees (whether directly to Seller or to an Affiliate of Seller) as follows: (i) for the construction, interim or permanent financing or refinancing of the Project; (ii) for working capital or other ordinary business requirements of the Project (including the maintenance, repair, replacement or improvement of the Project); (iii) for any development financing, bridge financing, credit support, credit enhancement or interest rate protection in connection with the Project; (iv) for any capital improvement or replacement related to the Project; or (v) for the purchase of the Project and the related rights from Seller; or (b) participating (directly or indirectly) as an equity investor (including a Tax Equity Investor) in the Project; or (c) any lessor under a lease finance arrangement relating to the Project.

“Project Offtaker” means the counterparty to a contract for the purchase of Energy. For the avoidance of doubt, the same entity may be deemed separate Project Offtakers to the extent it is party to multiple contracts for the purchase of Energy.

“Prudent Operating Practices” means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the electric generation industry for solar facilities of similar size, type, and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Applicable Law, reliability, safety, environmental protection and standards of economy and expedition. Prudent Operating Practices is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the industry.

“Qualified Transferee” means any person or entity that (a) has an equal or better credit rating than the Seller and satisfies the collateral requirements of the Seller set forth in the Agreement, (b) provides replacement Performance Assurance from a PA Provider with an Investment Grade Credit Rating [XXXXXX], (c) has (or has contracted with for the purpose of this Agreement), or is the subsidiary of an entity that has, a record of owning and/or operating, for a period of at least [XXX] years, solar photovoltaic generating facilities with an aggregate nameplate capacity of no less than [XXX] MW, and (d) that expressly assumes in writing all obligations of the Seller under this Agreement.

“Ratings Agency” means either of S&P or Moody’s.

“Receiving Party” has the meaning set forth in Section 13.1.

“Referral Date” has the meaning set forth in Section 17.2(a).

“Renewable Energy Credits” or “RECs” means any credits, certificates, green tags or similar environmental or green energy attributes associated with one MWh of electricity generated by the Project created by the Applicable REC Program.
“Renewal Term” has the meaning set forth in Section 2.1.

“S&P” means Standard & Poor’s Rating Group or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

“Sales Price” means the extent Seller, acting in a Commercially Reasonable manner, sells any Product that Buyer does not receive, (i) the price Seller actually receives for such Product, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a Commercially Reasonable manner; less (ii) any costs reasonably incurred by Seller in reselling such Product; provided, however, in no event shall the Sales Price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability.

“SEC” means the U.S. Securities and Exchange Commission.

“Seller” has the meaning set forth in the first paragraph of this Agreement.

“Seller Excuses” has the meaning set forth in Section 3.5(a).

“Seller’s Interconnection Facilities” means the interconnection facilities, control and protective devices and metering facilities required to connect the Project with the Transmission System up to, and on Seller’s side of, the Delivery Point.

“Seller’s Replacement Costs” has the meaning set forth in Section 3.5(c).

“Settlement Amount” means the Non-Defaulting Party’s Costs and Losses, on the one hand, netted against its Gains, on the other.

“Site” has the meaning set forth in the Recitals.

“Station Service” means the electric energy from the Transmission System or produced by the Project that is used by the Project to power the lights, motors, control systems and other auxiliary electrical loads that are necessary for testing or operation of the Project.

“Surety Bond” means a bond, substantially in the form of Exhibit H, which provides for payment to the other Party upon demand and which is issued by a commercial entity with (i) a Credit Rating from one or both of S&P and Moody’s, which Credit Rating is at least “A-” from S&P (if such entity has a Credit Rating from S&P) and “A3” from Moody’s (if such entity has a Credit Rating from Moody’s), in each case not on negative credit watch, and (ii) having a net worth of at least $[XXXXX] at the time of issuance of the bond.

“System Emergency” means a condition on the Transmission System, at the Project, or on Seller’s Interconnection Facilities or Transmission Owner’s Interconnection Facilities, which condition is likely to result in imminent significant disruption of service to
Transmission System customers or is imminently likely to endanger life or property, and includes any condition during which Seller is directed by Transmission Provider to reduce or cease generation for any period of time on account of an emergency.

“Target Commercial Operation Date” means the date that is 365 days after the Transmission Service Deadline, as may be extended by Permitted Extensions.

“Tax Attributes” means (a) investment tax credits (including any grants or payments in lieu thereof) and any other tax deductions or benefits under federal, state or other Law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits, payments in lieu thereof and accelerated and/or bonus depreciation); and (b) present or future (whether known or unknown) cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Project.

“Tax Equity Investor” means an investor that has acquired an equity interest in Seller pursuant to a financing structure that assigns such investor all rights, title and benefits to the Tax Attributes of Seller.

“Term” means the Initial Term plus any Renewal Terms.

“Terminated Transaction” means the termination of this Agreement in accordance with Section 7.2 of this Agreement.

“Termination Option” has the meaning set forth in Section 4.4.

“Termination Payment” has the meaning set forth in Section 7.3.

“Test Energy” means Buyer’s Share of the Energy generated by the Project and delivered to the Delivery Point prior to the Commercial Operation Date.

“Transfer Taxes” has the meaning set forth in Section 3.3(d).

“Transmission Delay Damages” means the liquidated damages Buyer shall owe Seller in the event Buyer is unable to receive any Delivered Energy due to a failure of obtaining transmission service by the Transmission Service Deadline, as calculated pursuant to Section 4.3.

“Transmission Interruption” means a transmission outage or curtailment directed or caused by the Transmission Owner, Transmission Provider or a Governmental Authority in connection with a System Emergency on the Transmission System that prevents or limits Buyer’s ability to receive Energy at the Delivery Point not due to actions or omissions of Buyer or an Affiliate of Buyer.
“Transmission Owner” means the entity that owns the transmission or distribution system to which the Project interconnects.

“Transmission Owner’s Interconnection Facilities” means the interconnection facilities and related assets that are or will be owned by the Transmission Owner that are required to connect the Project with the Transmission System, as further described in the Interconnection Agreement.

“Transmission Provider” means the regional transmission organization with jurisdiction over the location of the Site or, if none, then the applicable balancing authority for the Site. For the avoidance of doubt, the Transmission Provider and the Transmission Owner may be the same entity.

“Transmission Service Deadline” means the date that is one-hundred and twenty (120) days from Buyer’s receipt from Seller of a copy of the final interconnection facilities study report for the interconnection of the Project.

“Transmission System” means the distribution or transmission system to which the Project interconnects.

1.2 Interpretation.

The following rules of construction shall be followed when interpreting this Agreement except to the extent the context otherwise requires:

(a) the gender (or lack of gender) of all words used in this Agreement includes the masculine, feminine, and neuter;

(b) words used or defined in the singular include the plural and vice versa;

(c) references to Articles and Sections refer to Articles and Sections of this Agreement;

(d) references to Annexes, Exhibits and Schedules refer to the Annexes, Exhibits and Schedules attached to this Agreement, each of which is made a part hereof for all purposes;

(e) references to Applicable Laws refer to such Applicable Laws as they may be amended from time to time, and references to particular provisions of an Applicable Law include any corresponding provisions of any succeeding Applicable Law and any rules and regulations promulgated thereunder;

(f) terms defined in this Agreement are used throughout this Agreement and in any Annexes, Exhibits and Schedules hereto as so defined;

(g) references to money refer to legal currency of the United States of America;

(h) the words “includes” or “including” shall mean “including without limitation;”
(i) the words “hereof,” “hereby,” “herein,” “hereunder” and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular Article or Section in which such words appear, unless otherwise specified;

(j) all references to a particular entity shall include a reference to such entity’s successors and permitted assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(k) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time;

(l) the word “or” will have the inclusive meaning represented by the phrase “and/or;”

(m) the words “shall” and “will” mean “must”, and shall and will have equal force and effect and express an obligation; and

(n) the words “writing,” “written” and comparable terms refer to printing, typing, and other means of reproducing in a visible form.

ARTICLE 2
TERM

2.1 Term.

The “Initial Term” of this Agreement shall commence on the date hereof and continue until the latter of (a) the date the Agreement is terminated in accordance with its terms, or (b) the date that is 20 Contract Years following the Commercial Operation Date. Buyer shall have the option to extend the term of the Agreement twice (each, a “Renewal Term”) by providing Seller written notice of extension no less than 365 days prior to the end of the Initial Term or the first Renewal Term, as applicable. Each Renewal Term shall commence at HE 0100 on the date immediately following the last day of the Initial Term or first Renewal Term, as applicable, and extend for a period of [X] years, unless sooner terminated in accordance with the terms hereof.

ARTICLE 3
OBLIGATIONS AND DELIVERIES

3.1 Product.

The “Product” to be delivered and sold by Seller and received and purchased by Buyer under this Agreement is the Delivered Energy and all associated Environmental Attributes and Capacity Attributes.
3.2 **Purchase and Sale.**

Unless specifically excused by the terms of this Agreement during the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Product at the Delivery Point, and Buyer shall pay Seller for the Product in accordance with the terms hereof.

3.3 **Contract Price.**

(a) Seller shall provide no less than ten (10) days’ notice prior to the Initial Energy Delivery Date, which shall not occur prior to the Transmission Service Deadline without the prior written consent of Buyer.

(b) Buyer shall pay Seller the Contract Price for all Test Energy.

(c) On and after the Commercial Operation Date, Buyer shall pay Seller for the Product an amount equal to the Contract Price for each MWh of Delivered Energy.

(d) In addition to the amounts otherwise payable by Buyer in accordance with this Section 3.3, Buyer shall pay all applicable sales, use excise, ad valorem, transfer and other similar taxes associated with the sale of Product by Seller to Buyer (“Transfer Taxes”), but excluding in all events taxes based on or measured by net income, that are imposed by any taxing authority arising out of or with respect to the purchase or sale of Product (regardless of whether such Transfer Taxes are imposed on Buyer or Seller), together with any interest, penalties or additions to tax payable with respect to such Transfer Taxes.

3.4 **Project Capacity.**

The “Expected Project Capacity” is the expected nameplate capacity of the Project as of the Effective Date, as set forth in Exhibit B. The “Installed Capacity” shall be the actual capacity of the Project that is able to generate and deliver Energy to the Delivery Point and has otherwise achieved Commercial Operation as of the Commercial Operation Date. Throughout the Delivery Term, Seller shall sell all Product solely to Buyer, except in the case of an Event of Default of Buyer or other failure of Buyer to receive the , or during a Force Majeure Event where Buyer is prevented from accepting delivery of the Product.

3.5 **Performance Excuses.**

(a) The obligations of Seller to deliver or make available the Product to Buyer at the Delivery Point shall be excused only (i) during periods of Force Majeure, (ii) by Buyer’s failure to perform its obligation to receive the Product at the Delivery Point or other Buyer Event of Default, (iii) during Curtailment Periods, (iv) during Buyer Curtailment Periods, and (v) during Planned Outages (“Seller Excuses”).

(b) The obligations of Buyer to receive and pay for the Product shall be excused only (i) during periods of Force Majeure, (ii) by Seller’s failure to perform its obligations to generate...
and deliver Product to the Delivery Point or other Seller Event of Default, or (iii) during a Transmission Interruption event ("Buyer Excuses").

(c) If Buyer fails to receive all or part of the Product and such failure is not excused due to Buyer Excuses, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the Month in which the failure occurred, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price ("Seller’s Replacement Costs").

(d) Seller shall include in a monthly invoice delivered to Buyer pursuant to Section 8.1 the amounts owed by Buyer pursuant to Section (a) and a description, in reasonable detail, of the calculation of Seller’s Replacement Costs.

3.6 **Offsets, Allowances and Environmental Attributes.**

(a) Buyer shall be entitled to all Environmental Attributes resulting from the generation of Energy that is actually purchased by Buyer pursuant to this Agreement. Buyer shall not be entitled to any Environmental Attributes resulting from the generation of Energy that Buyer, for any reason, does not accept and purchase under this Agreement. Upon no less than twenty (20) Business Days’ advance notice, Buyer may request Seller provide Buyer or Buyer’s designee evidence of the transfer of the RECs on a quarterly basis during the Delivery Term in an Environmental Attributes Attestation and Bill of Sale substantially in the form attached as Exhibit I or, as applicable, an attestation that is the then-currently required attestation of the Applicable REC Program.

(b) Seller shall be entitled to all (i) federal and state production tax credits, investment tax credits and any other tax credits which are or will be generated by the Project, (ii) any cash payments, grants under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 or outright grants of money relating in any way to the Project or Environmental Attributes, and (iii) any Environmental Attributes that the Buyer is not entitled to pursuant to the provisions of Section 3.6(a). Buyer acknowledges that Seller has the right to sell any Environmental Attributes to which it is entitled pursuant to this Section 3.6(b) to any Person other than Buyer at any rate and upon any terms and conditions that Seller may determine in its sole discretion without liability to Buyer hereunder. Buyer shall have no claim, right or interest in such Environmental Attributes or in any amount that Seller realized from the sale of such Environmental Attributes.

(c) Seller shall bear all risks, financial and otherwise throughout the Term, associated with Seller's or the Project’s eligibility to receive any Tax Attributes, or to qualify for accelerated or bonus depreciation for Seller's accounting, reporting or tax purposes, except to the extent Buyer incurs liability under this Agreement in connection with relevant Losses and indemnification obligations. The obligations of the Parties hereunder, including those obligations set forth herein regarding the sale, purchase and price for and Seller's obligation to generate and deliver the Product and Environmental Attributes, shall be effective regardless of whether the generation of Product or sale and delivery of any Delivered Energy from the Project is eligible for, or receives Tax Attributes or to qualify for accelerated or bonus depreciation during the Term.
3.7 **Station Service.**

If Buyer or any of its Affiliates provides retail electric service in the service territory in which the Project is located, then if requested by Seller, Buyer or such Affiliate shall provide Station Service to the Project (including Seller’s Interconnection Facilities) as requested by Seller during construction and operation of the Project at the rates and on the terms set forth in the applicable tariff(s) on a non-discriminatory basis with other customers in the same rate class as Seller.

3.8 **Transmission.**

(a) Seller shall be responsible for obtaining interconnection service for the Project so that Seller can deliver the Product to the Delivery Point in accordance with applicable Transmission Provider interconnection requirements. Seller shall be responsible for all costs to design, equip, construct and maintain the interconnection facilities necessary to deliver Energy from the Project to the Delivery Point. Seller shall be responsible for receiving Network Resource Interconnection Service (or its equivalent) from the Transmission Provider in accordance with the Transmission Provider’s Large Generator Interconnection Procedures (“LGIP”) including funding of any Network Upgrades, as defined in therein. In the event that Seller is not repaid all Seller-funded amounts for such Network Upgrades within five (5) years after the Commercial Operation Date, Seller may, subject to Buyer’s consent, such consent not to be unreasonably withheld, assign to Buyer its rights under the LGIP and Interconnection Agreement to repayment of such unpaid amounts. For the avoidance of doubt, Buyer’s consent may be withheld if, without otherwise limiting its right to reasonably withhold consent, Buyer is not reasonably satisfied with the terms and conditions of the Interconnection Agreement or other relevant agreement between Buyer and the Transmission Provider with regard to the Network Upgrade refunding or transmission credit procedures. If Buyer consents to such assignment, then Buyer shall pay to Seller each month an amount equal to the amount Buyer receives from Transmission Provider as a transmission credit or other form of reimbursement for such Network Upgrades during the preceding month until such time as Seller has been fully reimbursed for its Network Upgrade finding. Notwithstanding anything in this Section 3.8(a), Buyer shall not be obligated to pay Seller any amount related to the Network Upgrades for which Buyer has not received a related transmission credit or other form of reimbursement from the Transmission Provider.

(b) Buyer shall be responsible for arranging for all transmission services required to effectuate Buyer’s receipt of the Product at and from the Delivery Point, including, without limitation, obtaining firm transmission service, in an amount of capacity equal to the Expected Project Capacity, and shall be responsible for the payment of any charges related to such transmission services hereunder, including, without limitation, charges for transmission or wheeling services, ancillary services, imbalance, control area services, congestion charges, transaction charges and line losses. The Parties acknowledge that the Contract Price does not include charges for such transmission services, all of which shall be paid by Buyer.

(c) In the event that the Transmission Provider or any other properly authorized Person exercising control over the Transmission Owner’s Interconnection Facilities or the Transmission System takes any action or orders Seller or Buyer to take any action that affects Buyer’s ability to take delivery of Energy hereunder not caused by or resulting from Seller’s act or omission, a
Curtailment Period, Transmission Interruption, or Force Majeure, Buyer shall use its Commercially Reasonably Efforts to attempt (at its own cost and expense) to mitigate the adverse effects of such action(s) on Buyer’s ability to perform its obligations hereunder, including, without limitation, redispaching its other generation resources, if any.

3.9 **Scheduling.**

Buyer shall be responsible for the scheduling of all Delivered Energy during the Delivery Term, including, without limitation, arranging any Open Access Same Time Information Systems (OASIS), tagging, transmission scheduling or similar protocols with the Transmission Provider, Transmission Owner, or any other Persons. Buyer shall be responsible for the payment of all charges associated with such scheduling activities, including, without limitation, any imbalance charges.

3.10 **Sales for Resale.**

All Delivered Energy delivered to Buyer hereunder shall be sales for resale. Buyer shall provide Seller with any documentation reasonably requested by Seller to evidence that the deliveries of Delivered Energy hereunder are sales for resale.

3.11 **Operating Procedures.**

Seller and Buyer will endeavor to develop written operating procedures ("Operating Procedures") not less than sixty (60) days before the Initial Energy Delivery Date, which Operating Procedures shall only be effective if made by mutual written agreement of Seller and Buyer. The Parties agree that the Operating Procedures that they will endeavor to establish will cover the protocol under which the Parties will perform certain obligations under this Agreement and will include, but will not be limited to, procedures concerning the following: (1) the method of day-to-day communications; (2) key contacts for Seller and Buyer; and (3) reporting of scheduled maintenance, maintenance outages, Buyer Curtailment Orders, Force Majeure Events, and Forced Outages of the Project.

3.12 **Regulatory Approvals.**

(a) Seller and Buyer each agree to use their Commercially Reasonable Efforts to apply for promptly and to pursue diligently any required acceptances or approvals from Governmental Authorities for the consummation of the transactions contemplated by this Agreement or for the giving of effect to the expiration of this Agreement or any termination of this Agreement. This provision is not intended to subject this Agreement to the jurisdiction of any Governmental Authority that does not have such jurisdiction over this Agreement as of the Effective Date.

(b) Buyer shall apply for and shall diligently pursue designation of the Expected Project Capacity as a network resource or otherwise secure a firm delivery path for the Delivered Energy from the Delivery Point to and over the Transmission System. Buyer shall use Commercially Reasonable Efforts to submit an application to obtain a network resource designation or similar firm transmission rights for the Expected Project Capacity not later than thirty (30) Business Days
following the Effective Date and to secure such rights no later than the Transmission Service Deadline. Notwithstanding anything to the contrary herein, Seller shall not incur liability for any delays hereunder to the extent such delays are caused by Buyer’s failure or inability to secure transmission service in accordance with this Section 3.13(b). Upon Buyer’s request, Seller shall use Commercially Reasonable efforts to cooperate with Buyer and provide such information as necessary to assist Buyer in obtaining firm transmission service.

(c) Following the Effective Date of this Agreement, each Party shall promptly seek to obtain all other licenses, permits and approvals necessary to perform its obligations hereunder.

3.13 Standards of Care.

(a) Seller shall comply with all applicable requirements of Applicable Law, the Transmission Provider and NERC relating to the Project (including those related to construction, ownership, interconnection and operation of the Project).

(b) As applicable, each Party shall perform all generation, scheduling and transmission services in compliance with all applicable operating policies, criteria, rules, guidelines, tariffs and protocols of the Transmission Provider and Prudent Operating Practices.

(c) Seller agrees to abide by all applicable (i) NERC reliability requirements, including all such reliability requirements for generator owners and generator operators, and (ii) all applicable requirements regarding interconnection of the Project, including the requirements of the interconnected Transmission Owner and the Transmission Provider.

3.14 Buyer Curtailment.

Except to the extent compliance would directly cause loss or recapture of any Tax Attributes, Seller shall reduce Buyer’s Share of generation from the Project as required pursuant to a Buyer Curtailment Order, provided that (a) the Buyer Curtailment Period shall not exceed the Buyer Curtailment Cap cumulatively per Contract Year (which may be consecutive or non-consecutive); and (b) Buyer shall pay Seller the Contract Price for Deemed Delivered Energy associated with a Buyer Curtailment Period. If multiple Project Offtakers issue overlapping Buyer Curtailment Orders, then any Deemed Delivered Energy during such period shall be allocated to Buyer on a pro rata basis in accordance with its Buyer’s Share.

3.15 Outage Notification.

(a) Seller shall schedule Planned Outages for the Project in accordance with Prudent Operating Practices and with the prior written consent of Buyer, which consent may not be unreasonably withheld, conditioned or delayed. The Parties acknowledge that in all circumstances, Prudent Operating Practices shall dictate when Planned Outages should occur. Seller shall notify Buyer of its proposed Planned Outage schedule for the Project for the following calendar year by submitting a written Planned Outage schedule no later than August 1st of each year during the Delivery Term. The Planned Outage schedule is subject to Buyer’s approval, which approval may not be unreasonably withheld, conditioned or delayed. Buyer shall promptly respond with its
approval or with reasonable modifications to the proposed Planned Outage schedule and Seller shall use its best efforts in accordance with Prudent Operating Practices to accommodate Buyer’s requested modifications and deliver the final Planned Outage schedule to Buyer. Seller shall contact Buyer with any requested changes to the Planned Outage schedule if Seller believes the Project must be shut down to conduct maintenance that cannot be delayed until the next scheduled Planned Outage consistent with Prudent Operating Practices. Seller shall not change its Planned Outage schedule without Buyer’s approval, not to be unreasonably withheld, conditioned or delayed. Seller shall use its best efforts in accordance with Prudent Operating Practices not to schedule Planned Outages during the period of April 1st through October 31st. Seller shall not substitute Energy from any other source for the output of the Project during a Planned Outage.

(b) In addition to Planned Outages, Seller shall use Commercially Reasonable Efforts to promptly notify Buyer of any Forced Outage lasting for more than sixty (60) consecutive minutes. Such Notices shall contain information describing the nature of the Forced Outage, the beginning date and time of such Forced Outage, the expected end date and time of such Forced Outage, the amount of Energy that Seller expects will be provided to the Delivery Point during such Forced Outage, and any other information reasonably requested by Buyer. With respect to any such Forced Outage, Seller shall provide Buyer with such Notice by any reasonable means requested by Buyer, including by telephone or electronic mail.

3.16 Operations Logs and Access Rights.

(a) Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include, but not be limited to, information on power production, efficiency, availability, maintenance performed, Planned Outages, Forced Outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall maintain this information for at least two (2) years and, to the extent consistent with Applicable Law, shall provide this information electronically to Buyer within fifteen (15) days of Buyer’s reasonable request.

(b) Buyer, its authorized agents, employees or inspectors shall have the right to visit the Site up to five (5) times per calendar year during normal business hours upon reasonable advance Notice and for any purposes reasonably connected with this Agreement; provided, that Buyer shall observe all applicable Project safety rules that Seller has communicated to Buyer; provided further, that Buyer, subject to and without waiving its rights to sovereign immunity under Florida Statutes, shall indemnify Seller for damage to property or injury to persons to the extent caused by the negligent or wrongful act or omission of Buyer, its authorized agents, employees, contractors, inspectors and other representatives while Buyer or such authorized individuals are at the Site or the Project. Buyer may request additional Site visits with Seller’s consent, which shall not be unreasonably withheld, conditioned, or delayed.

3.17 Forecasting.

(a) Seller shall provide Buyer with forecasts of the delivery of Energy under this Agreement as described below. Such forecasts shall include the updated status of all Project
equipment that may impact availability and production of Product, and other information reasonably requested by Buyer. Seller shall use Commercially Reasonable Efforts to forecast daily by 5:00 a.m. (EDT) the hourly delivery of Energy under this Agreement accurately and to transmit such information in the format agreed to by the Parties as set forth in the Operating Procedures. Buyer and Seller shall agree upon reasonable changes to the requirements and procedures set forth below from time-to-time, as necessary to accommodate changes to operating and scheduling procedures of Buyer and will document such updated requirements and procedures in the Operating Procedures.

(b) No later than: (i) forty-five (45) Days prior to the commencement of the first Contract Year; and (ii) September 1 of each calendar year for every subsequent Contract Year, Seller shall provide to Buyer a non-binding forecast of the hourly delivery of Energy under this Agreement for an average day in each month of the following calendar year in a form reasonably acceptable to Buyer.

(c) Ten (10) Business Days before the commencement of the first Contract Year, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly energy deliveries under this Agreement for each day of the following month in a form reasonably acceptable to Buyer.

(d) No later than 5:00 a.m. of each day, Seller shall provide Buyer a non-binding forecast of hourly Energy deliveries under this Agreement for the remainder of such day and the following seven (7) days in a form reasonably acceptable to Buyer. Each such Notice shall clearly identify, for each hour, Seller’s forecast of all deliveries of Energy pursuant to this Agreement. In the event that Seller foresees that actual deliveries under this Agreement for any hour will be materially different than a forecast previously provided for such day, Seller shall, as soon as reasonably possible, provide Notice to Buyer of such change and an updated forecast.

3.18 Weather Station.

(a) No later than sixty (60) Days prior to the Commercial Operation Date, Seller, at its own expense, shall install and maintain at least one stand-alone meteorological station at the Site to monitor, measure, communicate and report the meteorological data required under Section 3.18(b). Seller shall maintain and replace the meteorological station as necessary to provide accurate data with respect to the location of the Project.

(b) Upon the Commercial Operation Date, and continuing through the end of the Delivery Term, Seller shall record and maintain the following data:

(i) real and reactive power production by the Project for each hour;

(ii) changes in operating status, outages and maintenance events;

(iii) any unusual conditions found during inspections;

(iv) any significant events related to the operation of the Project; and
(v) fifteen (15) minute and hourly time-averaged measurements from data samples at sixty (60) seconds or greater frequency for the following parameters at the Project: total global horizontal irradiance, total global radiation within the plane of the array, air temperature, relative humidity, wind direction and speed, back of module surface temperature, and other pertinent meteorological conditions.

(c) Buyer shall have real-time access to the required meteorological data at a frequency not to exceed every fifteen (15) minutes. Seller shall provide Buyer a report within thirty (30) days after the end of each month that provides the foregoing information for such month as well as any other additional information that Buyer reasonably requests regarding conditions at the Site and the operation of the Project that is collected and maintained by Seller in the ordinary course of Project operations.

(d) Seller shall make available to Buyer all data from any weather monitoring portals Seller elects to install at the Site.

(e) Subject to procedures agreed upon in the Operating Procedures, Buyer shall have the right to install equipment and associated communication infrastructure to enable Buyer to monitor, measure and communicate pertinent operation and weather data.

3.19 Compliance Cost Cap.

Costs applicable to the Compliance Cost Cap are only those costs applicable under the definition of “Compliance Costs” and are new costs associated with a Change of Law occurring after the Effective Date. The Parties agree that the Compliance Costs Seller shall be required to bear during the Delivery Term shall be capped annually at $[XXXXX] per MW of Installed Capacity and in the aggregate throughout the Delivery Term at $[XXXXX] per MW of Installed Capacity (collectively, the “Compliance Cost Cap”). In the event and to the extent that the Compliance Costs incurred by Seller exceed the Compliance Cost Cap, Buyer shall either reimburse Seller for such Compliance Costs that exceed the Compliance Cost Cap, or excuse Seller from performing the obligations of this Agreement that would otherwise cause it to incur Compliance Costs in excess of the Compliance Cost Cap. Within sixty (60) Days after the Change of Law that Seller anticipates will cause it to incur Compliance Costs in excess of the Compliance Cost Cap, Seller shall provide to Buyer Notice with an estimate of the expected annual Compliance Costs caused by such Change of Law. Within thirty (30) Days of the delivery of such Notice with the estimate, Buyer shall provide Seller Notice of (i) Buyer’s request for Seller to incur the Compliance Costs in excess of the Compliance Cost Cap, (ii) Buyer’s initiation of dispute resolution under ARTICLE 17, or (iii) Buyer’s waiver of Seller’s performance of such obligations.

3.20 Production Guarantee.

Seller shall cause the Project to be operated in accordance with Prudent Operating Practices. Seller guarantees that the Delivered Energy will equal or exceed the Annual Energy Output Guarantee of Energy in at least one of every two rolling Contract Years. If there is a Production Shortfall in any two rolling consecutive Contract Years, then Seller shall owe Buyer liquidated damages in an
amount equal to (i) the Production Shortfall that occurred in the later of the two relevant Contract Years, multiplied by (ii) the Damages Rate (the “Production Guarantee Damages”).

ARTICLE 4
PROJECT DESIGN AND CONSTRUCTION

4.1 Project Development.

Seller, at no cost to Buyer shall:

(a) Design and construct the Project.

(b) Establish and maintain interconnection rights for the Project that permit the full Expected Project Capacity to interconnect to the Transmission System in compliance with the Transmission Provider’s transmission tariff and the Interconnection Agreement.

(c) Acquire all material Governmental Approvals for the construction, operation, and maintenance of the Project.

(d) Complete any environmental impact studies necessary for the construction, operation, and maintenance of the Project.

(e) At Buyer’s reasonable request, provide to Buyer Seller’s electrical specifications and design drawings pertaining to the Project.

(f) Within thirty (30) days after each calendar quarter following the Effective Date until the Commercial Operation Date, provide to Buyer a construction progress report substantially in the form attached in Exhibit L advising Buyer of the current status of the Project, the status of obtaining required Governmental Approvals, any significant developments or delays along with an action plan for making up delays, and Seller’s best estimate of the Commercial Operation Date.

4.2 Commercial Operation.

(a) Seller shall cause the Project to achieve the Commercial Operation Date by the Target Commercial Operation Date, unless extended in accordance with Section 4.2(b).

(b) Permitted Extensions to the Target Commercial Operation Date are as follows (the “Permitted Extensions”):

(i) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than [redacted] days if Seller has used Commercially Reasonable Efforts to have the Project physically interconnected to the Transmission System and to complete all Transmission Owner’s Interconnection Facilities, if any, but such interconnection or Transmission Owner’s Interconnection Facilities cannot be completed by the Target Commercial Operation Date for reasons beyond Seller’s reasonable control and Seller has worked diligently to resolve the delay (“Interconnection Delay”);
(ii) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than [XXXXXX] days if Seller has used commercially reasonable efforts to obtain permits necessary for the construction and operation of the Project, but is unable to obtain such permits and Seller has worked diligently to resolve the delay (“Permitting Delay”);

(iii) The Target Commercial Operation Date may be extended on a day-for-day basis for a cumulative period equal to no more than [XXXXXX] days in the event of Force Majeure (“Force Majeure Extension”); provided that Seller works diligently to resolve the effect of the Force Majeure and provides evidence of its efforts promptly to Buyer upon Buyer’s written request; and

(iv) The Target Commercial Operation Date may be extended on a day-for-day basis for each day Buyer is liable to Seller for Transmission Delay Damages pursuant to Section 4.3(b).

(c) Notwithstanding the foregoing, if Seller claims more than one Permitted Extension under Section 4.2(b)(i)-(iii), such extensions cannot cumulatively exceed [XXXXXXX] days and all Permitted Extensions taken shall be concurrent, rather than consecutive, during any overlapping days.

(d) If Seller claims a Permitted Extension, Seller shall provide Buyer Notice sixty (60) Days prior to the Target Commercial Operation Date, which Notice must clearly identify the Permitted Extension being claimed and include information necessary for Buyer to verify the length and qualification of the extension; provided that, in the event sixty (60) Days is impracticable or impossible, Seller shall provide as much advanced Notice as is reasonably possible.

4.3 Cure Period and Delay Damages.

(a) Seller shall cause the Project to achieve the Commercial Operation Date by the Target Commercial Operation Date. If the Commercial Operation Date occurs after the Target Commercial Operation Date after giving effect to Permitted Extensions and for reasons other than Buyer’s failure to obtain transmission service by the Transmission Service Deadline in accordance with Section 3.8(b), then Buyer shall be entitled to draw upon the Seller’s Performance Assurance for liquidated damages equal to Daily Delay Damages for each day or portion of a day that the Commercial Operation Date occurs after the Target Commercial Operation Date after giving effect to Permitted Extensions until the earlier of (i) the date that is [XXXXXXX] days after such date, and (ii) the Commercial Operation Date (the “Project Cure Period”).

(b) Beginning on the Transmission Service Deadline, in the event that Buyer’s failure to obtain transmission service in accordance with Section 3.8(b) results in Buyer’s inability to receive Delivered Energy, then, subject to Section 4.3(c), Buyer shall owe Seller liquidated damages equal to the Transmission Delay Damages for each day or portion of a day that Buyer fails to receive such Delivered Energy.
(c) Notwithstanding Buyer’s failure to obtain transmission service pursuant to Section 3.8(b) and resulting inability to receive all or part of the Delivered Energy, Seller shall use Commercially Reasonable Efforts to commence operations and deliver electricity from the Project, which shall include, if available, selling the Project output to a utility pursuant to the Public Utility Regulatory Policies Act.

(d) Transmission Delay Damages shall be calculated as follows: (i) to the extent Seller sells electricity from the Project to a third party in accordance with Section 4.3(c), Buyer shall pay Seller only the positive difference between the Contract Price and sums received from the utility for any electricity sold pursuant to this Section 4.3; (ii) to the extent Seller is unable to deliver or sell any electricity that the Project is capable of generating despite using Commercially Reasonable Efforts as a result of Buyer’s failure to obtain transmission service, Buyer shall pay Seller the full Contract Price for such electricity. In addition, in calculating the Transmission Delay Damages, Buyer shall pay Seller any reasonably incurred and documented costs corresponding to its efforts to sell the Delivered Energy to a third party. For the avoidance of doubt, Buyer shall also be liable to Seller pursuant to Section 11.3 to the extent Buyer’s failure to obtain transmission service results in the full or partial loss or recapture of Tax Attributes.

(e) Each Party agrees and acknowledges that (i) the damages that the other Party would incur due to the delays described in this Section 4.3 would be difficult or impossible to predict with certainty and (ii) the Daily Delay Damages and Transmission Delay Damages are an appropriate approximation of such damages.

4.4 Project Capacity, Default Commercial Operation Date, and Termination Option.

(a) Seller shall provide Notice to Buyer no later than thirty (30) days prior to the Default Commercial Operation Date if it anticipates a Capacity Shortfall. Seller shall then provide Notice to Buyer no later than ten (10) Business Days after the Default Commercial Operation Date of the actual Capacity Shortfall, if any. Buyer shall have twenty (20) days after receipt of such notice to either: (i) elect to waive the obligation of Seller to complete the Capacity Shortfall, and neither Party shall have any further obligations with respect to the development, sale, delivery, receipt, or purchase of the Capacity Shortfall (the “Termination Option”); or (ii) elect to purchase any amount of Capacity Shortfall that achieves Commercial Operation in accordance with the terms of this Agreement after the Default Commercial Operation Date at the Option Price (the “Continuation Option”). For avoidance of doubt, the Agreement shall remain in full force and effect at the Contract Price with respect to any Project capacity that achieved Commercial Operation as of the Default Commercial Operation Date.

(b) If Buyer elects the Continuation Option, then Seller shall continue to pursue Commercial Operation of any Capacity Shortfall. If there remains a Capacity Shortfall as of the Commercial Operation Date, Seller shall then provide Notice to Buyer no later than ten (10) Business Days after the Commercial Operation Date specifying the Installed Capacity. Subject to Seller’s payment of both the Capacity Shortfall Damages as provided below and all applicable Daily Delay Damages pursuant to Section 4.3, the Seller’s Performance Assurance will be reduced to reflect the Installed Capacity and all of Seller’s Performance Assurance posted in excess of such Installed Capacity shall be promptly returned to Seller. Seller shall pay Buyer, as liquidated
damages and not as a penalty, an amount (the “Capacity Shortfall Damages”) equal to (i) (1) the Capacity Shortfall as of the Commercial Operation Date, in MW, multiplied by (2) $\[XXXXX\]$ per MW, minus (ii) all Daily Delay Damages previously paid by Seller to Buyer for such amount of Capacity Shortfall.

(c) Each Party agrees and acknowledges that (i) the damages that Buyer would incur due to the Capacity Shortfall would be difficult or impossible to predict with certainty, and (ii) the Capacity Shortfall Damages is an appropriate approximation of such damages. In order to satisfy the Capacity Shortfall Damages, Buyer shall have the right to immediately draw upon and apply the Seller’s Performance Assurance to the payment of the Capacity Shortfall Damages. Seller’s payment of the Capacity Shortfall Damages hereunder shall constitute Buyer’s sole remedy for Seller’s failure to achieve Commercial Operation of the Capacity Shortfall.

ARTICLE 5
METERING AND MEASUREMENT

5.1 Metering System.

The Parties shall ensure the Metering System is designed, located, constructed, installed, owned, operated and maintained in accordance with the Interconnection Agreement and Prudent Operating Practices in order to measure and record the amount of Energy delivered from the Project to the Delivery Point. The meters shall be of a mutually acceptable accuracy range and type. Seller shall be responsible for the cost of all metering that will be installed, owned, operated and maintained by the Meter Owner for the purpose of determining the amount of Energy delivered to the Delivery Point. Except in the event of a System Emergency or any order of a Governmental Authority, no one other than the Meter Owner shall make adjustments to the Metering System without the written consent of Meter Owner, which consent shall not be unreasonably withheld, conditioned or delayed. If Buyer is the Meter Owner, then Seller, may, at its own cost, install additional meters or other such facilities, equipment or devices on Seller’s side of the Delivery Point as Seller deems necessary or appropriate to monitor the measurements of the Metering System; provided, however, that in all cases Buyer will be entitled to rely upon its own Metering System.

5.2 Inspection and Adjustment.

(a) The Meter Owner shall inspect and test the Metering System at such times as will conform to Prudent Operating Practices, but not less often than every Contract Year. Upon reasonable written request to the Meter Owner, the other Party may request, at its own expense, inspection or testing of any such meters more frequently than once every Contract Year.

(b) If any seal securing the metering is found broken, if the Metering System fails to register, or if the measurement made by a metering device is found upon testing to vary by more than one percent (1.0%) from the measurement made by the standard meter used in the test, an adjustment shall be made correcting all measurements of energy made by the Metering System during: (i) the actual period when inaccurate measurements were made by the Metering System, if that period can be determined to the mutual satisfaction of the Parties; or (ii) if such actual period
cannot be determined to the mutual satisfaction of the Parties, the second half of the period from the date of the last test of the Metering System to the date such failure is discovered or such test is made ("Adjustment Period"). If the Parties are unable to agree on the amount of the adjustment to be applied to the Adjustment Period, the amount of the adjustment shall be determined: (A) by correcting the error if the percentage of error is ascertainable by calibration, tests or mathematical calculation; or (B) if not so ascertainable, by estimating on the basis of deliveries made under similar conditions during the period since the last test. Within thirty (30) Days after the determination of the amount of any adjustment, Buyer shall pay Seller any additional amounts then due for deliveries of Energy during the Adjustment Period or Buyer shall be entitled to a credit against any subsequent payments for Energy, as the case may be.

(c) The Parties and their representatives shall be entitled to be present at any test, inspection, maintenance, adjustments and replacement of any part of the Metering System relating to obligations under this Agreement and the Meter Owner shall use commercially reasonable efforts to provide no less than ten (10) Business Days’ prior notice of any such test, inspection or other event.

ARTICLE 6
EARLY TERMINATION

6.1 Early Termination.

(a) In addition to applicable termination rights otherwise expressly provided in this Agreement, this Agreement may be terminated prior to the expiration of the Term as follows:

   (i) By Seller within thirty (30) days after receipt of the final facilities study report from the Transmission Owner, if the estimated cost of Transmission Owner’s Interconnection Facilities (as identified by the Transmission Owner) exceeds [insert amount] and Buyer has not agreed in writing to reimburse Seller for any overages;

   (ii) By Seller if an Interconnection Agreement in form and substance satisfactory to Seller, in its sole commercially reasonable discretion, is not executed on or before on or before [insert date]; or

   (iii) By Seller, in the event that Seller has not obtained the necessary fee, leasehold or other title to or interest in the Site and all Governmental Approvals necessary to construct and operate the Project in the manner contemplated by this Agreement and which are final and no longer subject to appeal or legal challenge, on or before [insert date]; provided that Seller gives Buyer Notice of such termination within fifteen (15) Days after such date.

(b) Notwithstanding any provision of this Agreement to the contrary, in the event of termination pursuant to this Section 6.1, the Parties shall be released and discharged from any obligations arising or accruing hereunder from and after the date of such termination and shall not incur any additional liability to each other as a result of such termination, provided that such
ARTICLE 7
EVENTS OF DEFAULT

7.1 Events of Default.

An “Event of Default” shall mean,

(a) with respect to a Party that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) the failure by such Party to satisfy, when due, any Performance Assurance requirements within ten (10) Business Days after receipt of Notice of such failure;

(iii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) Days after Notice thereof;

(iv) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) and such failure is not remedied within thirty (30) Days after Notice thereof; provided, however, that if such failure is not reasonably capable of being remedied within the thirty (30) Day cure period, such Party shall have such additional time (not exceeding an additional ninety (90) Days) as is reasonably necessary to remedy such failure, so long as such Party promptly commences and diligently pursues such remedy;

(v) such Party becomes Bankrupt;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Section 14.1;

(vii) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or

(b) with respect to Buyer as the Defaulting Party, the failure to obtain firm transmission service sufficient to receive the Delivered Energy at the Delivery Point in accordance with Section 3.13(b) by the Transmission Service Deadline, except to the extent Buyer secures interim
transmission service sufficient to receive the Delivered Energy from the Transmission Service Deadline at the Delivery Point that becomes firm transmission service no later than the Default Commercial Operation Date; or

(c) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

   (i) if at any time, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement Energy or Environmental Attributes that was not generated by or associated with the Project; or

   (ii) Seller Abandons the Project.

7.2 Remedies; Declaration of Early Termination Date.

If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (“Non-Defaulting Party”) shall have the right to one or more of the following:

   (a) send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement (“Early Termination Date”);

   (b) collect in connection with such Early Termination Date a Termination Payment;

   (c) accelerate all amounts owing between the Parties and end the Delivery Term effective as of the Early Termination Date;

   (d) withhold any payments due to the Defaulting Party under this Agreement;

   (e) suspend performance; and

   (f) exercise its rights pursuant to Section 9.3 to draw upon and retain Performance Assurance.

7.3 Termination Payment.

On or as soon as reasonably practicable following the occurrence of an Early Termination Date, the Non-Defaulting Party will calculate the Termination Payment, which shall equal the Settlement Amount, net of any sums owed by the Non-Defaulting Party to the Defaulting Party. If the Termination Payment calculation yields a positive number, then the Defaulting Party shall owe the Termination Payment to the Non-Defaulting Party. If the Termination Payment calculation results in a negative number, then the Termination Payment shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Settlement Amount as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages; provided, however, that any lost Environmental Attributes shall be deemed direct
damages covered by this Agreement. Without prejudice to the Non-Defaulting Party’s duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the Non-Defaulting Party would incur in connection with the termination of this Agreement would be difficult or impossible to predict with certainty, (b) the Termination Payment described in this section is a reasonable and appropriate approximation of such damages, and (c) the Termination Payment described in this section is the exclusive remedy of the Non-Defaulting Party in connection with the termination of this Agreement but shall not otherwise act to limit any of the Non-Defaulting Party’s rights or remedies if the Non-Defaulting Party does not elect to terminate this Agreement as its remedy for an Event of Default by the Defaulting Party.

7.4  Notice of Payment of Termination Payment.

As soon as practicable after a designation of the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

7.5  Disputes with Respect to Termination Payment.

If the Defaulting Party disputes the Non-Defaulting Party’s calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party’s calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with ARTICLE 17. The Defaulting Party shall pay all undisputed portions of the Termination Payment and provide Performance Assurance equal to the disputed portion until final resolution of the dispute.

7.6  Rights and Remedies Are Cumulative.

Except where liquidated damages are provided as the exclusive remedy, the rights and remedies of a Party pursuant to this ARTICLE 7 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

7.7  Mitigation.

Any Non-Defaulting Party shall be obligated to use Commercially Reasonable efforts to mitigate its Costs and Losses resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 8
PAYMENT

8.1  Billing and Payment.
On or about the tenth (10th) day of each month beginning with the month following the Initial Energy Delivery Date and every month thereafter, and continuing through and including the first month following the end of the Delivery Term, Seller shall provide to Buyer an invoice covering the Product delivered in the preceding month determined in accordance with Article 4 (which may include preceding months), with all component charges and unit prices identified and all calculations used to arrive at invoiced amounts described in reasonable detail. Buyer shall pay the undisputed amount of such invoices on or before thirty (30) Days after date of the invoice. If either the invoice date or payment date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. Invoices may be sent by regular mail, facsimile, or e-mail.

8.2 Disputes and Adjustments of Invoices.

A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.2 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not Affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.
ARTICLE 9
INSURANCE, CREDIT AND COLLATERAL REQUIREMENTS

9.1 Insurance.

In connection with Seller’s performance of its duties and obligations under this Agreement, during the Delivery Term, Seller shall maintain insurance in accordance with Exhibit G.

9.2 Grant of Security Interest.

To the extent a PA Provider delivers Performance Assurance hereunder, it hereby grants to the other Party (the “PA Beneficiary”) a present and continuing first priority security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, the PA Beneficiary, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the PA Beneficiary’s first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence and during the continuation of an Event of Default by the PA Provider or an Early Termination Date as a result thereof, the PA Beneficiary may do any one or more of the following: (i) exercise any of the rights and remedies of a secured party with respect to all Performance Assurance, including any such rights and remedies under Applicable Law then in effect; (ii) exercise its rights of setoff against such collateral and any and all proceeds resulting therefrom or from the liquidation thereof; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all or any portion of any Performance Assurance then held by or for the benefit of the PA Beneficiary free from any claim or right of any nature whatsoever of PA Provider, including any equity or right of purchase or redemption. PA Beneficiary shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the PA Provider’s obligations under the Agreement (the PA Provider remaining liable for any amounts owing to the PA Beneficiary after such application), subject to PA Beneficiary’s obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

9.3 Performance Assurance.

(a) Seller’s Performance Assurance. Seller agrees to deliver to Buyer and thereafter maintain in full force and effect for the remainder of the Term, Performance Assurance in the amount of [XXX] of Buyer’s Share of the Expected Project Capacity or Installed Capacity, as applicable, within thirty (30) Days following the Effective Date.

(b) Buyer’s Performance Assurance. If Buyer is not a Creditworthy Entity as of the Effective Date or at any time after the Effective Date is subject to a Downgrade Event, then, within thirty (30) days after the Effective Date or Downgrade Event, as applicable, and for such periods as Buyer is not a Creditworthy Entity, Buyer shall provide Seller with Performance Assurance in the amount of [XXX] of Buyer’s Share of the Expected Project Capacity or Installed Capacity, as applicable.
(i) If at any time during the Term Buyer becomes a Creditworthy Entity, then Buyer will not be required to provide Buyer’s Performance Assurance and Seller shall refund any unused portion of Buyer’s Performance Assurance within thirty (30) Days of receipt of Notice and verification of its status as a Creditworthy Entity.

(c) Any sum due under this Agreement (other than disputed amounts) and not satisfied within thirty (30) Days of becoming due and owing may be satisfied by a Party by a draw on Performance Assurance until such Performance Assurance has been exhausted. In addition, upon termination, a Party shall have the right to draw upon Performance Assurance for any undisputed amounts owed under this Agreement if not paid when due pursuant to Section 8.1. Performance Assurance shall not be subject to replenishment.

(d) A PA Beneficiary shall pay interest on cash held as Performance Assurance at the Prime Rate.

(e) If, during the Term, there shall occur a Downgrade Event in respect to a Party’s Guarantor, then the applicable PA Provider shall deliver to the PA Beneficiary replacement Performance Assurance within ten (10) Days of such Downgrade Event.

(f) A Party’s obligation to maintain Performance Assurance shall terminate upon the occurrence of the following: (i) the Term of the Agreement has ended, or an the Agreement has been terminated pursuant to Section 7.2, as applicable; and (ii) all payment obligations of the PA Provider arising under this Agreement, Termination Payment, indemnification payments or other damages are paid in full. Upon the occurrence of the foregoing, each Party shall promptly return to the other Party the unused portion of the applicable Performance Assurance, including the payment of any interest due thereon.

(g) Any Letter of Credit provided pursuant to this Agreement must provide, among other things, that the PA Beneficiary is entitled to draw the full amount of such Letter of Credit if: (i) the Letter of Credit has not been renewed or replaced within thirty (30) days prior to the expiration date of the Letter of Credit; or (ii) the issuer of the Letter of Credit fails to maintain a credit rating of at least A- from S&P and a rating of at least A3 from Moody’s and the Party required to provide the Letter of Credit has failed, within ten (10) Business Days after receipt of Notice thereof by the PA Beneficiary to replace such Letter of Credit with another Letter of Credit, in a form reasonably acceptable to the issuer of the Letter of Credit and PA Beneficiary. Costs of a Letter of Credit shall be borne by the PA Provider.

ARTICLE 10
REPRESENTATIONS, WARRANTIES AND COVENANTS

10.1 Representations and Warranties.

On the Effective Date, each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
10.2 **General Covenants.**

Each Party covenants that throughout the Term:

(a) it shall continue to be duly organized, validly existing and in good standing under the Applicable Laws of the jurisdiction of its formation;

(b) it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all Governmental Approvals necessary for it to legally perform its obligations under this Agreement; and

(c) it shall perform its obligations under this Agreement in a manner that does not violate any of the terms and conditions in its governing documents, any material contracts to which it is a party or any Applicable Law or Governmental Approval.

10.3 **Seller Covenants.**

Seller covenants as follows:
(a) that, from the Initial Energy Delivery Date through the expiration or termination of this Agreement, the Project shall be operated and maintained in all material respects in accordance with this Agreement, Applicable Laws, Governmental Approvals and Prudent Operating Practices; and

(b) throughout the Term that it, or its permitted successors or assigns, shall maintain ownership of a fee, easement, long-term leasehold interest, or other similar asset ownership interest in the Project.

10.4 **Buyer’s Covenants.**

Buyer covenants as follows:

(a) from the date hereof through the expiration or termination of this Agreement, Buyer shall comply in all material respects with this Agreement and Applicable Laws.

(b) Buyer will, at Seller’s expense, reasonably cooperate with Seller in opposing, and will not support any action of any regulatory body having jurisdiction thereover that could result in the modification or vitiation of any of the terms or conditions hereof or have any other material adverse effect on Seller, the Project or this Agreement.

(c) Buyer shall not treat this Agreement for tax purposes as a lease of the Project rather than a service contract; Buyer shall not take an ownership interest in the Project during the first five (5) Contract Years following the Commercial Operation Date (for the avoidance of doubt, nothing in this Agreement permits Buyer to take an ownership interest in the Project); and Buyer shall not take any action or inaction in breach of this Agreement or otherwise fail to obtain transmission service in accordance with Section 3.8(b) of this Agreement in a manner that would prevent the Project from being placed in service for tax purposes prior to the Default Commercial Operation Date.

(d) Buyer’s obligations under this Agreement shall qualify as operating expenses which enjoy first priority payment at all times under any and all bond or other ordinances or indentures to which Buyer is a party and shall be included as part of the rate calculations required by any rate-related debt covenants to which Buyer is bound.

(e) **[For Solar II PPAs Only]**: Buyer covenants that Buyer’s obligations under this Agreement shall qualify as operating expenses which enjoy first priority payment at all times under any and all bond or other ordinances or indentures to which Buyer is a party relating to electric utility operations and shall be included as part of the rate calculations required by any rate-related debt covenants to which Buyer is bound.

(f) Buyer covenants that from the date hereof through the expiration or termination of this Agreement, Buyer shall (i) establish and maintain FMPA Solar Project Participant payment obligations pursuant to the FMPA Solar Project Power Sales Contracts at amounts sufficient to meet FMPA’s costs and liabilities lawfully owed under this Agreement; (ii) deliver written Notice to Seller of (A) any defaults occurring under any FMPA Solar Project Power Sales Contract that
are not cured by the applicable cure period and (B) any changes to the list of FMPA Solar Project Participants set forth in Exhibit K; and (iii) not agree to any amendment, modification or alteration of any FMPA Solar Project Power Sales Contract that would materially adversely affect the FMPA Solar Project Participant Covenants without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed.

(g) Buyer shall enforce the provisions of the FMPA Solar Project Power Sales Contracts and duly perform its covenants and agreements thereunder; provided, however, that notwithstanding any provision of this Agreement to the contrary, in the event of the failure of an FMPA Solar Project Participant to observe the FMPA Solar Project Participant Covenants, such failure shall be considered a Downgrade Event (without limiting Events of Default) and the sole and exclusive remedy of Seller for such failure shall be the delivery by Buyer to Seller of Performance Assurance in the form of a Letter of Credit or cash in an amount equal to the then applicable amount of Buyer’s Performance Assurance.

(h) Buyer covenants that from the Effective Date through the expiration or termination of this Agreement, Buyer shall (i) establish and maintain FMPA Solar II Project Participant payment obligations pursuant to the FMPA Solar II Project Power Sales Contracts at amounts sufficient to meet FMPA’s costs and liabilities lawfully owed under this Agreement; (ii) deliver written Notice to Seller of (A) any defaults occurring under any FMPA Solar II Project Power Sales Contract that are not cured by the applicable cure period and (B) any changes to the list of FMPA Solar II Project Participants set forth in Exhibit K; and (iii) not agree to any amendment of any FMPA Solar II Project Power Sales Contract that would materially adversely affect the FMPA Solar II Project Participant Covenants without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed.

[For ARP PPAs Only: Buyer covenants that Buyer’s obligations under this Agreement shall qualify as operating expenses which enjoy first priority payment at all times under any and all bond or other ordinances or indentures to which Buyer is a party relating to electric utility operations and shall be included as part of the rate calculations required by any rate-related debt covenants to which Buyer is bound.

(e) FMPA shall set its rates payable pursuant to the FMPA All-Requirements Power Supply Project Contract (“ARP Contract”), as it may be amended by FMPA from time to time, in a manner sufficient to meet its Revenue Requirements, as such term is defined in the ARP Contract. FMPA represents that the term Revenue Requirement, as used in the ARP Contract, includes all of its costs and liabilities lawfully owed under this Agreement.

(f) Buyer shall enforce the provisions of the All-Requirements Power Supply Project Contracts and duly perform its covenants and agreements thereunder.]

ARTICLE 11
TITLE, RISK OF LOSS, INDEMNITIES

11.1 Title and Risk of Loss.
Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to or at the Delivery Point.

11.2 *Indemnities by Seller.*

Seller shall release, indemnify, defend, and hold harmless Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all actions, suits, losses, costs, damages, injuries, liabilities, claims, demands, penalties and interest, including reasonable costs and attorneys’ fees (“Claims”) resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product delivered under this Agreement up to and at the Delivery Point, (ii) Seller’s development, permitting, construction, ownership, operation and/or maintenance of the Project, (iii) the failure by Seller or the failure of the Project to comply with Applicable Laws, (iv) any Governmental Charges for which Seller is responsible hereunder, or (v) any liens, security interests, encumbrances, or other adverse claims against the Product delivered hereunder made by, under, or through Seller, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Buyer, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

11.3 *Indemnities by Buyer.*

To the fullest extent permitted by Florida law, subject to and without waiving its rights to sovereign immunity under Florida law, Buyer shall release, indemnify, defend, and hold harmless Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives against and from any and all Claims resulting from, or arising out of or in any way connected with (i) any event, circumstance, act, or incident relating to the Product received by Buyer under this Agreement after the Delivery Point, (ii) the failure by Buyer to comply with Applicable Laws, (iii) Buyer’s breach of this Agreement, or (iv) any Governmental Charges for which Buyer is responsible hereunder, in all cases including, without limitation, any Claim for or on account of injury, bodily or otherwise, to or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such Claim to the extent caused by the willful misconduct or gross negligence of Seller, its Affiliates, and its and their directors, officers, employees, agents, and representatives.

**ARTICLE 12**

**GOVERNMENTAL CHARGES**

12.1 *Cooperation.*

Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither
12.2 Governmental Charges.

Seller shall pay or cause to be paid all taxes imposed by any governmental authority ("Governmental Charges") on or with respect to the Product or the transaction under this Agreement arising prior to and at the Delivery Point, including, but not limited to, ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or the transaction under this Agreement at and after the Delivery Point. In the event Seller is required by Applicable Law or regulation to remit or pay Governmental Charges which are Buyer’s responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by Applicable Law or regulation to remit or pay Governmental Charges which are Seller’s responsibility hereunder, Buyer may deduct such amounts from payments to Seller with respect to payments under the Agreement; if Buyer elects not to deduct such amounts from Seller’s payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under Applicable Law.

ARTICLE 13
CONFIDENTIAL INFORMATION

13.1 Confidential Information.

(a) The Parties have and will develop certain information, processes, know-how, techniques and procedures concerning the Project that they consider confidential and proprietary (together with the terms and conditions of this Agreement, the “Confidential Information”). Notwithstanding the confidential and proprietary nature of such Confidential Information, the Parties (each, the “Disclosing Party”) may make such Confidential Information available to the other (each, a “Receiving Party”) subject to the provisions of this Section 13.1.

(b) Upon receiving or learning of Confidential Information, the Receiving Party shall:

(i) Treat such Confidential Information as confidential and use reasonable care not to divulge such Confidential Information to any third party except as required by law, subject to the restrictions set forth below;

(ii) Restrict access to such Confidential Information to only those employees, subcontractors, suppliers, vendors, and advisors whose access is reasonably necessary for the development, construction, operation or maintenance of the Project and for the purposes of this Agreement who shall be bound by the terms of this Section 13.1;

(iii) Use such Confidential Information solely for the purpose of developing the Project and for purposes of this Agreement; and
(iv) Upon the termination of this Agreement, destroy or return any such Confidential Information in written or other tangible form and any copies thereof; provided, however, that either Party shall be entitled to keep a record copy of such information to the extent required by Florida law.

(c) The restrictions of this Section 13.1 do not apply to:

(i) Release of this Agreement or Confidential Information to any Governmental Authority required for obtaining any approval or making any filing pursuant to Sections 3.12 or 12.2, provided that each Party agrees to cooperate in good faith with the other to maintain the confidentiality of the provisions of this Agreement and the Confidential Information by requesting confidential treatment with all filings to the extent appropriate and permitted by Applicable Law;

(ii) Information which is, or becomes, publicly known or available other than through the action of the Receiving Party in violation of this Agreement;

(iii) Information which is in the possession of the Receiving Party prior to receipt from the Disclosing Party or which is independently developed by the Receiving Party, provided that the Person or Persons developing such information have not had access to any Confidential Information;

(iv) Information which is received from a third party which is not known (after due inquiry) by Receiving Party to be prohibited from disclosing such information pursuant to a contractual, fiduciary or legal obligation; and

(v) Information which is, in the reasonable written opinion of counsel of the Receiving Party, required to be disclosed pursuant to Applicable Law (including, without limitation, any request pursuant to Chapter 119 of the Florida Statutes, or other state or federal public records law, freedom of information act, or other similarly title law); provided, however, that the Receiving Party, prior to such disclosure, shall provide reasonable advance Notice to the Disclosing Party of the time and scope of the intended disclosure in order to provide the Disclosing Party an opportunity to obtain, at its sole expense, a protective order or otherwise seek to prevent, limit the scope of, or impose conditions upon such disclosure.

(d) Notwithstanding the foregoing, Seller may disclose Confidential Information to the Project Investors and any other financial institutions expressing an interest in providing equity or debt financing or refinancing and/or credit support to Seller, and the agent or trustee of any of them, any advisors, consultants, insurance providers, brokers of Seller, Project Investors or other financial institutions.

(e) Neither Party shall issue any press or publicity release or otherwise release, distribute or disseminate any information, with the intent that such information will be published (other than information that is, in the reasonable written opinion of counsel to the Disclosing Party, required to be distributed or disseminated pursuant to Applicable Law, provided that the Disclosing Party
has given Notice to, and an opportunity to prevent disclosure by, the other Party as provided in
Section 13.1(c)(v)), concerning this Agreement or the participation of the other Party in the
transactions contemplated hereby without the prior written approval of the other Party, which
approval will not be unreasonably withheld or delayed. This provision shall not prevent the Parties
from releasing information which is required to be disclosed in order to obtain permits, licenses,
releases and other approvals relating to the Project or as are necessary in order to fulfill such
Party’s obligations under this Agreement.

(f) The obligations of the Parties under this Section 13.1 shall remain in full force and
effect for three (3) years following the expiration or termination of this Agreement.

ARTICLE 14
ASSIGNMENT

14.1 Successors and Assigns; Assignment.

(a) This Agreement shall inure to the benefit of and shall be binding upon the Parties and
their respective successors and assigns. This Agreement shall not be assigned or transferred by
either Party without the prior written consent of the other Party, which consent shall not be
unreasonably withheld, conditioned or delayed.

(b) Notwithstanding the foregoing, no consent shall be required for the following:

(i) Any assignment of this Agreement by Seller to any Project Investors as
collateral security for obligations under the financing documents entered into with such
Project Investors;

(ii) Any assignment by the Project Investors to a third party after the Project
Investors have exercised their foreclosure rights with respect to this Agreement or the
Project;

(iii) Any assignment or transfer of this Agreement by Seller to an Affiliate of
Seller; or

(iv) Any assignment or transfer of this Agreement by Seller to a Person
succeeding to all or substantially all of the assets of Seller, provided that such Person is a
Qualified Transferee.

(c) An assignee shall be afforded no additional rights, interests or remedies beyond those
specifically granted to the assignor in this Agreement. The Party seeking to assign or transfer this
Agreement shall be solely responsible for paying all costs and expenses, including attorney’s and
advisor fees of any such assignment.

(d) Buyer acknowledges that upon an event of default under any financing documents
relating to the Project, subject to receipt by Buyer of Notice, any of the Project Investors may (but
shall not be obligated to) assume, or cause its designee or a new lessee or buyer of the Project
[XXXXXXXX] to assume, all of the interests, rights and obligations of Seller thereafter arising under
this Agreement, provided that Buyer’s interests, rights and obligations under this Agreement will remain in full force and effect.

(e) If the rights and interests of Seller in this Agreement shall be assumed, sold or transferred as herein provided, and the assuming party shall agree in writing to be bound by and to assume, the terms and conditions hereof and any and all obligations to Buyer arising or accruing hereunder from and after the date of such assumption, then Seller shall be released and discharged from the terms and conditions hereof and each such obligation hereunder from and after such date, and Buyer shall continue this Agreement with the assuming party as if such Person had been named as Seller under this Agreement. Notwithstanding any such assumption by any of the Project Investors or a designee thereof, Seller shall not be released and discharged from and shall remain liable for any and all obligations to Buyer arising or accruing hereunder prior to such assumption.

(f) The provisions of this ARTICLE 14 are for the benefit of the Project Investors as well as the Parties hereto, and shall be enforceable by the Project Investors as express third-party beneficiaries hereof. Buyer hereby agrees that none of the Project Investors, nor any bondholder or participant for whom they may act or any trustee acting on their behalf, shall be obligated to perform any obligation or be deemed to incur any liability or obligation provided in this Agreement on the part of Seller or shall have any obligation or liability to Buyer with respect to this Agreement except to the extent any of them becomes a party hereto pursuant to this ARTICLE 14.

14.2 Collateral Assignment.

(a) Seller, without approval of Buyer, may, by security, charge or otherwise encumber its interest under this Agreement in favor of a Project Investor for the purposes of financing the development, construction and/or operation of the Project and the Seller’s Interconnection Facilities.

(b) Promptly after making such encumbrance, Seller shall notify Buyer in writing of the name, address, and telephone and facsimile numbers of each Project Investor to which Seller’s interest under this Agreement has been encumbered. Such Notice shall include the names of the account managers or other representatives of the Project Investors to whom all written and telephonic communications should be addressed.

(c) After giving Buyer such initial Notice, Seller shall promptly give Buyer Notice of any change in the information provided in the initial Notice or any revised Notice.

(d) If Seller encumbers its interest under this Agreement as permitted by this Section 14.2, the following provisions shall apply:

(i) The Parties, except as provided by the terms of this Agreement, shall not modify or cancel this Agreement without the prior written consent of the Project Investors;

(ii) The Project Investors or their designees shall have the right, but not the obligation, to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller and such act performed by the Project
Investors or their designees shall be as effective to prevent or cure an Event of Default as if done by Seller, provided that, if any such Project Investor or its designee elects to perform any act required to be performed by Seller under this Agreement to prevent or cure an Event of Default by Seller, Buyer will not be deemed to have waived or relinquished its rights and remedies as provided in this Agreement;

(iii) Buyer shall upon request by Seller execute statements certifying that this Agreement is unmodified (or, modified and stating the nature of the modification), in full force and effect and, to the knowledge of Buyer, the absence or existence (and the nature thereof) of Events of Default hereunder by Seller and documents of consent to such assignment to the encumbrance and any assignment to such Project Investors; and

(iv) Upon the receipt of a written request from Seller or any Project Investor, Buyer shall use Commercially Reasonable Efforts to execute, or arrange for the delivery of, such certificates, opinions and other documents as may be reasonably necessary in order for Seller to consummate any financing or refinancing of the Project or any part thereof and will enter into reasonable agreements with such Project Investor, which agreements will grant certain rights to the Project Investors as more fully developed and described in such documents, including (a) this Agreement shall not be terminated (except for termination pursuant to the terms of this Agreement) without the consent of Project Investor, which consent is not to be unreasonably withheld or delayed, (b) Project Investors shall be given notice of, and the opportunity to cure as provided in Section 14.2(d)(ii), any breach or default of this Agreement by Seller, (c) that if the Project Investor forecloses, take a deed in lieu of foreclosure or otherwise exercise its remedies pursuant to any security documents, then (i) Buyer shall, at Project Investor’s request, continue to perform all of its obligations hereunder, and Project Investor or its nominee may perform in the place of Seller, and may assign this Agreement to another Person in place of Seller, provided that such other Person is a Qualified Transferee, (ii) Project Investor shall have no liability under this Agreement except during the period of such Project Investor’s ownership or operation of the Project and (iii) that Buyer shall accept performance in accordance with this Agreement by Project Investor or its nominee, and (d) that Buyer shall make the same representations and warranties to Project Investor as Buyer made to Seller pursuant to this Agreement. The Parties agree that an agreement substantially in the form of Exhibit J shall be reasonable.

ARTICLE 15
FORCE MAJEURE

15.1 Force Majeure Events.

To the extent either Party is prevented by a Force Majeure Event from carrying out, in whole or part, its obligations under this Agreement and such Party gives Notice and details of the Force Majeure Event to the other Party as detailed below, then, the Party impacted by the Force Majeure Event shall be excused from the performance of its obligations to the extent impacted. As soon as practicable after commencement of a Force Majeure Event, the non-performing Party shall provide the other Party with oral notice of the Force Majeure Event, and within two (2) weeks of the
commencement of a Force Majeure Event (or such longer period as reasonably required given the nature of the Force Majeure Event), the non-performing Party shall provide the other Party with Notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure Event claim and the anticipated impact on the non-performing Party's ability to perform its obligations and the non-performing Party's anticipated plan to resume full performance of the obligations impacted by the Force Majeure Event. Seller shall not substitute Product from any other source for Buyer’s Share of the output of the Project during an outage resulting from a Force Majeure Event. The suspension of performance due to a claim of a Force Majeure Event must be of no greater scope and of no longer duration than is required by the Force Majeure Event. Buyer shall not be required to make any payments for any Product that Seller fails to schedule, deliver or provide as a result of a Force Majeure Event during the term of such Force Majeure Event.

15.2 Extended Force Majeure Events.

This Agreement may be terminated by either Party with no further obligation to the other Party if a Force Majeure Event prevents the performance of a material portion of the obligations hereunder and such Force Majeure Event is not resolved and full performance is resumed within [XXX] months after the commencement of such Force Majeure Event, subject to Seller’s right to extend in this Section 15.2. If Seller is the non-performing Party due to damage to the Project caused by a Force Majeure Event, Seller shall have up to [XXX] Days following the start of such Force Majeure Event to obtain a report from an independent, third party engineer stating whether the Project is capable of being repaired or replaced within [XXX] additional months from the date of the report. Seller shall promptly provide Buyer a copy of the engineer’s report at no cost to Buyer. If such engineer’s report concludes that the Project is capable of being repaired or replaced within such [XXX] month period and Seller undertakes and continues such repair or replacement with due diligence, then Buyer shall not have the right to terminate this Agreement pursuant to this Section until the expiration of the period deemed necessary by the engineer’s report (not to exceed [XXX] months), after which time, either Party may terminate by Notice to the other Party unless the Project has been repaired or replaced, as applicable, and the Seller has resumed and is satisfying its performance obligations under this Agreement.

ARTICLE 16
LIMITATIONS ON LIABILITY

16.1 Disclaimer of Warranties.

EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.

16.2 Limitations on Liability.

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR
MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. THE OBLIGOR’S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED, UNLESS THE PROVISION IN QUESTION PROVIDES THAT THE EXPRESS REMEDIES ARE IN ADDITION TO OTHER REMEDIES THAT MAY BE AVAILABLE. EXCEPT FOR A PARTY’S INDEMNITY OBLIGATION IN RESPECT OF THIRD PARTY CLAIMS OR AS OTHERWISE EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF ARTICLE 11, IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

16.3 Buyer Liability.

(a) This Agreement is a liability and financial obligation of the [All-Requirements Power Supply Project / Solar Project II] only. No liability or obligation under this Agreement shall inure to or bind any of the funds, accounts, monies, property, instruments, or rights of the Florida Municipal Power Agency generally, any individual FMPA member, or any of any other project designated by FMPA in accordance with Article II of the Interlocal Agreement.

(b) [The following bracketed language applies to ARP PPAs only][RESERVED] [The following bracketed language applies to non-ARP PPAs only] [Each FMPA Solar II Project Participant has commitments under the FMPA Solar II Project Power Sales Contracts with regard to the payment obligations to the FMPA Solar II Project for all costs related to this Agreement in the event of a default by one or more other FMPA Solar II Project Participants, as more fully described in the Power Sales Contracts.]

ARTICLE 17
DISPUTE RESOLUTION

17.1 Intent of the Parties

Except as provided in the next sentence, the sole procedure to resolve any claim arising out of or relating to this Agreement or any related agreement (a “Dispute”) is the dispute resolution
Either Party may seek a preliminary injunction or other provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case both Parties nonetheless will continue to pursue resolution of the Dispute by means of the dispute resolution procedure set forth in this ARTICLE 17.

### 17.2 Management Negotiations

(a) The Parties will attempt in good faith to resolve any Dispute by prompt negotiations between each Party’s authorized representative designated in writing as a representative of the Party (each a “Manager”). Either Manager may, by Notice to the other Party, request a meeting to initiate negotiations to be held within ten (10) Business Days of the other Party’s receipt of such request, at a mutually agreed time and place (either in person or telephonically). If the matter is not resolved within fifteen (15) Business Days of their first meeting (“Initial Negotiation End Date”), the Managers shall refer the matter to the designated senior officers of their respective companies that have authority to settle the dispute (“Executives”). Within five (5) Business Days of the Initial Negotiation End Date (“Referral Date”), each Party shall provide one another Notice confirming the referral and identifying the name and title of the Executive who will represent the Party.

(b) Within five (5) Business Days of the Referral Date, the Executives shall establish a mutually acceptable location and date, which date shall not be greater than thirty (30) Days from the Referral Date, to meet. After the initial meeting date, the Executives shall meet, as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.

(c) All communication and writing exchanged between the Parties in connection with these negotiations shall be confidential and shall not be used or referred to in any subsequent binding adjudicatory process or judicial proceeding between the Parties. The Parties shall bear their respective costs, expenses and fees relating to the activities under this Section 17.2.

(d) If the matter is not resolved within forty-five (45) days of the Referral Date, or if the Party receiving the Notice to meet, pursuant to Section 17.2(a) above, refuses or does not meet within the ten (10) Business Day period specified in Section 17.2(a) above, and subject to Sections 16.2, 19.7 and 19.8 of this Agreement, either Party may pursue all remedies available to it at law or in equity. Venue for any action or proceeding shall be state and federal courts in Leon County, Florida.

### 17.3 Specific Performance and Injunctive Relief

Each Party shall be entitled to seek a decree compelling specific performance with respect to, and shall be entitled, without the necessity of filing any bond, to seek the restraint by injunction of, any actual or threatened breach of any material obligation of the other Party under Article 13. The Parties in any action for specific performance or restraint by injunction agree that they shall each request that all expenses incurred in such proceeding, including, but not limited to, reasonable counsel fees, be apportioned in the final decision based upon the respective merits of the positions of the Parties.
ARTICLE 18
NOTICES

18.1 Notices.

Whenever this Agreement requires or permits delivery of a “Notice” (or requires a Party to “notify”), the Party with such right or obligation shall provide a written communication in the manner specified in herein and to the addresses set forth below; provided, however, that Notices of Outages or other Scheduling or dispatch information or requests, shall be provided in accordance with the terms set forth in the relevant section of this Agreement or the Operating Procedures, as applicable. Invoices may be sent by facsimile or e-mail in addition to overnight mail or courier. A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such Notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next Business Day) and a Notice of overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party. Each Party shall provide Notice to the other Party of the persons authorized to nominate and/or agree to a Schedule or Dispatch Order for the delivery or acceptance of the Product or make other Notices on behalf of such Party and specify the scope of their individual authority and responsibilities, and may change its designation of such persons from time to time in its sole discretion by providing Notice.

If to Seller: FL SOLAR [__], LLC

800 Brickell Avenue, Suite 1100
Miami, FL 33131
Attn: President

With a copy to:

c/o Origis Energy
800 Brickell Avenue, Suite 1100
Miami, FL 33131
Attention: General Counsel

If to Buyer: Florida Municipal Power Agency

Chief Operating Officer
8553 Commodity Circle
Orlando, FL 32819
Telephone: 407-355-7767
Email: ken.rutter@fmpa.com

ARTICLE 19
MISCELLANEOUS
19.1 **Effectiveness of Agreement; Survival.**

This Agreement shall be in full force and effect, enforceable and binding in all respects as of the Effective Date until the conclusion of the Term or earlier termination pursuant to the terms of this Agreement; provided however, that the relevant provisions of this Agreement shall remain in effect until (i) the Parties have fulfilled all obligations under this Agreement, including payment in full of amounts due for the Product delivered prior to the end of the Term, the Settlement Amount, indemnification payments or other damages (whether directly or indirectly such as through set-off or netting) and (ii) the undrawn portion of Performance Assurance is released and/or returned as applicable (if any is due). Notwithstanding any provisions herein to the contrary, the obligations set forth in Sections 6.1(b) and 13.1 and ARTICLE 16, the indemnity obligations set forth in ARTICLE 11, and the limitations on liabilities set forth herein shall survive (in full force) the expiration or termination of this Agreement.

19.2 **Audits.**

Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after such twelve (12)-month period.

19.3 **Amendments.**

This Agreement shall not be modified nor amended unless such modification or amendment shall be in writing and signed by authorized representatives of both Parties.

19.4 **Waivers.**

Failure to enforce any right or obligation by any Party with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to that matter nor to any other matter. Any waiver by any Party of its rights with respect to a breach or default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing. Such waiver shall not be deemed a waiver with respect to any subsequent breach or default or other matter.

19.5 **Severability.**

If any of the terms of this Agreement are finally held or determined to be invalid, illegal or void, all other terms of the Agreement shall remain in effect; provided that the Parties shall enter into
negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any Applicable Law and the original intent and original economic benefit of the Parties.

19.6 Standard of Review.

(a) Absent the agreement of the Parties to the proposed change, the standard of review for changes to this Agreement proposed by a Party, a Person or the FERC acting sua sponte shall be the “public interest” application of the “just and reasonable” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956), as clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008) (the “Mobile-Sierra” doctrine).

(b) Notwithstanding any provision of Agreement, and absent the prior written agreement of the Parties, each Party, to the fullest extent permitted by Applicable Laws, for itself and its respective successors and assigns, hereby also expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Sections 205, 206, or 306 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation, supporting a third party seeking to obtain or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any Section of this Agreement specifying any rate or other material economic terms and conditions agreed to by the Parties.

19.7 Governing Law.

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. THE SOLE AND EXCLUSIVE VENUE FOR ANY DISPUTE, CLAIM OR CONTROVERSY RELATING TO THIS AGREEMENT SHALL BE THE STATE AND FEDERAL COURTS IN LEON COUNTY, FLORIDA.

19.8 Waiver of Trial by Jury.

EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

19.9 Attorneys’ Fees.
In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys’ fees (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

19.10 **No Third-Party Beneficiaries.**

Except as set forth in Article 14, this Agreement is intended solely for the benefit of the Parties hereto and nothing contained herein shall be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement.

19.11 **No Agency.**

This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party.

19.12 **Cooperation.**

The Parties acknowledge that they are entering into a long-term arrangement in which the cooperation of both of them will be required. If, during the Term, changes in the operations, facilities or methods of either Party will materially benefit a Party without detriment to the other Party, the Parties commit to each other to make Commercially Reasonable Efforts to cooperate and assist each other in making such change, including engaging in good-faith negotiations to revise or supplement this Agreement as appropriate.

19.13 **Further Assurances.**

Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section. No Party shall be required to take any action or execute any document under this Section 19.13 that would negatively change that Party’s risk or benefit under this Agreement.

19.14 **Captions; Construction.**

All indexes, titles, subject headings, section titles, and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning of the content or scope of this Agreement. This Agreement was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and shall not be construed against one Party or the other as a result of the manner in which this Agreement was prepared, negotiated or executed.
19.15 *Entire Agreement.*

This Agreement shall supersede all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement.

19.16 *Forward Contract.*

The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.

19.17 *Service Contract.*

Each Party intends this Agreement to be a “service contract” within the meaning of Section 7701(e) of the Internal Revenue Code of 1986.

19.18 *Counterparts.*

This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK – SIGNATURES APPEAR ON FOLLOWING PAGE]
IN WITNESS WHEREOF the Parties have executed this Agreement in the manner appropriate to each as of the Effective Date set forth above.

FL Solar [__], LLC

By:_______________________________
Name:_____________________________
Title:______________________________

Florida Municipal Power Agency

By:_______________________________
Name:_____________________________
Title:______________________________
I. CONTRACT PRICE

A. Initial Term

<table>
<thead>
<tr>
<th>PERIOD</th>
<th>CONTRACT PRICE ($/MWh)</th>
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<tbody>
<tr>
<td>From and including the Initial Energy Delivery Date through the remainder of the Initial Term</td>
<td>$[XXX]</td>
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B. Renewal Terms

[XXXXXXXXXXXXX]
II. OPTION PRICE TABLE

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</table>
DESCRIPTION OF PROJECT

Seller intends to build, own and operate a single axis tracking photovoltaic solar energy generation facility on a site located in [________], [_______]. As presently planned, the Expected Project Capacity will be [___] MW, and will consist of:

Point(s) of Interconnection:

Real Property Description which shall be subject to adjustment to reflect the final survey and any modifications made in accordance with Prudent Operating Practices:

Located in the County of [______], [________], and more particularly described as follows (as may be updated by Seller in accordance with the Interconnection Agreement):

Nothing in this Agreement or Exhibit B is intended to either (i) limit the right of Seller to make any changes to the Project it determines to undertake, or (ii) grant any rights to Buyer regarding the description, nature or components of the Project.
DESCRIPTION OF DELIVERY POINT

Following is a preliminary description of the Delivery Point. Seller shall update as necessary.

[_____________________________________]
EXHIBIT D

PRODUCTION GUARANTEE

I. Definitions. The following defined terms shall apply to this Exhibit D. Capitalized terms used in this Exhibit D and not defined herein will have the meaning assigned in Section 1.1 of the Agreement.

“Actual Energy Output” means, for any Contract Year, the amount of Energy the Seller delivered or made available to Buyer at the Delivery Point during such Contract Year, measured in MWh.

“Annual Energy Output Guarantee” means, for any Contract Year, (i) Buyer’s Share of the amount set forth in the following Table A for such Contract Year, less (ii) any Excused Energy.

<table>
<thead>
<tr>
<th>Table A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Year</td>
</tr>
<tr>
<td>[XXX]</td>
</tr>
</tbody>
</table>

“Damages Rate” means an amount equal to [XXX] per MWh of Production Shortfall.

“Excused Energy” means (a) any Energy, measured in MWh, that Seller is unable to schedule or deliver to the Delivery Point as a result of Buyer Curtailment Orders, Buyer’s failure to obtain transmission service or Buyer’s failure to perform, including for reasons outside its control, as contemplated in Section 3.8(c) (other than due to a breach by Seller of its obligations under the Agreement); plus (b) Buyer’s Share of any Energy, measured in MWh, that Seller is unable to schedule or deliver to the Delivery Point as a result of a (i) Curtailment Period, (ii) System Emergency (other than a System Emergency caused by Seller’s breach of the Interconnection Agreement), (iii) Force Majeure Event, or (iv) Planned Outages [XXX].

“Production Shortfall” means, for any Contract Year, the positive difference (if any) between the Annual Energy Output Guarantee and the Actual Energy Production for that Contract Year.

II. Guarantee and Damages.

a. Production Guarantee Damages. If there is a Production Shortfall in any two rolling consecutive Contract Years, then Seller shall owe Buyer liquidated damages in an amount equal to (i) the Production Shortfall that occurred in the later of the two relevant Contract Years, multiplied by (ii) the Damages Rate (the “Production Guarantee Damages”).

b. Annual Report. No later than 45 days after each Contract Year, Seller shall deliver to Buyer: (i) a calculation showing Seller’s computation of the Actual Energy Output for the
previous two Contract Years and the Production Guarantee Damages, if any, owed to Buyer, and (ii) payment in full of any Production Guarantee Damages owed to Buyer. Production Guarantee Damages shall be Buyer’s sole remedy for the failure of Seller to satisfy the production guarantee set forth in this Exhibit D.
EXHIBIT E
FORM OF GUARANTY

THIS SOLAR POWER PURCHASE AGREEMENT GUARANTY, dated as of ____________ (this “Guarantee”), is issued by [name of guarantor], a __________ (“Guarantor”) in favor of [___________] (“Guaranteed Party”). [BENEFICIARY], a Delaware limited liability company (“Obligor”) is a wholly owned subsidiary of Guarantor.

A. RECITALS

Obligor and Guaranteed Party have entered into a Solar Power Purchase Agreement, dated as of ______________ (the “Agreement”).

This Guarantee is delivered to Guaranteed Party by Guarantor pursuant to the Agreement. All terms defined in the Agreement and not otherwise defined in this Guarantee have the meanings given to them in the Agreement.

AGREEMENT

Guarantee of Obligations Under the Agreement. For value received, Guarantor absolutely, unconditionally and irrevocably, as primary Obligor and not as surety, subject to the express terms hereof, guarantees the payment and performance when due of all obligations, whether now in existence or hereafter arising, by Obligor to Guaranteed Party pursuant to the Agreement (the “Obligations”). This Guarantee is one of payment and not of collection and shall apply regardless of whether recovery of all such Obligations may be or become discharged or uncollectible in any bankruptcy, insolvency or other similar proceeding, or otherwise unenforceable.

Maximum Guaranteed Amount. Notwithstanding anything to the contrary, Guarantor’s aggregate obligation to Guaranteed Party hereunder is limited to [insert applicable Required Security Amount] (the “Maximum Guaranteed Amount”) (it being understood for purposes of calculating the Maximum Guaranteed Amount of Guarantor hereunder that any payment by Guarantor either directly or indirectly to the Guaranteed Party, pursuant to a demand made upon Guarantor by Guaranteed Party or otherwise made by Guarantor pursuant to its obligations under this Guarantee, including any indemnification obligations, shall reduce Guarantor’s maximum aggregate liability hereunder on a dollar-for-dollar basis), excluding costs and expenses incurred by Guaranteed Party in enforcing this Guarantee, and shall not either individually or in the aggregate be greater or different in character or extent than the obligations of Obligor to Guaranteed Party under the terms of the Agreement.

Payment; Currency. All sums payable by Guarantor hereunder shall be made in freely transferable and immediately available funds and shall be made in the currency in which the Obligations were due.

Waiver of Certain Defenses. Guarantor waives: (a) notice of acceptance of this Guarantee and of the Obligations and any action taken with regard thereto; (b) presentment, demand for payment,
protest, notice of dishonor or non-payment, suit, or the taking of any other action by Guaranteed Party against Obligor, Guarantor or others; (c) any right to require Guaranteed Party to proceed against Obligor or any other person, or to require Guaranteed Party first to exhaust any remedies against Obligor or any other person, before proceeding against Guarantor hereunder; and (d) any defense based upon (i) an election of remedies by Guaranteed Party; (ii) a change in the financial condition, corporate existence, structure or ownership of the Guarantor or Obligor; (iii) the institution by or against Obligor or any other person or entity of any bankruptcy, winding-up, liquidation, dissolution, insolvency, reorganization or other similar proceeding affecting Obligor or its assets or any resulting release, stay or discharge of any Obligations; (iv) any lack or limitation of power, incapacity or disability on the part of Obligor or of its directors, partners or agents or any other irregularity, defect or informality on the part of Obligor in the authorization of the Obligations; (v) any lack of validity or enforceability of the Obligations; (vi) any amendment, release, discharge, substitution or waiver of the Agreement or any of the Obligations and (v) any duty of Guaranteed Party to disclose to Guarantor any facts concerning Obligor, the Agreement or the Project, or any other circumstances that might increase the risk to Guarantor under this Guarantee, whether now known or hereafter learned by Guaranteed Party, it being understood that Guarantor is capable of and assumes the responsibility for being and remaining informed as to all such facts and circumstances.

Without limitation to the foregoing, Guaranteed Party shall have the right to at any time and from time to time without notice to or consent of Guarantor and without impairing or releasing the obligations of Guarantor hereunder: (a) renew, compromise, extend, accelerate or otherwise change, substitute or supersede the Obligations; (b) take or fail to take any action of any kind in respect of any security for the Obligations, or impair, exhaust, exchange, enforce, waive or release any such security; (c) exercise or refrain from exercising any rights against Obligor or others in respect of the Obligations; or (d) compromise or subordinate the Obligations, including any security therefor, or grant any forbearances or waivers, on one or more occasions, for any length of time, or accept settlements with respect to Obligor’s performance of any of the Obligations.

Except as expressly set forth in this paragraph, Guarantor shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that Obligor may have to payment or performance of any of the Obligations and also shall be entitled to assert any and all rights, setoffs, counterclaims and other defenses that the Guarantor may have against the Guaranteed Party, other than (a) defenses arising from the insolvency, reorganization or bankruptcy of Obligor, (b) defenses expressly waived in this Agreement by Guarantor, (c) defenses arising by reason of (i) Guarantor’s direct or indirect ownership interests in Obligor or (ii) legal requirements applicable to Obligor that prevent the payment by Obligor of its payment obligations that constitute Obligations, and (d) defenses previously asserted by Obligor against such claims to the extent such defenses have been resolved in favor of Guaranteed Party by a court of last resort.

Term. This Guarantee shall continue in full force and effect until the earlier to occur of (a) the substitution of an alternative form of Security by Obligor, (b) the satisfaction of all Obligations of Obligor under the Agreement, or (c) the payment by Guarantor, without reservation of rights, of an aggregate amount equal to the Maximum Guaranteed Amount, together with any other amounts required to be paid by Guarantor pursuant to this agreement. Guarantor further agrees that this Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time payment,
or any part thereof, of any Obligation is rescinded or must otherwise be restored or returned due to bankruptcy or insolvency laws or otherwise.

Subrogation. Until all Obligations are indefeasibly paid in full, unless otherwise provided herein, Guarantor waives all rights of subrogation, reimbursement, contribution and indemnity from Obligor with respect to this Guarantee and any collateral held therefor, and Guarantor subordinates all rights under any debts owing from Obligor to Guarantor, whether now existing or hereafter arising, to the prior payment of the Obligations. Any amount paid to Guarantor on account of any purported subrogation rights prior to the termination of this Guaranty shall be held in trust for the benefit of Guaranteed Party and shall immediately thereafter be paid to Guaranteed Party.

Expenses. Whether or not legal action is instituted, Guarantor agrees to reimburse Guaranteed Party on written demand for all reasonable attorneys’ fees and all other reasonable costs and expenses incurred by Guaranteed Party in enforcing its rights under this Guarantee. Notwithstanding the foregoing, the Guarantor shall have no obligation to pay any such costs or expenses if, in any action or proceeding brought by Guaranteed Party giving rise to a demand for payment of such costs or expenses, it is finally adjudicated that the Guarantor is not liable to make payment.

Assignment. Guarantor shall not be permitted to assign its rights or delegate its obligations under this Guarantee in whole or part without written consent of Guaranteed Party. Guaranteed Party shall not be permitted to assign its rights hereunder except in connection with a permitted assignment of its rights and obligations under the Agreement.

Non-Waiver. The failure of Guaranteed Party to enforce any provisions of this Guarantee at any time or for any period of time shall not be construed to be a waiver of any such provision or the right thereafter to enforce same. All remedies of Guaranteed Party under this Guarantee shall be cumulative and shall be in addition to any other remedy now or hereafter existing at law or in equity. The terms and provisions hereof may not be waived, altered, modified or amended except in a writing executed by Guarantor and Guaranteed Party.

Entire Agreement. This Guarantee and the Agreement are the entire and only agreements between Guarantor and Guaranteed Party with respect to the guarantee of the Obligations of Obligor by Guarantor. All prior or contemporaneous agreements or undertakings made, which are not set forth in this Guarantee, are superseded.

Notice. Any demand for payment, notice, request, instruction, correspondence or other document to be given hereunder by Guarantor or by Guaranteed Party shall be in writing and shall be deemed received (a) if given personally, when received; (b) if mailed by certified mail (postage prepaid and return receipt requested), five (5) days after deposit in the U.S. mails; (c) if given by facsimile, when transmitted with confirmed transmission; or (d) if given via overnight express courier service, when received or personally delivered, in each case with charges prepaid and addressed as follows (or such other address as either Guarantor or Guaranteed Party shall specify in a notice delivered to the other in accordance with this Section):
If to Guarantor:

Attn: _____________

If to Guaranteed Party:

Attn: _____________

Counterparts. This Guarantee may be executed in counterparts, each of which when executed and delivered shall constitute one and the same instrument.

Governing Law; Jurisdiction. This Guarantee shall be governed by and construed in accordance with the laws of the State of Florida without giving effect to principles of conflicts of law. Guarantor and Guaranteed Party submit to the jurisdiction and venue of the Superior Court of the District of Columbia or of any federal district court located in the District of Columbia over any disputes relating to this Guarantee.

Further Assurances. Guarantor shall cause to be promptly and duly taken, executed, acknowledged and delivered such further documents and instruments as Guaranteed Party may from time to time reasonably request in order to carry out the intent and purposes of this Guarantee.

Limitation on Liability. Except as specifically provided in this Guarantee, Guaranteed Party shall have no claim, remedy or right to proceed against Guarantor or against any past, present or future stockholder, partner, member, director or officer thereof for the payment of any of the Obligations, as the case may be, or any claim arising out of any agreement, certificate, representation, covenant or warranty made by Obligor in the Agreement.

Effectiveness. This Guarantee shall be effective as of the date set forth in the first paragraph hereof upon its execution by both Guarantor and Guaranteed Party.
IN WITNESS WHEREOF, Guarantor and Guaranteed Party have executed and delivered this Guarantee.

[Guarantor]

By:_______________________________

-  
Name: 
Title: 

Acknowledged and agreed

[Guaranteed Party]

By: _______________________________
Name: 
Title: 

EXHIBIT F
FORM OF IRREVOCABLE LETTER OF CREDIT

Irrevocable Standby Letter of Credit No.

Date of Issuance:

Beneficiary:

[Buyer Name]

Applicant/Account Party:

Amount: USD Amount ([Amount] and 00/100)

Initial expiration date at our counter (unless evergreen):

Final expiration date at our counter:

Ladies and Gentlemen:

We, [Bank Name] ("Issuer"), do hereby issue this Irrevocable Transferable Standby Letter of Credit No. {______} by order of, for the account of, and on behalf of [_______] ("Account Party") and in favor of [Buyer Name]. The term “Beneficiary” includes any successor by operation of law of the named beneficiary including without limitation any liquidator, receiver or conservator.

This Letter of Credit is issued, presentable and payable at the office of the Issuing Bank and we guarantee to YOU that drafts and documents drawn under and in compliance with the terms of this Letter of Credit will be honored on presentation pursuant to the terms of this Letter of Credit.

This Letter of Credit is available in one or more drafts drawn on [Bank Name] and may be drawn hereunder for the account of up to an aggregate amount not exceeding [$Amount]. This Letter of Credit is drawn against by presentation to us at our office located at [Bank Address] of a drawing certificate (i) signed by an officer of the Beneficiary; (ii) dated the date of presentation; and (iii) the following statement:

“The undersigned hereby certifies to [Bank Name] (“Issuer”), with reference to its Irrevocable Transferable Standby Letter of Credit No.[______], dated _____, issued on behalf of [_______________] ("Account Party") and in favor of the [Buyer Name], (“Beneficiary”) that:

[said Account Party has failed to perform in accordance with the terms and provisions of the Solar Power Purchase Agreement dated [_____] to which Account Party and Beneficiary are parties, as such agreement may be amended and supplemented from time to time, and any replacements or substitutions thereof, (collectively, the “Agreement”).]

☐ --or--
[(i) Beneficiary has received notice from the Issuing Bank pursuant to the terms of the Letter of Credit that Issuing Bank elects not to extend the Letter of Credit for an additional one-year period, and (ii) the Letter of Credit will expire in fewer than thirty (30) days from the date hereof. As such, as of the date hereof Beneficiary is entitled to draw under the Letter of Credit.]

The Beneficiary hereby draws upon the Letter of Credit in an amount equal to $[insert amount in figures] (United States Dollars [insert amount in words])."

If presentation of any drawing certificate is made on a Business Day and such presentation is made on or before 10:00 a.m. Eastern Time, Issuer shall satisfy such drawing request on the second Business Day. If the drawing certificate is received after 10:00 a.m. Eastern Time, Issuer will satisfy such drawing request on the third Business Day.

It is a condition of the letter of credit that it will be automatically extended without amendment for additional one-year periods until [ ] (the “Final Expiration Date”), unless at least one hundred twenty (120) days prior to any expiration date we send you written notice at the above address by registered mail or overnight courier service that we elect not to consider this Letter of Credit extended for any such period.

This Letter of Credit may be transferred in its entirety (but not in part) by Issuing Bank only upon presentation to us of a Request for Transfer signed by the Beneficiary in the form of Exhibit A accompanied by this Original Letter of Credit and any amendment(s), in which the Beneficiary irrevocably transfers to such transferee all of its rights hereunder, whereupon we agree to either issue a Transferred letter of credit to such transferee or endorse such transfer on the reverse of this Letter of Credit. Any transfer fees assessed by the issuer will be payable solely by the applicant.

Payments under the Letter of Credit shall be in accordance with the following terms and conditions:

All commissions and charges will be borne by the Account Party.

This Letter of Credit shall be governed by the International Standby Practices Publication No. 590 of the International Chamber of Commerce, (the “ISP”), except to the extent that terms hereof are inconsistent with the provisions of the ISP, in which case the terms of the Letter of Credit shall govern. This Letter of Credit shall be governed by the internal laws of the State of Florida to the extent that the terms of the ISP are not applicable; provided that, in the event of any conflict between the ISP and such Florida laws, the ISP shall control.

This Letter of Credit may not be amended, changed or modified without the express written consent of the Beneficiary and the Issuer.

The Beneficiary shall not be deemed to have waived any rights under this Letter of Credit, unless the Beneficiary shall have signed a written waiver.

No such waiver, unless expressly so stated therein, shall be effective as to any transaction that occurs subsequent to the date of the waiver, nor as to any continuance of a breach after the waiver.
Partial drawings and multiple drawings are permitted.

A failure to make any drawing at any time shall not impair or reduce the availability of this Letter of Credit in any subsequent period or our obligation to honor your subsequent demands for payment made in accordance with the terms of this Letter of Credit.

Original Letter of Credit and all amendments need to be presented for a drawing. If it’s a partial drawing, we will endorse the drawing amount on the back of the Original Letter of Credit and return the same to beneficiary.
EXHIBIT A UNDER STANDBY LETTER OF CREDIT NO.
REQUEST FOR TRANSFER OF LETTER OF CREDIT IN ITS ENTIRETY

Date: ________________

[Bank Name and Address]
Re: Standby Letter of Credit No.

For value received, the undersigned beneficiary hereby irrevocably transfers to:

NAME OF TRANSFEREE ________________________________
ADDRESS OF TRANSFEREE ________________________________
CITY, STATE/COUNTRY ZIP ________________________________

(hereinafter, the “transferee”) all rights of the undersigned beneficiary to draw under above letter of credit, in its entirety.

By this transfer, all rights of the undersigned beneficiary in such Letter of Credit are transferred to the transferee and the transferee shall have the sole rights as beneficiary hereof, including sole rights relating to any amendments, whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be advised directly to the transferee without necessity of any consent of or notice to the undersigned beneficiary.

The original of such letter of credit and all amendment(s), if any, are returned herewith, and we ask you to issue a Transferred Letter of Credit or endorse the transfer on the reverse thereof, and forward it directly to the transferee with your customary notice of transfer.

In payment of your transfer commission in amount equal to [□□□□%] of the amount transferred, minimum of $[□□□□]

The applicant has wired funds to you through _____________________________ bank and in addition thereto, we agree to pay you on demand any expenses which may be incurred by you in connection with this transfer.

Very truly yours, [BENEFICIARY NAME]

____________________________________________
Authorized Signature
The signature(s) of _____________________________ with title(s) as stated conforms to those on file with us; are authorized for the execution of such instrument; and the beneficiary has been approved under our bank’s Customer Identification Program.

______________________________
(Signature of Authenticating Bank) (Name of Bank)

______________________________
(Printed Name/Title) (Date)

________________________________

[1] FOR BANK USE ONLY

Confirmation of Authenticating Bank’s signature performed by:

Date: ____________________ Time: _______________ a.m./p.m.
Addl Info.: ______________________________________________________
EXHIBIT G
INSURANCE REQUIREMENTS

**General Liability Insurance.** Seller must obtain the following insurance coverage, which can be exceeded by Seller and may be met through any combination of primary insurance and following form excess or umbrella insurance so long as the combined limits meet requirements of this Agreement:

Commercial general liability insurance in an “occurrence” form with bodily injury and property damage combined liability limits of not less than [XXXXX] per occurrence; provided, however: (i) Seller may use any combination of primary or excess policies to satisfy the overall limit requirements; and (ii) if Seller uses a “claims-made” policy, it must maintain continuous coverage in effect for at least two (2) years beyond termination of this Agreement, through continuous renewal of the original policy or by purchasing extended discovery period or retroactive insurance dated back to the Effective Date of this Agreement.

Specific coverage for broad form contractual liability and a separation of insured provision.

**Additional Insurance.** In addition to the requirements above, Seller must acquire and maintain throughout the Term, the following additional types of insurance:

Workers’ Compensation. Workers’ compensation insurance in accordance with statutory requirements including employer’s liability insurance with limits not less than [XXXXXXXX] and endorsement providing insurance for obligations under the U.S. Longshoremen’s and Harbor Worker’s Compensation Act and the Jones Act, where applicable.

Auto Liability. Automobile liability insurance including owned, non-owned and hired automobiles with combined bodily injury and property damage limits of at least [XXXXX].

All Risk Property. All Risk Property insurance covering the Facility against physical loss or damage, with a minimum limit sufficient to cover replacement of the Facility, except physical loss or damage caused by flood, wind, or earthquake, which shall be insured up to $10 million, to be procured at commercially reasonable terms and limits available in the marketplace. A deductible may be carried, which will be the absolute responsibility of Seller.
EXHIBIT H
FORM OF SURETY BOND

BOND NUMBER _____________________

POWER PURCHASE AGREEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That we ___________________________________________
(hereinafter called “Principal”), and [__________________________] authorized to do business in the State of
_______________________ (hereinafter called “Surety”) are held and firmly bound unto
______________________________________________________ (hereinafter called “Obligee”) as Obligee, for
such monetary amount as incurred by the Obligee, not to exceed the penal sum of
_______________________________________________($___________________) DOLLARS, good and lawful
money of the United States of America, the payment of which, well and truly to be made, we do bind ourselves, our
heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS the above bounded Principal has entered into a certain written agreement with the above named
Obligee, effective the ________ day of ___________________, 20____, for the

(above agreement called “Agreement”) which Agreement is hereby referred to and made a part hereof as fully and to the
same extent as if copies at length were attached herein.

The obligation of this Bond shall be null and void unless: (1) the above Agreement is in writing, and has been fully
executed by both the Principal and the Obligee; (2) the Principal is actually in Default under the above Agreement
(hereinafter called “Default”), and is declared by the Obligee thereafter to be in Default; and (3) the Obligee has
provided written notice of the Default to the Surety as promptly as possible, and in any event, within fifteen (15)
days after such Default.

The Surety, at the sole election and discretion of the Surety, may take any of the following actions:

1. Determine the amount for which the Surety may be liable to the Obligee, and as soon as practicable
thereafter, tender payment thereof to the Obligee; or
2. Pay the full amount of the above penal sum in complete discharge and exoneration of this Bond, and of all
liabilities of the Surety relating hereto.

PROVIDED HOWEVER, that this Bond is executed by the Surety and accepted by the Obligee subject to the
following expressed conditions:

1. This bond may be cancelled by providing sixty days (60) written notice of cancellation given by certified
mail to the Obligee and to the Principal at the addresses stated below. Such cancellation shall in no way limit
the liability of the Surety for subsequent defaults of the Principal’s obligation incurred prior to such
termination. In the event of cancellation, the Principal is responsible for providing alternate security to the
Obligee thirty (30) days prior to the termination date, otherwise to be considered in Default under the
Agreement and the Obligee shall be entitled to submit a Demand and receive payment under this Bond.
2. A reorganization under Chapter 11 of the US Bankruptcy Code by the Principal shall not constitute an
event of Default recoverable under this Bond if they continue to perform their obligations under the
Agreement.
3. In the event the Principal fails to make any payments due to the Obligee which would constitute the basis
of a Default, within Ten (10) business days of Surety’s receipt of a Demand for payment under this Bond
(hereinafter called “Demand”), Surety shall pay to the Obligee the amount of such Demand. The Surety
shall cause to be paid all payments then past due, and in so doing cure any Default under the Agreement.
The Obligee may present one or more Demands at any time in its sole discretion, provided however, Surety
shall not be obligated to pay an aggregate amount in excess of the penal sum of the Bond less any amounts
previously paid by the surety.
4. Surety’s liability under this Bond issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.

5. No claim, action, suit or proceeding, except as herein set forth, shall be had or maintained against the Surety on this Bond unless same be brought or instituted and process served upon the Surety within six (6) months following the effective cancellation date of this Bond.

6. Any notice given or required under this Agreement will be made to the following representatives of the Parties:
   a. To: {Principal}
   b. To: {Obligee}
   c. To: {Surety}

In the event of conflict or inconsistency between the provisions of this Bond and the provisions of the above Agreement, the provisions of this Bond shall control. The Obligee’s acceptance of this Bond and reliance upon it as security constitutes its acknowledgement and agreement as to the explicit terms stated herein under which it is offered and issued by the Surety.

Sealed with our seals and dated this ________________ day of ________________________________ 20____.

WITNESS: PRINCIPAL:

________________________________________ __________________________________________(SEAL)
(Name & Title) (Signature)

________________________________________ __________________________________________(Name & Title)

WITNESS: SURETY:

________________________________________ (SEAL)
(Name & Title) (Signature)

________________________________________ (Name, as Attorney-in-Fact)
EXHIBIT I
ENVIRONMENTAL ATTRIBUTES ATTESTATION AND BILL OF SALE

I. Seller Information

Name of Seller: ____________________________________________
Address of Seller: ____________________________________________
Contact Person: _________________________ Title: _________________________
Telephone: ______________ Fax: __________ Email Address: _______________

II. Declaration

I, [NAME AND TITLE] , declare that the Environmental Attributes listed below were sold in accordance with that [AGREEMENT] dated as of [DATE] (“Agreement”) exclusively from: (“Seller”) to [________________] (“Buyer”).

<table>
<thead>
<tr>
<th># MWhs Environmental Attributes Transferred</th>
<th>Period of Generation (mm/yy)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I further declare that:

1) all the Environmental Attributes were generated by Seller;

2) to the best of my knowledge, the Environmental Attributes were not sold, marketed or otherwise claimed by a third party;

3) Seller transferred the Environmental Attributes only once, to Buyer;

4) the Environmental Attributes were not used to meet any federal, state or local renewable energy requirement, renewable energy procurement, renewable portfolio standard, or other renewable energy mandate by Seller, nor, to the best of my knowledge, by any other entity;

5) all of the Environmental Attributes transferred to Buyer (as listed above) were generated at the [_____] facility, a [____]-powered generation facility located in [County, State]; and

6) Environmental Attributes transferred to Buyer include RECs which shall be registered and eligible under the Applicable REC Program specified in the Agreement.

As an authorized agent of Seller, I attest that the above statements are true and correct.

__________________________________________  __________________________
Signature                                   Date

__________________________
Place of Execution
EXHIBIT J

FORM OF LENDER CONSENT

In the event Seller collaterally assigns its rights hereunder to the Lender as security, any related Lender Consent will contain provisions substantially as follows:

Buyer will not terminate the Agreement other than as provided therein, without the prior written consent of the Lender.

In connection with the exercise of its rights under the Financing Documents, the Lender shall have the right, but not the obligation, to do any act required to be performed by Seller under the Agreement, and Buyer shall accept any such performance by the Lender any such performance by the Lender to the same extent as if such performance was rendered by Seller itself.

Lender shall not assume, sell or otherwise dispose of the Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Lender or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Agreement (a) executes and delivers to Buyer a written assumption of all of Seller’s rights and obligations under the Agreement in form and substance reasonably satisfactory to Buyer, which include the obligation to cure any and all defaults of Seller under the Agreement which are capable of being cured and which are not personal to Seller; (b) satisfies and complies with all requirements of the Agreement; (c) if applicable, delivers to Buyer a replacement for any Credit Support that is required to be delivered and maintained by Seller under the Agreement; and (d) is a Permitted Transferee (as defined below). Lender further acknowledges that the assignment of the Agreement to Lender is for security purposes only and that Lender has no rights under the Agreement to enforce the provisions of the Agreement unless and until an event of default has occurred and is continuing under the Financing Documents (a “Financing Default”) or under this Agreement, in which case Lender shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Agreement to the same extent and in the same manner as if Lender were an original party to the Agreement.

“Permitted Transferee” means any person or entity who (i) meets the Required Credit Rating set forth in the Agreement, (ii) has, or is the subsidiary of an entity that has, a record of owning and/or operating, for a period of at least three (3) years, solar photovoltaic generating facilities with an aggregate nameplate capacity of no less than 200 MW, and (iii) is not a Prohibited Person or Entity. Lender may from time to time, following the occurrence of a Financing Default, notify Buyer in writing of the identity of a proposed transferee of the Agreement, which proposed transferee may include Lender, in connection with the enforcement of Lender’s rights, which notice shall include evidence reasonably acceptable to Buyer that the proposed transferee satisfies the criteria set forth above. Upon receipt of such notice, Buyer shall, within thirty (30) Days of its receipt of such written notice, confirm to Lender whether or not such proposed transferee is a “Permitted Transferee” (together with a written statement of the reason(s) for any negative determination) it being understood that if Buyer fails to so respond within such thirty (30) Day period such proposed transferee shall be deemed to be a “Permitted Transferee”. 
If Buyer becomes entitled to terminate the Agreement due to an uncured Event of Default by Seller, Buyer shall not terminate the Agreement unless it has first given notice of such uncured Event of Default to the Lender and has given the Lender an Additional Cure Period to cure such Event of Default. For the purposes of this Agreement, “Additional Cure Period” means (i) with respect to a monetary default, ten (10) Business Days in addition to the cure period (if any) provided to Seller in the Agreement, and (ii) with respect to a non-monetary default, thirty (30) Days in addition to the cure period (if any) provided to Seller in the Agreement. However, if the Lender requires possession of the Project in order to cure the Event of Default and commences foreclosure proceedings against Seller within thirty (30) Days of receiving notice of an Event of Default from Buyer or Seller, whichever is received first, Lender shall be allowed a reasonable additional period to complete such foreclosure proceedings, such period not to exceed ninety (90) Days; provided, however, that Lender shall provide a written notice to Buyer that it intends to commence foreclosure proceedings with respect to Seller within ten (10) Business Days of receiving a notice of such Event of Default from Buyer or Seller, whichever is received first.

Neither the Lender nor any other participant in the Project Debt shall be obligated to perform or be liable for any obligation of Seller under the Agreement until and unless any of them assumes the Agreement.

Any party taking possession of the Project through the exercise of the Lender’s rights and remedies shall remain subject to the terms of the Agreement and shall assume all of Seller’s obligations under the Agreement, both prospective and accrued, including the obligation to cure any then-existing defaults capable of cure by performance or the payment of money damages. In the event that the Lender or its successor assumes the Agreement in accordance with this paragraph, Buyer shall continue the Agreement with the Lender or its successor, as the case may be, substituted wholly in the place of Seller.

Within sixty (60) Days of any termination of the Agreement in connection with any bankruptcy or insolvency Event of Default of Seller, upon the request of Lender, the Lender (or its successor) and Buyer shall enter into a new power purchase agreement on the same terms and conditions as the Agreement and for the period that would have been remaining under the Agreement but for such termination.

Buyer agrees to execute an estoppel certificate substantially in the form of Attachment A.
[ATTACHMENT A TO EXHIBIT J]

[Buyer shall have the right to qualify and/or revise any representation, warranty and other statement that such representation, warranty or other statement is a true statement as of the date of this certificate.]

[Date]

Reference is made to that certain Power Purchase Agreement dated as of [_____] (the “PPA”), by and between [____], a [____] organized and existing under the laws of [_____] (“Buyer”); and [___], LLC, a [___] (“Seller”). Terms used herein but not defined herein have the same meanings as in the PPA.

Buyer hereby confirms and agrees as of the date hereof as follows:

1. Buyer is a [____] duly organized, validly existing and in good standing (if applicable) under the laws of the State of [____]. The execution and delivery by Buyer of this Estoppel Certificate have been duly authorized by all necessary action on the part of Buyer and do not require any further internal approval or consent of Buyer and do not violate any provision of any law, regulation, order, judgment, injunction or similar matters or breach any agreement presently in effect with respect to or binding on Buyer.

The copy of the PPA, as amended, attached as Exhibit [___], constitutes a true and complete copy of the PPA.

To Buyer’s knowledge, as of the date hereof, the PPA is in full force and effect and the PPA has not been assigned or amended by Buyer. All representations and warranties of Buyer under the PPA were true and correct (as may be qualified by the terms of the Agreement) when made, and, to Buyer’s knowledge, remain true and correct in all material respects as of the date hereof, except for those that, by their nature or terms, apply only as of the date originally made, except: __________________

As of the date hereof, (A) no default or event of default with respect to Buyer nor, to the Buyer’s knowledge, Seller, has occurred under the PPA, and (B) to Buyer’s knowledge, there are no material defaults (including breach(es) of the PPA existing as of the date hereof that are not yet defaults under the PPA because applicable cure periods have not yet expired) or circumstances which with the passage of time and/or giving of notice would constitute a default.

To Buyer’s knowledge, there is no event, act, circumstance or condition constituting an event of force majeure under the PPA.

To Buyer’s knowledge, Buyer has no existing counterclaims, offsets or defenses against Seller under the PPA. Buyer has no present knowledge of any facts entitling Buyer to any material claim, counterclaim or offset against Seller in respect of the PPA. As of the date hereof, there is no pending or, to Buyer’s knowledge, threatened action or proceeding involving or relating to Buyer before any court, tribunal, governmental authority or arbitrator which purports to materially affect the legality, validity or enforceability of the PPA. There exist no pending or to the Buyer’s
knowledge, threatened disputes or legal proceedings under the PPA or otherwise between Buyer and Seller.

All payments due, if any, under the PPA by Buyer have been paid in full through the period ending on the date hereof.

[Signature page follows]
IN WITNESS WHEREOF, Buyer has caused this Certificate to be duly executed by its officer thereunto duly authorized as of the date first set forth above.


By:
Title:
Name:
EXHIBIT K

PARTICIPANT LIST

[To be provided by Buyer for the FMPA All Requires Power Supply Project or the FMPA Solar II Project, as applicable]
EXHIBIT L

FORM OF PROGRESS REPORT

PROJECT PROGRESS REPORT

Pursuant to Section 4.1(f) of the Agreement, after the Effective Date and before the Commercial Operation Date, Seller will provide Buyer with quarterly progress reports advising Buyer of the current status of the Project, the status of obtaining required Governmental Approvals, any significant developments or delays along with an action plan for making up delays, and Seller’s best estimate of the Commercial Operation Date.

I. Overview

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Expected Completion</th>
<th>Status</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interconnect Screening Study</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Start of Permitting</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Completion of Site Studies</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interconnection Application</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>System Impact Study</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Local Permitting Complete</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Facilities Study</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interconnection Agreement</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Construction NTP</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Start of Major Equipment Delivery to Site</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>85% Capacity Available</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Back Feed Available</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
<tr>
<td>COD</td>
<td>Pending</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
II. Status Updates

- **Interconnection Agreement**
  - Status update
    - March 2020:
  - Discussion of any foreseeable disruptions or delays
    - March 2020:

- **Permits, Licenses, Easements and Approvals to Construct**
  - Status update
    - March 2020:
  - Discussion of any foreseeable disruptions or delays
    - March 2020:

- **Construction Notice To Proceed**
  - Status update
    - March 2020:
  - Discussion of any foreseeable disruptions or delays
    - March 2020:

- **Major Equipment Delivered to Site**
  - Status update
    - March 2020:
  - Discussion of any foreseeable disruptions or delays
    - March 2020:

- **Commercial Operation Date**
  - Status update
    - March 2020:
  - Discussion of any foreseeable disruptions or delays
    - March 2020:

*Report Completed: [Date, Sender Initials]*
DATE: December 3, 2019

TO: Honorable Mayor and City Council Members

FROM: Robin R. Hayes, City Manager

SUBJECT: Resolution No. 2019-179 Schweitzer Engineering Laboratories (SEL) Engineering Services, Electric Utility Substation Communications Upgrade Project

Introduction:
This is a request for City Council to approve Resolution No. 2019-179, upgrading Electric Utility Supervisory Control and Data Acquisition (SCADA), hardware and software used in control and monitoring the City of Mount Dora's substation transformers and protective breakers.

Discussion:
This project proposes replacement and upgrade of the SCADA system due to age and incompatibility of interconnected devices. Electric staff utilize SCADA communications information in the control and operation of three power transformers and fourteen protective breakers including the six (6) distribution circuits for the City. The SCADA system provides real time status information of the substation, reports inadvertent power interruptions, and provides the ability to control the substation from an off-site location.

This upgrade will expand communications options to provide higher levels of information to electric field staff, enabling increased system outage assessment, power restoration, and safety. The proposed equipment also includes protection against malware and other cybersecurity threats to the power infrastructure.

Mount Dora has standardized on Schweitzer Engineering Laboratories (SEL) SCADA equipment. This sole source acquisition of original manufacture components ensures compatibility with existing substation controls and protective relay equipment. SEL Engineering Services Incorporated will install SEL device hardware, and configure new software as part of the project scope. The projected cost for this upgrade is $49,970.
Budget Impact:
A total of $356,500 was appropriated in the adopted Fiscal Year 2019-20 budget and $350,960.59 is presently available for this purpose (there is an encumbrance totaling $5,531.41 to TAW Technical Field Services, Inc. “to replace closing coil on feeder and to replace SF6 gage-unit 1 circuit switcher”) in account number 410-5319-563.00-00-EL0502 (Electric Fund/Capital Outlay/Imp Other than Buildings/Substation Upgrades). The balance should be sufficient to cover the estimated costs of $49,970.00 to Schweitzer Engineering Laboratories, Inc. associated with the Electric Utility Substation Upgrade Project.

Strategic Impact:
Infrastructure – This project is critical in upgrading the supervisory control and data acquisition communications system to reliably operate the substation protective breakers and transformers in a safe manner.


Attachment(s):
1. Sole Source SEL Communications

Prepared by: Ley Vedder, Administrative Assistant
Reviewed by: Zimmerman Wayne, Electric Services Deputy Director Approved - 11/13/2019
Steve Langley, Deputy Electric Director Approved - 11/19/2019
Marilyn Douglas, Purchasing Manager Approved - 11/25/2019
Tom Klinker, Finance Director Approved - 11/25/2019
Sherry Sutphen, City Attorney Approved - 11/26/2019
Misty Sommer, Deputy City Clerk Approved - 11/26/2019
Robin R. Hayes, City Manager Final Approval - 11/26/2019
DATE: November 19, 2019
TO: Steve Langley  
   Electric Director
FROM: Wayne Zimmerman  
   Deputy Electric Director
RE: Resolution #2019-179 Sole Source and Standardization  
   Electric Utility Substation Communications upgrade project

This request is for sole source purchase of Electric Utility Substation Supervisory Control and Data Acquisition (SCADA) communications processor.

The SCADA system provides the communication of real time data and remote control of three substation power transformers, and fourteen protective circuit breakers. These communications provide alarm notifications when circuits trip out, causing power outages. This enables staff to accurately assess status of the system, and safely restore power, using remote control of substation equipment.

Mount Dora has standardized on Schweitzer Engineering Laboratories (SEL) for all relays, controllers, and SCADA due to their commitment to quality and reliability reflected in meeting all requirements of ISO9001 since 1994. Our SEL SCADA system is divided into a supervisory communications processor, remote terminal units, and communications infrastructure with a Human Machine Interface (HMI) controller. The existing communications processor has limited compatibility function resulting in some inaccurate reported data. It is critical that we continue to use SEL equipment in the substation to ensure compatibility with existing controls, and there is confidence in the product quality of these very important devices.

This sole source purchase proposes original equipment manufacturer components, to insure compatibility with all existing SEL and interconnected substation equipment. Schweitzer Engineering Laboratories Engineering Services is the provider of these encompassing services.

Attached: SEL Quotation:020610.000.00
RESOLUTION NO. 2019-179

A RESOLUTION OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THAT SOLE SOURCE PURCHASE FROM SCHWEITZER ENGINEERING LABORATORIES (SEL); PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR APPROVAL OF PURCHASE; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SCRIVENER’S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City owns, operates and maintains an electric utility for the health, safety and welfare of its residential and business customers; and

WHEREAS, the City’s Electric Utility Department utilizes a Supervisory Control and Data Acquisition (SCADA) system for real time monitoring its substations and electric equipment; and

WHEREAS, the City has determined that it is in its best interest to standardize its electric utility equipment and SCADA system through the use of one manufacturer; and

WHEREAS, Schweitzer Engineering Laboratories (SEL) has been deemed the sole source provider of the City’s electric utility equipment and SCADA system; and

WHEREAS, to ensure compatibility with the City’s existing electric equipment, it is in its best interest to purchase SCADA system upgrades through SEL.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS:

SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Resolution. The above recitals are hereby adopted.

SECTION 2. Approval of Purchase. The purchase of the SCADA system upgrade as set forth in Exhibit “A”, attached hereto, is hereby approved.

SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such actions as may be deemed necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.
SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to the purchase of the SCADA system upgrade from SEL, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Resolution.

SECTION 5. Scrivener’s Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this _____ day of December, 2019.

______________________________
CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

______________________________
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only. Approved as to form and legality.

______________________________
Sherry G. Sutphen
City Attorney
EXHIBIT “A”
to Resolution 2019-179
SCADA system upgrade specifications/cost
**Customer** | **SEL Engineering Services, Inc. (SEL ES)**
---|---
Steve Langley | 10/2/2019
City of Mount Dora | Jeremy Pacheco
9210 North Donnelly Street | 4446 Pet Lane, Suite 101
Mount Dora, FL 32757 | Lutz, FL 33559
LangleyS@ci.mount-dora.fl.us | Office: 727.232.3614
| j Jeremy_pacheco@selinc.com

### Sales Representative Contact Information

- **Doug Freemyer**
  - Utility and Industrial Sales Engineer
  - Power Connections
  - Office: 407.905.2981
  - Cell: 407.864.2613
  - Email: doug@powerconnections.com

### Quote Details

**Description**

This quotation is provided in response to a request by the City of Mount Dora to replace the system’s existing SEL-2032 Communications Processor and SEL-3010 Event Messenger units with one SEL-3530 Real Time Automation Controller (RTAC).

**Scope of Work/SEL ES Deliverables**

This quotation includes the following items:

- **Option 1 – Update existing system to SEL-3530 RTACs**
  - One SEL-3530 RTAC, part number 3530HA0DX211A0XXXXXX
  - Settings configuration of one SEL-3530 RTAC to replace the existing SEL-3010, SEL-3610, and SEL-2032 units.
  - Configure the RTAC with email functionality to replace the SEL-3010.
  - Updates to the drawings affected by the equipment change as listed in the clarifications.
  - Updates to the communications one-line on the Wonderware HMI as well as any tagging associated with the new SEL-3530.
  - Up to two eight-hour consecutive business days of on-site support by one engineer for the following tasks:
    - Load RTAC settings and verify successful communication with connected relays and the HMI.
    - Load updated HMI and verify functionality.

- **Option 2 – Update existing system to SEL-3530 RTAC and RTAC HMI**
  - Converting the existing Wonderware HMI into RTAC HMI.
  - Purchase of an RTAC capable of displaying a Web Based HMI

Confidentiality Notice: The information contained in this query is privileged and confidential information and is intended solely for the use of the individual or entity to whom it is addressed. If you are not the intended recipient or the person responsible for delivering the material to the intended recipient, you are hereby notified that any dissemination, disclosure, copying, or distribution of this communication is strictly prohibited. If you received this communication in error, please notify us immediately by telephone and destroy this material accordingly.
(Part Number: 3530HA0D1211A0XXXXXX).

- Alarms and SOE history will be set up on the RTAC’s web interface.
- An HMI report consisting of screens and HMI functionality will be sent to the customer for approval.
- The following screens will be included on the RTAC HMI:
  - Relay Detail screens for the following Devices:
    - SEL-351S-6 (9 total)
    - SEL-387A (3 total)
    - SEL-701-1 (3 total)
    - SEL-351S-7 (5 total)
    - SEL-2100 (1 total) for mirrored bit status
  - Communications overview
  - Overall One-line
  - Tap Changer Detail and control (from 3 Beckwith M-2001C devices)
  - Control Screen
  - Main, Tie, and Feeder Detail Screen

This also includes project management/administration costs.

For safety reasons, SEL ES personnel will not plan to work more than 10 hours per day. Should job requirements dictate work hours in excess of 10 hours per day, SEL ES and the Customer must review the requirements and agree on an appropriate plan that addresses safety concerns and the reasonableness of the hardship that the excessive hours place on SEL ES personnel.

The RTAC part number is configured for a 125-250VDC I/O board. In case a different voltage level is required, the I/O board rating will be verified before the unit is ordered.

SEL is not responsible for the demolition, installation, or wiring of the equipment included in this proposal.

HMI and drawing updates will only include the demo for the two SEL-2032s, SEL-3010, and SEL-3610, and installation of the SEL-3530.

Only Option 1 or Option 2 will be selected. The options require different hardware due to the HMI configuration in the SEL-3530 Real-Time Automation Controller (RTAC).

List of Drawings to be altered:
- S315-2624D (Sh. 1 and 2)
- S315-2626D
- SS315-2079D
- SS315-2076D
- S315-2014B
- S315-2011B
- S315-2001D

No cables are provided as part of this scope.

| Option 1 (Upgrade 2032 to RTAC) Price (USD) | $ 31,862.00 |
| Option 2 (Upgrade 2032 to RTAC and RTAC HMI) Price (USD) | $ 49,970.00 |

Delivery
A kickoff meeting will be scheduled within two weeks of a received PO.
To accept this quote and attached terms, please sign, date, and return this quote.

<table>
<thead>
<tr>
<th>Customer Signature</th>
<th>SEL ES Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer Name (Printed)</td>
<td>SEL ES Name (Printed)</td>
</tr>
<tr>
<td>Title</td>
<td>Title</td>
</tr>
<tr>
<td>Date</td>
<td>Date</td>
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</table>

**Contract Information (to be completed by Customer)**

<table>
<thead>
<tr>
<th>Customer PO/Ref#</th>
<th>Contract Amount</th>
</tr>
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<tbody>
<tr>
<td>Ship To Address</td>
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<tr>
<td>Bill To Address</td>
<td></td>
</tr>
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</table>

**Commercial Details**

<table>
<thead>
<tr>
<th>Contract Conditions</th>
<th>This quote is subject to SEL ES Terms and Conditions (attached).</th>
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</thead>
<tbody>
<tr>
<td>Payment Terms</td>
<td>30 Days</td>
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<table>
<thead>
<tr>
<th>Payment Schedule</th>
<th>Milestone Activity</th>
<th>Price</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>1. Equipment Ordered</td>
<td>$ 6,430.00</td>
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<tr>
<td></td>
<td>2. Drawings IFA</td>
<td>$ 9,716.00</td>
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<tr>
<td></td>
<td>3. Settings IFC</td>
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<tr>
<td></td>
<td>4. Commissioning Complete</td>
<td>$ 6,000.00</td>
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<tr>
<td></td>
<td><strong>Option 1 Total</strong></td>
<td><strong>$ 31,862.00</strong></td>
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**RTAC HMI Option:**

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<th>Price</th>
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<tbody>
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<td>3. Settings IFC</td>
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</tr>
<tr>
<td>4. HMI IFA</td>
<td>$ 8,179.00</td>
</tr>
<tr>
<td>5. HMI IFC</td>
<td>$ 8,179.00</td>
</tr>
<tr>
<td>6. Commissioning Complete</td>
<td>$ 6,000.00</td>
</tr>
<tr>
<td><strong>Option 2 Total</strong></td>
<td><strong>$ 49,970.00</strong></td>
</tr>
</tbody>
</table>

**Validity**

This quotation is valid for 60 days. SEL ES reserves the right to withdraw this offer if mutually accepted credit terms cannot be agreed upon.

**Goods and Services Tax**

All quoted prices are exclusive of any sales, use, value-added, or similar taxes, which will be added, if applicable, at the statutory rate(s) at the time of invoicing.

**Additional Information**

N/A
1. Applicable Terms and Conditions. These terms and conditions (“Terms”) constitute the entire agreement between Customer and SEL Engineering Services, Inc. (“SEL”) with respect to the subject matter hereof. These Terms supersede any prior or contemporaneous, verbal or written, agreements, negotiations, commitments, representations or correspondence between the parties, including any terms and conditions on any purchase order form. SEL ES hereby rejects any representation, express or implied warranty, course of performance or dealing, trade usage or any different or additional terms and conditions not set forth herein. No variation or modification of these Terms, nor any written consent or acknowledgment, shall have any force or effect unless reduced to writing and signed by an authorized officer of SEL ES. Any Schweitzer Engineering Laboratories, Inc. (“SEL”) products purchased in conjunction with the Project shall be subject to the then current SEL product sales terms, which are available at SEL’s website at www.selinc.com/termsofconditions/UnitedStates and incorporated herein by reference.

2. Project Description and Documents. “Project” means the project described in the applicable “Scope of Services.” “Payment and Work Schedule” means the Payment and Work Schedule applicable to the Project. These Terms include the Scope of Services, as well as each future Scope of Services, the design documents prepared by SEL ES, the Payment and Work Schedule agreed to by the parties, any future Payment and Work Schedule and any Project Change Orders (to be numbered in accordance with the applicable Project or Payment and Work Schedule).

3. SEL ES Responsibilities. SEL ES shall furnish the necessary engineers and technicians to provide the engineering services set forth in the Scope of Services. The professional obligations of SEL ES’s design professionals shall be undertaken and performed in the interest and on behalf of SEL ES in accordance with applicable laws and regulations governing such design professionals and generally accepted engineering practices prevailing in the state where the Project is located. Nothing contained in these Terms shall create any professional obligation or contractual relationship between the individual professionals and Customer. SEL ES shall assist Customer in obtaining any necessary approvals of professionally-sealed drawings, and shall assist Customer in obtaining necessary approvals from governmental authorities having jurisdiction over the Project.

4. Customer Responsibilities. Customer shall provide SEL ES with full information regarding the requirements for the Project, and SEL ES shall be entitled to rely on such information. Any test results, whether as a result of Customer’s testing or otherwise, shall be made available to SEL ES for review of their sufficiency, accuracy and completeness without further inquiry. Customer shall provide all information requested by SEL ES relating to the Project expeditiously and shall render decisions pertaining thereto in order to avoid delay in the orderly progress of the design and construction of the Project. Any corrections or changes to the Project resulting from deficiencies or changes by Customer or others shall be at Customer’s expense. Customer must meet the then current SEL ES credit requirements. Customer shall pay SEL ES in accordance with the agreed upon Payment and Work Schedule. Prices are exclusive of any taxes. Amounts due SEL ES under these Terms that are not paid when due shall bear interest from the date due at a rate of 1.5% per month or the highest applicable rate allowed by law.

5. Intellectual Property. SEL ES retains all its intellectual property rights. All documents, designs, drawings, plans, specifications and other work product (collectively “Work Product”) prepared in performing the Project shall be deemed “work made for hire” for the benefit of SEL ES. To the extent that any such Work Product prepared by SEL ES while performing the Project is integrated into the Project, SEL ES hereby grants Customer a perpetual, worldwide, non-exclusive, non-transferable, personal, revocable, limited license to use, copy and modify such Work Product for internal business purposes only. SEL ES’s Work Product and/or designs for other projects shall not be used for any purpose except the applicable Project without first obtaining SEL ES’s written consent. Customer agrees to indemnify, defend and hold harmless SEL ES and all related parties from and against any unauthorized use or reuse of Work Product furnished by SEL ES, and any changes made by Customer or others relating to design documents produced by SEL ES.

6. Use of Confidential Information. In the performance of the Project and/or these Terms, a party may receive documents, materials, data and other confidential information of the other party or its affiliates. The receiving party shall use confidential information solely in performance of the Project and/or these Terms, and protect its own similar confidential information. Confidential information shall be subject to these Terms for three (3) years following receipt of such confidential information. Confidentiality obligations shall survive the termination of these Terms.

7. Warranties and Limitation of Liability. SEL ES shall perform the Project in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. SEL ES shall reperform (or, at SEL ES’s option, pay a third party to reperform) any defective services at no cost upon receipt of notice detailing the defect(s) within one (1) year of performance of the original services. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY SHALL BE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS, VERBAL OR IMPLIED (INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF DEALING OR PERFORMANCE OR USAGE OF TRADE). In no event, whether as a result of Customer’s testing or otherwise, shall SEL ES liable to Customer or its insurers for any loss or damage exceed the price of the specific service that gave rise to the claim, and any liability shall terminate at a reasonable time, not to exceed one (1) year, after provision of services. No claim, regardless of form, arising from these Terms may be brought more than one (1) year from the date such claim accrues. Claims against SEL ES are hereby agreed to have accrued not later than the completion of the Project, notwithstanding any laws to the contrary. In no event, whether as a result of breach of contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, shall SEL ES be liable for any special, incidental, consequential or punitive damages, including without limitation any loss of profit or revenues, loss of use of associated equipment, damage to associated equipment, cost of capital, cost of substitute products, facilities, services or replacement power, downtime costs or claims of Customer’s customers for such damages. Customer shall indemnify, defend and hold harmless SEL ES and all related parties from and against any claims, demands, causes of action, suits, losses, expenses, including without limitation legal fees and other costs, arising directly or indirectly from, as a result of or in connection with the acts or omissions of Customer, its officers, employees, agents or representatives, relating to the Project and/or these Terms, including without limitation any defect or failure or alleged defect or failure in or of any Customer product or operation. Remedies are limited to such set forth in these Terms.

8. Termination. Customer may terminate these Terms upon ten (10) business days written notice to SEL ES in the event the Project is abandoned or otherwise terminated prior to completion. If such termination occurs, Customer shall pay for SEL ES services completed through the date of termination, and Customer shall pay for any obligations, commitments and unsettled claims that SEL ES has undertaken or incurred in conjunction with the Project. Customer may terminate the Project if SEL ES defaults or persistently fails or neglects to perform in accordance with these Terms. However, such termination is permitted only if Customer provides written notice setting forth the default and SEL ES fails to begin correction within ten (10) business days after receipt of such notice. If Customer fails to make payment when due or fails to meet the then current SEL ES credit requirements, SEL ES may give written notice of its intention to terminate the Project. If Customer fails to make payment or correct its credit status within ten (10) business days of such notice, SEL ES may suspend work and terminate the Project. SEL ES shall recover from Customer for services rendered, including reasonable profit and interest.

9. Dispute Resolution. The laws of the State of Washington, United States of America, excluding conflict of laws principles, shall govern these Terms. Any controversy or claim arising out of or relating to these Terms or the breach thereof shall be settled by binding arbitration administered by the American Arbitration Association in accordance with the Procedures for Large, Complex Commercial Disputes under the Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The place of arbitration shall be Seattle, Washington, United States or another location agreed upon by the parties. The language of the arbitration shall be English. The prevailing party to any dispute shall be entitled to recover legal fees and other costs (including without limitation disbursements, collection costs and the allocated cost of in house counsel).

10. Miscellaneous. The schedule and contract amount shall be equitably adjusted in the event of changes in scope or in the event of delays attributable to Customer or Customer’s separate contractors, unforeseen conditions, or causes beyond the control of SEL ES. Any notice pursuant to these Terms shall be deemed given when sent by registered or certified mail (return receipt requested), overnight delivery or fax (confirmed receipt and sent by mail) to an authorized officer at the address or fax number provided on the cover sheet of this proposal or, if no such address or fax number is provided, at the registered headquarters of the other party. All rights and duties hereunder shall be for the sole and exclusive benefit of Customer and SEL ES and not for the benefit of any other party. The assignment or transfer by Customer of any rights or duties hereunder without prior written consent of an authorized officer of SEL ES shall not relieve Customer of any obligations to SEL ES. SEL ES may perform its obligations hereunder personally or through one or more of its affiliates, although SEL ES shall nonetheless remain liable for the performance of all obligations. Customer’s failure to exercise any right or to insist upon strict compliance with any provision, or the failure of the other party with any obligation in these Terms, shall constitute a waiver of any right thereafter to demand exact compliance with these Terms. The invalidity, in whole or in part, of any provision in these Terms shall not affect the remainder of such provision or any other provision, and where possible, shall be rendered valid by a provision that effects as close as possible the intent of the invalid provision.

SEL ES PROPRIETARY INFORMATION
DATE: December 3, 2019
TO: Honorable Mayor and City Council Members
FROM: Robin R. Hayes, City Manager
SUBJECT: Entertainment District Update

Introduction:
This is an opportunity for City Council to discuss the status of the Downtown Entertainment District approximately one year after it was established.

Discussion:
On November 6, 2018, City Council approved the creation of an Entertainment District in the Downtown area. The district allows for the possession of an open container of an alcoholic beverage within a safe environment and certain limitations, and is designed to foster economic development for restaurants and retailers within the area. Each restaurant who participates in vending alcohol must first register with the Planning and Development Department as well as be in compliance with the serving guidelines set forth in Section 74.530 of City Ordinance No. 2018-07 (see Attachments #1-2).

The boundaries defined by the Downtown Entertainment District often include a number of special events such as the Craft Festival, Arts Festival, Spring Craft Fair, Freedom on the Waterfront, Scottish Highland Festival, and others. During these events, there is much economic benefit to the participating restaurants as customers are able to carry an open container throughout the different areas of the event footprint. During non-event times, customers are still able to enjoy the Downtown while visiting places such as the 4th Avenue docks and Sunset, Donnelly, and Evans Parks at their leisure.

Budget Impact:
There is no budget impact pertaining to the Downtown Entertainment District.

Strategic Impact:
The Downtown Entertainment District is intended to enhance economic development in coordination with public safety.

Recommendation City Council discuss the initial year of the Downtown Entertainment District and associated updates provided by City staff, pertaining to the success of the District, code enforcement, etc.
Attachment(s):

1. Ordinance No. 2018-07, Entertainment District
2. Entertainment District Registrations

Prepared by: Caroline Zeglen, Administrative Assistant
Reviewed by: Caroline Zeglen, Administrative Assistant  Approved - 11/18/2019
Amy Jewell, Leisure Services Director  Approved - 11/20/2019
Vince Sandersfeld, Planning and Development Director  Approved - 11/20/2019
Adam Sumner, CRA Administrator  Approved - 11/20/2019
Robert Bell, Deputy Police Chief  Approved - 11/25/2019
Misty Sommer, Deputy City Clerk  Approved - 11/25/2019
Gwen Johns, City Clerk  Approved - 11/25/2019
Robin R. Hayes, City Manager  Final Approval - 11/25/2019
ORDINANCE NO: 2018-07

AN ORDINANCE OF THE CITY OF MOUNT DORA, FLORIDA, AMENDING THE CITY OF MOUNT DORA CODE OF ORDINANCES; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR AMENDMENT TO CHAPTER 74; PROVIDING FOR AMENDMENT TO CHAPTER 10; PROVIDING FOR THE IMPLEMENTATION OF ADMINISTRATIVE PROVISIONS; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to adopted policies of the Future Land Use Element of the Mount Dora Comprehensive Plan 2032, the City of Mount Dora has identified various activity centers, including the downtown district area, as intended areas for targeted development and redevelopment; and

WHEREAS, on July 9, 2016, and January 21, 2017, the City Council held Strategic Planning Workshops with the goal of promoting economic development as a high priority; and

WHEREAS, the downtown area is located within the City’s Mount Dora Community Redevelopment Plan of 2012, which outlines implementation of mastered planning and economic development policies to sustain a viable business district; and

WHEREAS, the City of Mount Dora is known as a “Festival City” that hosts numerous annual special events, primarily in the downtown area; and

WHEREAS, a designated Downtown Entertainment District would encourage development and growth, foster community cooperation and encourage mutually sponsored events among the downtown merchants; and

WHEREAS, the City of Mount Dora strives to adopt codes and regulations that will encourage the development of businesses and commerce within the City; and

WHEREAS, the City of Mount Dora desires to amend the City of Mount Dora Code of Ordinances to enhance and further its goals as outlined herein and has determined that the provisions of this Ordinance advance a legitimate public purpose and promote and protect the health, safety and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOUNT DORA, FLORIDA, AS FOLLOWS

SECTION 1. Legislative Findings and Intent. The City of Mount Dora City Council has complied with all requirements and procedures of the Florida law in processing this Ordinance. The above recitals are hereby adopted.
SECTION 2: Amending Section 74 of the City of Mount Dora Code of Ordinances.
Chapter 74 is hereby amended to include the following:

Note: Underlined words constitute additions while strikethrough constitutes deletions, and asterisks (***)) indicate an omission from the existing text which is intended to remain unchanged.

Chapter 74 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

PART V. DOWNTOWN ENTERTAINMENT DISTRICT

Section 74.500 Purpose.

The purpose of this Part is to encourage a location of safe entertainment, retail and restaurant uses within a limited defined area of the City hereafter referred to as the Downtown Entertainment District. The regulations within this section are enacted to enable a variety of amenities to be offered to the public, in a convenient physical location, which will promote pedestrian use with an attendant decrease in vehicular traffic; to foster a mutual relationship among downtown merchants; and to encourage private development of entertainment facilities which enhance and complement the use of the public facilities in a defined area of the City.

Section 74.510 District Boundaries.

The Downtown Entertainment District shall mean that area generally described as beginning at the northern boundary, those City blocks on the north and south sides of Fifth Avenue, from McDonald Street to Baker Street; and those City blocks east of McDonald Street to CSX Rail Road right-of-way to Third Avenue following to Lake Dora, and those City blocks west of Baker Street to Charles Avenue and Evans Park. It shall not include the property south of 4th Avenue and west of CSX railway to 3rd Avenue, the Mount Dora Lawn Bowling Club property or Lakeside Inn property. A depiction of which shall be maintained by the City Planning and Zoning Department. Hereafter, the City may amend the boundaries of the Downtown Entertainment District by Resolution.

Section 74.520 Registration of Participants.

Any establishment, licensed to dispense alcoholic beverages, which is located within the Downtown Entertainment District and desires to participate in the privileges granted by this Part V of Chapter 74, must first register with the City. The registration process shall be as determined by the City Manager. Such establishments shall be referred to herein as a “Registered Participant”.

Section 74.530 Alcohol Consumption in the Downtown Entertainment District.
Possession of any open alcoholic beverage container shall be permitted in the public areas of the Downtown Entertainment District under the following conditions:
(a) The open alcoholic beverage was purchased from or served by an establishment that is a Registered Participant.

(b) The open alcoholic beverage is being held in and consumed from a plastic container not to exceed sixteen (16) ounces in size which also contains some form of marking to identify the Registered Participant from which it was purchased.

(c) No Registered Participant may dispense more than one open alcoholic beverage to any one person at a time.

(d) No person may possess more than one open alcoholic beverage at any one time.

(e) It shall be unlawful for any person to possess any open alcoholic beverage contained in a can, bottle or glass, except as authorized and approved for outdoor dining or a sidewalk café.

(f) Open alcoholic beverages may be purchased and consumed in the Downtown Entertainment District at any time except for between the hours of 2:00a.m. and 7:00a.m., of the same day.

SECTION 3 Amending Chapter 10 of the City of Mount Dora Code of Ordinances.
Chapter 10 is hereby amended as follows:

Note: Underlined words constitute additions while strikethrough constitutes deletions, and asterisks (*** *) indicate an omission from the existing text which is intended to remain unchanged.

Section 10.015. – Exceptions. To the extent of any conflict between the requirements of this Chapter 10 and the privileges set forth in the Downtown Entertainment District established by Chapter 74, Part V of this Code, the provisions of Chapter 74, Part V shall prevail.

Sec. 10.050. - Consumption near businesses selling alcoholic beverages.

***

(b) Public nuisance, unlawful acts, posting.

***

(3) The owner or operator of any club, restaurant, bar, package store, or food store selling alcoholic beverages for consumption off the premises shall prominently post, on the outside of each entrance and on the inside of the main customer exit of each club, restaurant, bar, package store, or food store selling alcoholic beverages for consumption off the premises, a sign with contrasting letters at least two inches tall, stating the following:
Except as permitted by the City of Mount Dora Code of Ordinances, Chapter 74, it is unlawful for any person to consume, or possess, in any open container, any alcoholic beverage within 100 feet of any part of this business. Violators are subject to arrest and prosecution.

(c) **Area of applicability and exceptions.** For the purpose of this section, the area within 100 feet of a club, restaurant, bar, package store, or a food store selling alcoholic beverages shall be the area within a 100-foot radius of any part of such business, but shall not include any property lawfully used for a private residence; or any area where possession or consumption of alcoholic beverages is specifically prohibited or permitted by state law or by any license or permit issued pursuant thereto; and the Downtown Entertainment District, as set forth in Chapter 74 of this Code. Further, this section shall not apply to those portions of the above described area included within the boundaries established by the city council or the city manager for a special event for which permission to consume or possess alcoholic beverages is given in conjunction with the permission for the event.

**SECTION 4 Implementing Administrative Actions.** The City Manager is hereby authorized and directed to take such actions as may be deemed necessary and appropriate in order to implement the provisions of this Ordinance. The City Manager may, as deemed appropriate, necessary, and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

**SECTION 5. Savings Clause.** All prior actions of the City of Mount Dora pertaining to the creation of the Downtown Entertainment District, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Ordinance.

**SECTION 6. Codification and Scrivener's Errors.**

(a) This Ordinance shall be codified in the Mount Dora Code of Ordinances and the sections, divisions and provisions of this Ordinance may be renumbered or re-lettered as deemed appropriate by the Code codifier.

(b) Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

**SECTION 7. Conflicts.** All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed; provided, however, that any code or ordinance that provides for an alternative process to effectuate the general purposes of this Ordinance shall not be deemed a conflicting code or ordinance.

**SECTION 8. Severability.** If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not
be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

**SECTION 9. Effective Date.** This Ordinance shall become effective immediately upon enactment.

**FIRST READING:** September 27, 2018  
**SECOND READING:** November 6, 2018  
**PASSED AND ADOPTED this 6th day of November, 2018**

[Signature]

NICK GIRONE  
MAYOR of the City of Mount Dora, Florida

**ATTEST:**

[Signature]  
GWEN KEOUGH-JOHNS, MMC  
CITY CLERK

For the use and reliance of City of Mount Dora only. Approved as to form and legality.

[Signature]  
Sherry G. Sutphen  
Interim City Attorney
EXHIBIT #1

Downtown
Entertainment
District
Boundary
(Parcels)
Map

Legend

Entertainment District

Lake Dora

Revised 7-25-18

Date: 7/25/2018

CITY OF MOUNT DORA
<table>
<thead>
<tr>
<th>Business Name</th>
<th>Business Address</th>
<th>Applicant's Name</th>
<th>COI Expire Date</th>
<th>Action</th>
<th>Action Date</th>
<th>COI Rec'd Date</th>
<th>Date Certificate Issued</th>
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</thead>
<tbody>
<tr>
<td>1921 of Mount Dora</td>
<td>142 E. 4th Avenue</td>
<td>Larry Baker</td>
<td>07/30/19</td>
<td>June 2019 Letter</td>
<td>11/30/18</td>
<td>11/30/18</td>
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<tr>
<td>Maggie's Attic</td>
<td>237 W. 4th Avenue</td>
<td>Stephanie Eberhart</td>
<td>08/01/19</td>
<td>July 2019 Letter</td>
<td>11/19/18</td>
<td>11/19/18</td>
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<td>Julianne's Coastal Cottage</td>
<td>135 E. 4th Avenue</td>
<td>Julia Pointer</td>
<td>09/17/19</td>
<td>Aug 2019 Letter</td>
<td>05/30/19</td>
<td>05/30/19</td>
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<tr>
<td>Pisces Rising</td>
<td>239 W. 4th Avenue</td>
<td>Joshua Jungferman</td>
<td>01/14/20</td>
<td>Dec 2019 Letter</td>
<td>01/14/19</td>
<td>01/14/19</td>
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<tr>
<td>Las Palmas</td>
<td>351 N. Donnelly Street</td>
<td>Edna Gonzalez</td>
<td>02/23/20</td>
<td>Jan 2020 Letter</td>
<td>02/23/19</td>
<td>02/23/19</td>
<td></td>
</tr>
<tr>
<td>The Cellar Door</td>
<td>109 E. 4th Avenue</td>
<td>Cary Polkovitz</td>
<td>02/28/20</td>
<td>Jan 2020 Letter</td>
<td>03/06/19</td>
<td>03/06/19</td>
<td></td>
</tr>
<tr>
<td>Magical Meat Boutique</td>
<td>112 W. 3rd Avenue</td>
<td>Phil Barnard</td>
<td>03/27/20</td>
<td>Feb 2020 Letter</td>
<td>04/23/19</td>
<td>04/23/19</td>
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<tr>
<td>The Frog and Monkey</td>
<td>411 N Donnelly Street</td>
<td>Rodrigo Morcho</td>
<td>04/05/20</td>
<td></td>
<td>09/27/19</td>
<td>09/27/19</td>
<td></td>
</tr>
</tbody>
</table>
DATE: December 3, 2019

TO: Honorable Mayor and City Council Members

FROM: Robin R. Hayes, City Manager

SUBJECT: Downtown Parking Implementation Plan Update

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**Introduction:**
This is an opportunity for City Council to receive an update on the Downtown Parking Implementation Plan.

**Discussion:**
The Downtown Parking Study was accepted by the CRA Board on October 4, 2016. The parking implementation plan was approved under Resolution No. 2017-32 by the CRA Board on March 21, 2017. The parking strategies outlined in this plan focused on parking solutions to assist visitors, employees, residents, and business owners.

**Budget Impact:**
There are no budget impacts with this discussion items, however, the City Council has programmed future Capital Improvement Projects for various parking solutions.

**Strategic Impact:**
To provide Economic Development activities, Redevelopment, Infrastructure needs and activities to support the Mount Dora Community Redevelopment Plan.

**Recommendation** City Council discussion item.

**Attachment(s):**
1. Parking Implementation Plan Status Report

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Prepared by: Vince Sandersfeld, Planning and Development Director
Reviewed by: Adam Sumner, CRA Administrator  Approved - 11/18/2019
Misty Sommer, Deputy City Clerk  Approved - 11/19/2019
Gwen Johns, City Clerk  Approved - 11/25/2019
Robin R. Hayes, City Manager  Approved - 11/25/2019
The Downtown Parking Study was accepted by the CRA Board on October 4, 2016. The parking implementation plan was approved under Resolution No. 2017-32 by the CRA Board on March 21, 2017. The parking strategies outlined in this plan focused on parking solutions to assist visitors, employees, residents, and business owners. The project prioritization outlined a tiered approach to addressing strategies, which included: Immediate, Short-term, Mid-term, and Long-term phases. The CRA Board summarized a priorities and the following is a summary with narratives of the status:

### Parking Project Status by Ranking

<table>
<thead>
<tr>
<th>IMMEDIATE NEEDS</th>
<th>ACTION ITEM</th>
<th>STATUS/NARRATIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>-</td>
<td>Enforcement of parking restrictions.</td>
<td>Completed April 2019</td>
</tr>
<tr>
<td>-</td>
<td>Pilot Program Community Officer</td>
<td>Completed April 2019</td>
</tr>
<tr>
<td>-</td>
<td>Explore one-way streets</td>
<td>Requires engineering study with budget discussions in FY20-21</td>
</tr>
</tbody>
</table>

**SHORT-TERM**

<table>
<thead>
<tr>
<th></th>
<th>ACTION ITEM</th>
<th>STATUS/NARRATIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Create Valet Parking</td>
<td>Not approved due to budget and cost feasibility</td>
</tr>
<tr>
<td>2</td>
<td>Establish Time Limits</td>
<td>Signage installed March 2018</td>
</tr>
<tr>
<td>3</td>
<td>Enforce Parking</td>
<td>Community Officer Enforcement Parking Time-Limits. Completed April 2019</td>
</tr>
<tr>
<td>4</td>
<td>Improve loading/Unloading</td>
<td>Several spaces re-designated (on-going)</td>
</tr>
</tbody>
</table>

**MID-TERM**

<table>
<thead>
<tr>
<th></th>
<th>ACTION ITEM</th>
<th>STATUS/NARRATIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Enhance fringe area parking areas</td>
<td>-Evaluation of Post Office Site. No longer available (2019).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Conducted a study for on-street parking on Charles Avenue, which was not pursued.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Purchased 3rd/Baker Site. Completed. 49 Grass Spaces added October 2019</td>
</tr>
<tr>
<td>6</td>
<td>Improve safety</td>
<td>Downtown pedestrian cross-walks added (5th Ave). Installed Pedestrian Crosswalk</td>
</tr>
<tr>
<td>7</td>
<td>Promote shared parking</td>
<td>On-Going. Provided parking maps and educational information to downtown businesses and residents. Explored shared parking agreement with private land owners.</td>
</tr>
</tbody>
</table>
### Downtown Parking Study Implementation Plan

**Provide clear messaging and communication**
- Wayfinding Design Guidelines 12/5/2017
- New Signs Ordered October 2019.

**Encourage other transportation options**
- On-Going (trails, sidewalk improvements,
  New bike rack to be installed 3rd/Baker within the 1st Quarter 2020)

<table>
<thead>
<tr>
<th>LONG-TERM ACTION ITEM</th>
<th>STATUS/NARRATIVE</th>
</tr>
</thead>
</table>
| 10 Explore feasibility additional parking garage | On-Going. Numerous sites reviewed.  
Ongoing discussions with land owners.  
Potential Re-Configuration of Existing Garage at Donnelly Street.  
Baker Street/Tremain Street Parking  
City Hall/Community Building |
| 11 Explore feasibility shuttle service | Several Pilot Programs Established.  
Program on-hold (March 2019) |
DATE: December 3, 2019
TO: Honorable Mayor and City Council Members
FROM: Robin R. Hayes, City Manager
SUBJECT: First Reading of Ordinance No. 2019-20, Final PUD Cottages on 11th

Introduction:
This is a request for City Council to approve first reading of Ordinance No. 2019-20 and hold hearing for second reading and adoption.

Call Up Item
Mayor Asks Attorney to Read Ordinance by Title Only
City Manager Background
Applicant Comments
Public Hearing
Discussion
Council Action

Discussion:
Further project descriptions, design elements, and vicinity map are contained in Attachment #1 (Final PUD Summary Report).

The sequences of events leading to presentation to City Council are as follows:

The Planning and Zoning Commission (PZC) at their regularly scheduled meeting held on November 20, 2019, recommended approval (5-2 vote) of the Cottages on 11th Final PUD. The PZC approved with the following conditions:

1) Replace existing sidewalk adjacent to development along 11th Avenue with 5 feet wide sidewalks;
2) “Type-F” curbing adjacent to landscape buffer area;
3) No on-site burning of vegetation during construction stage; and
4) Landscape plan required at Preliminary Plat stage.
The Development Review Committee (DRC) at the October 30, 2019, recommended approval with conditions the Final PUD request and recommended to forward the same to the PZC.

The applicant is requesting to rezone to Planned Unit Development from Single-Family Residential (R-1A). The request for a Final PUD is on a parcel of approximately 10.90 acres located south of 11th Avenue and west of Helen Street. The proposal includes twenty-seven (27) lots for single family dwelling units. The future land use of Low Density Residential allows up to 2.50 dwellings per acre. On 10.88 net acres, the maximum amount of dwelling units allowed would be 27 units.

During the discussion of the Preliminary PUD public hearing meetings several design items where discussed. These are listed in Attachment “1” with a staff narrative as to how each discussion item has been incorporated into the Final PUD Master Plan. These general items included: 20 feet western buffer width; access off 11th Avenue with one full and the second enter only, density is consistent with the Future land Use Map, dog park changed to a recreation park (private), and guest parking. The applicant has committed to donate the 1.05 acres lake front site to the City.

**Budget Impact:**
There are no budgetary impacts to the City relative to the processing of the Planned Unit Development amendment action.

**Strategic Impact:**
Planned Unit Developments which address density and/or intensity changes are consistent with Growth Management and Economic Development Goals to foster development and growth opportunities.

**Recommendation** City Council approve the First Reading of Ordinance No. 2019-20 and hold hearing for second reading and adoption. City Council approval may includes the following conditions (or additional), as recommended by the PZC:

1) Replace existing sidewalk adjacent to development along 11th Avenue with 5 feet wide sidewalks;
2) “Type-F” curbing adjacent to landscape buffer area;
3) No on-site burning of vegetation during construction stage; and
4) Landscape plan required at Preliminary Plat stage.

Note: Any PUD conditions will be incorporated in the Second Reading Ordinance.

**Attachment(s):**
1. Final PUD Summary Report
2. Legal Ad Publications

Prepared by: Vince Sandersfeld, Planning and Development Director
Reviewed by: Sherry Sutphen, City Attorney Approved - 11/12/2019
Misty Sommer, Deputy City Clerk Approved - 11/12/2019
Gwen Johns, City Clerk Approved - 11/25/2019
Robin R. Hayes, City Manager Final Approval - 11/25/2019
Report Date:
December 3, 2019

Reference/Support:
Sections 3.4.5 of the City's Land Development Code
Resolution No. 2019-120 Preliminary PUD approved September 5, 2019

Background:
Site Summary:
Owners: Christian Home and Bible School, Inc.
Applicant: Florida Realty and Development, Inc. – Tom Lightsey and Dennis Casey
Engineer: Wicks Engineering Services, Inc.
Existing Use: Vacant Land (Orange Grove)
Proposed Use: Single Family Dwelling Units (27 units)
Future Land Use: Low Density Residential (2.5 dwelling units per acre)
Current Zoning: R-1A (Single Family Residential)
Proposed Zoning: Planned Unit Development (PUD)
Open Space:
Required: 30 percent (3.27 acres)
Provided: 41 percent (4.42 acres)

Site Area:
9.85 acres - Northern Parcel (home sites)
1.05 acres – South Parcel (lake front tract)
10.90 Total Site Acres
0.02 Floodplain Acres
10.88 Developable (net) Acres

Density:
Maximum Units Allowed: 10.88 x 2.50 = 27 units
Proposed: 27 units/10.88 acres = 2.50 dwelling units/acre

Surrounding Property Table:

<table>
<thead>
<tr>
<th>Direction</th>
<th>City/County</th>
<th>FLU</th>
<th>Zoning</th>
<th>Existing Use(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>City</td>
<td>Low Density</td>
<td>PUD/R-1A</td>
<td>SFR/Mount Dora Academy</td>
</tr>
<tr>
<td>South</td>
<td>N/A</td>
<td>Water Body</td>
<td>Water Body</td>
<td>Lake Dora</td>
</tr>
<tr>
<td>East</td>
<td>City</td>
<td>Low Density</td>
<td>R-1A</td>
<td>SFR (Single Family Residential)</td>
</tr>
<tr>
<td>West</td>
<td>City</td>
<td>Low Density</td>
<td>R-1A</td>
<td>Condominiums (Hill House)</td>
</tr>
</tbody>
</table>
The applicant is requesting to rezone to Planned Unit Development from Single-Family Residential (R-1A). The request for a Final PUD is on a parcel of approximately 10.90 acres located between 11th Avenue and Old US Highway 441, and west of Helen Street. The proposal includes 27 lots for single family dwelling units. The future land use of Low Density Residential allows up to 2.50 dwellings per acre. The maximum amount of dwelling units allowed would be 27 units. The Final PUD is consistent with the Preliminary PUD Master Plan under Resolution No. 2019-120 approved on September 5, 2019.

During the discussion of the Preliminary PUD public hearing meetings the following aspects and design items where discussed. Below is a summary with staff narrative as to how each discussion item has been incorporated into the Final PUD Master Plan.

- **Western Buffer:** Changed from varied widths 10-15 feet to 20 feet wide landscape buffer area width along the western property line.

- **Ingress/egress:** Changed from two access points (full) off 11th Avenue to one full access and the second access enter only.

- **Min. lot widths at 11th Avenue:** Lot sizes are intended promote a unified community.

- **Density:** Proposed density 2.5 du/acre. Density is consistent with the Future Land Use Residential Low (max/ 2.5 du/ac).
  
  Adjacent Community Densities:
  - Highlands: 7.40 acres/19 units = 2.56 du/acre
  - Hill House Condos: 2.45 acres/24 units = 9.80 du/acre
  - Gardner Subd.: 14.00 acres/26 units = 1.86 du/ac

- **Stormwater Design:** Engineering requirements are required at prel. plat stage.

- **Dog park usage:** Changed from a “dog park” to “recreation park”

- **Guest Parking:** 5 guest parking spaces added (new). *Note: Typical City LDC policy (MF) for project that includes visitors type parking is normally calculated at the ratio being (1:3) one space per three units.*

- **Lakes Front “Parcel”** The owner has committed to donate and convey the 1.05 acres lake front land area to the City.

Comparison of the R-1A and proposed PUD development standards are listed in the table below:

<table>
<thead>
<tr>
<th>Standards</th>
<th>R-1A</th>
<th>Proposed Cottages on 11th PUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted Uses:</td>
<td>Single-Family</td>
<td>Single-Family</td>
</tr>
<tr>
<td>Lot Width:</td>
<td>90'</td>
<td>Min. 50’ (street frontage 40’)</td>
</tr>
<tr>
<td>Lot Size:</td>
<td>10,000 sf</td>
<td>Min 5,500 sf</td>
</tr>
<tr>
<td>Setbacks:</td>
<td>Front: 25’</td>
<td>Front: 20’</td>
</tr>
<tr>
<td></td>
<td>Side: 10’</td>
<td>Side: 5’</td>
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<tr>
<td></td>
<td>Rear: 25’</td>
<td>Rear: 15’</td>
</tr>
<tr>
<td></td>
<td>Corner: 25’</td>
<td>Corner: 15’</td>
</tr>
<tr>
<td>Min. Living Area:</td>
<td>1,300 sf</td>
<td>1,800 sf</td>
</tr>
</tbody>
</table>
The project is planned to be developed in one phase. Lots 4 through 8 and lots 16 through 20 will have garages facing the rear of the property with one way vehicular alleyway access in order to showcase the front of the homes along the main entry road of the development. The lots along 11th Avenue will have garages facing south and will be accessed through the private roads in the development. This allows the front of the home to be showcased along 11th Avenue without having vehicular access for the homes off of 11th Avenue. The proposal also includes guest parking interior to the development to lessen the impact of cars in the surrounding neighborhoods.

The applicant’s vision for the community is for upscale luxury custom homes on smaller lots for ease of maintenance. The homes will be charming in character and match the existing appeal of historic Mount Dora. The lots vary in size in order to provide a varied streetscape. Each custom home will have to meet the requirements of the of the PUD’s Design Standards and will undergo review of the subdivision’s Architecture Review Committee in order to ensure that each home meets the intent of the community.

There will be emphasis on landscaping to ensure that the aesthetics of the community match the proposed vision. The subdivision will have two points of access, both of these points will be on 11th Avenue. One will be full access, while the other will be enter only. The area just north of Old Highway 441 will be used as open space and retention in order to lessen the impact on Old Highway 441. The lake front “parcel” (1.05 acres) located to the south of Old Highway 441 will remain natural vegetation and will serve as an open space area to the community and donated to City. The proposed development will also include a park and recreational amenities for its residents.

In addition, the applicant has made commitment for a voluntary contribution into the City’s Public Arts fund. The applicant has indicated to staff the focus of this project is to provide arts in public places. The contribution includes $1,000 for each lot at time of completion of the development ($27,000). Plus, as each lot is sold (conveyed from developer to builder or home owner) additional $1,000 per lot will be contributed to the City’s Public Arts Fund.

Notification(s):

JPA Notice to Lake County: October 8, 2019
PZC and City Council Notice: November 8, 2019
Legal Notice City Council: November 22, 2019
FINAL PLANNED UNIT DEVELOPMENT (PUD) APPLICATION

Date: 10-4-2019  Project Name: Cottages on 11th

1. Applicant’s Name: John T. Lightsey, Pres.
   Company’s Name: Florida Realty and Development, Inc.
   Address: 2105 Park Avenue North
   City, State & Zip: Winter Park FL 32789
   Phone: 407-361-5276  E-mail: tlightsey@cfl.rr.com

2. Property Owner’s Name(s): James E. Moore  Pres.
   Company’s Name: Christian Home and Bible School Inc.
   Address: 301 W. 13th Avenue
   City, State & Zip: Mt Dora FL 32757
   Phone:  E-mail: 

3. Engineer’s Name: Kenneth R. "TED" Wicks, P.E.
   Company’s Name: Wicks Engineering Services, Inc.
   Address: 225 West Main Street
   City, State & Zip: Tavares FL 32778
   Phone: 352-343-8667  E-mail: tedwicks@wicksengineering.com  kayh@wicksengineering.com

4. Landscape Architect: L. R. "Bob" Huffstetler
   Company’s Name: Huffstetler Landscape Architecture & Planning
   Address: 36955 Lake Yale Drive
   City, State & Zip: Grand Island FL 327335
   Phone: 352-516-5254  E-mail: bobhuff3@yahoo.com
5. The property generally located and list adjacent streets: bounded by West 11th Ave on northerly and Old US Hwy 441 on southerly

6. Size of property in Acres: 10.88 Square Feet: 474,091

7. Zoning District: R-1-A Future Land Use Category: Low Density Res 2.5 DU/Ac

8. Number of Structures and/or units to be built: 27 SFR

9. Is the proposed use(s) permissible in requested district? yes


11. Provide phase breakdown and description of phases: No phasing is proposed.

12. State the reason for this request (attach written summary if additional space is needed): The parcel is proposed for development as a PUD

13. Has an application been filed within the last 12 months (describe, if yes)? Yes Preliminary PUD approval

CERTIFICATION AND SIGNATURE

By my signature below, I certify that the information contained in this application is true and correct to the best of my knowledge at the time of the application. I acknowledge that I understand and have complied with all of the submittal requirements and procedures and that this application is a complete application submittal pursuant to the City's Land Development Code. I further understand that an incomplete application submittal may cause my application to be deferred to the next posted deadline date.

Owner/Applicant Signature
James E. Moore, President

Date 10/4/19
OWNER’S AFFIDAVIT

STATE OF FLORIDA
COUNTY OF LAKE

BEFORE ME, the undersigned authority personally appeared _______________ who being by me first duly sworn on oath, deposes and says:

1. That he/she is the fee-simple owner of the property legally described and attached to this application.

2. That he/she desires a Development Approval to accomplish the above desired request, as stated on Page One of this Application.

3. That he/she has appointed _______________ Kenneth R. "TED" Wicks, P.E. to act as Agent and/or Applicant in their behalf to accomplish the above.

4. Permission is granted for staff to conduct a site visit for purposes of review of this site plan or development plan.

(Owner’s Signature)

STATE OF FLORIDA
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this ______ day of May ________, 2019, by _______________, who is personally known to me ☑ or who has Produced ____________________________ as identification and who did ☑ or did no ☐ take an oath.

Notary Public (Signature)

My Commission Expires:

NOTE: All Applications shall be signed by the Owner(s) of the Property, or some person duly authorized by the Owner to sign. The authority authorizing such person other than the Owner to sign MUST be attached.
PROPERTY RECORD CARD

General Information

Owner Name: CHRISTIAN HOME & BIBLE SCHOOL INC
Mailing Address: 301 W 13TH AVE
Parcel Number: 0010-023-00001

Alternate Key: 1464137
Parcel Number: 0010-023-00001

Millage Group and City: (MOUNT DORA)
Total Certified Millage Rate: 20.0945

Trash/Recycling/Water/Info:

Property Location: PRIVATE DR
Property Location: MOUNT DORA FL 32757

Property Name: PROPE
Property Name: PROPERTY NAME

School Information:

MOUNT DORA, 30-19-27 BEG 160.22 FT W OF NE COR OF BLK 23, RUN S 253 FT, S 34-16-00 W TO LAKE, BEG AS BEFORE, RUN W 499.78 FT, S 19-00-00 W TO S LINE OF FAIRVIEW AVE, W 20 FT S 19-00-00 W TO N LINE OF HWY 441, E 20 FT, S 19-00-00 W TO LAKE SE'LY ALONG LAKE TO INTERSECT FIRST LINE PB 3 PGS 37-43
ORB 4109 PG 167

NOTE: This property description is a condensed/abbreviated version of the original description as recorded on deeds or other legal instruments in the public records of the Lake County Clerk of Court. It may not include the Public Land Survey System’s Section, Township, Range information or the county in which the property is located. It is intended to represent the land boundary only and does not include easements or other interests of record. This description should not be used for purposes of conveying property title. The Property Appraiser assumes no responsibility for the consequences of inappropriate uses or interpretations of the property description.

Land Data

<table>
<thead>
<tr>
<th>Line</th>
<th>Land Use</th>
<th>No. Units</th>
<th>Type</th>
<th>Class Value</th>
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Miscellaneous Improvements

There is no improvement information to display.

Sales History

NOTE: This section is not intended to be a complete chain of title. Additional official book/page numbers may be listed in the property description above and/or recorded and indexed with the Clerk of Court. Follow this link to search all documents by owner’s name.

<table>
<thead>
<tr>
<th>Book/Page</th>
<th>Sale Date</th>
<th>Instrument</th>
<th>Qualified/Unqualified</th>
<th>Vacant/Improved</th>
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<tr>
<td>4109 / 167</td>
<td>12/27/2011</td>
<td>Trustees Deed</td>
<td>Multi-Parcel</td>
<td>Vacant</td>
<td>$100.00</td>
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<td>2364 / 1665</td>
<td>7/16/2003</td>
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<td>Multi-Parcel</td>
<td>Vacant</td>
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<td>1064 / 549</td>
<td>6/1/1990</td>
<td>Warranty Deed</td>
<td>Multi-Parcel</td>
<td>Vacant</td>
<td>$1.00</td>
</tr>
</tbody>
</table>
PROPERTY RECORD CARD

General Information

Owner Name: CHRISTIAN HOME & BIBLE SCHOOL INC
Alternate Key: 1464145

Mailing Address: 301 W 13TH AVE
Parcel Number: 0010-023-00003

Property Location: WEST 11TH AVE
Millage Group and City: (MOUNT DORA)

Total Certified Millage Rate: 20.0945
Trash/Recycling/Water/Info: My Public Services Map

Property Name: School Locator & Bus Stop Map

School Information:

Property Description: MOUNT DORA, 30-19-27 N 150 FT OF E 160.22 FT OF BLK 23 PB 3 |
PGS 37-43 |
ORB 4109 PG 167 |

NOTE: This property description is a condensed/abbreviated version of the original description as recorded on deeds or other legal instruments in the public records of the Lake County Clerk of Court. It may not include the Public Land Survey System’s Section, Township, Range information or the county in which the property is located. It is intended to represent the land boundary only and does not include easements or other interests of record. This description should not be used for purposes of conveying property title. The Property Appraiser assumes no responsibility for the consequences of inappropriate uses or interpretations of the property description.

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<th>Line</th>
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<th>Frontage</th>
<th>Depth</th>
<th>Notes</th>
<th>No. Units</th>
<th>Type</th>
<th>Class</th>
<th>Value</th>
<th>Land Value</th>
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<tbody>
<tr>
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<td>VACANT RESIDENTIAL (0000)</td>
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</table>

Click here for Zoning Info

FEMA Flood Map

Miscellaneous Improvements

There is no improvement information to display.

Sales History

NOTE: This section is not intended to be a complete chain of title. Additional official book/page numbers may be listed in the property description above and/or recorded and indexed with the Clerk of Court. Further this ion to search all documents by owner’s name.

<table>
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<td>682 / 637</td>
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<td>Misc Deed/Document</td>
<td>Qualified</td>
<td>Vacant</td>
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</tr>
</tbody>
</table>

Click here to search for mortgages, liens, and other legal documents.

Values and Estimated Ad Valorem Taxes
THIS DEED WAS PREPARED WITHOUT A TITLE SEARCH, AND THE LEGAL DESCRIPTION WAS SUPPLIED BY THE PARTIES; THE PREPARER OF THIS INSTRUMENT ASSUMES NO LIABILITY FOR THE STATE OF THE TITLE OR ANY INACCURACY OF THE LEGAL DESCRIPTION.

TRUSTEE'S DEED

THIS INDENTURE, executed the 27 day of December, 2011, between M. Page Edgerton, individually and as Trustee of the M. Page Edgerton Trust under agreement dated June 27, 1988, Party of the First Part, whose address is Post Office Box 175, Mount Dora, Florida 32756, and Christian Home and Bible School, Inc., a Florida Non Profit Corporation, Party of the Second Part, whose address is 301 West 13th Avenue, Mount Dora, Florida 32757:

WITNESSETH:

The Party of the First Part, in consideration of the premises and the sum of TEN DOLLARS ($10.00) and other good and valuable consideration in hand paid, grants, bargains, sells, aliens, remises, releases, conveys and confirms to the Party of the Second Part, and to its heirs and assigns forever, that certain real property situate in Lake County, Florida, more particularly described as follows:

Parcel No. 1: (2919270010-23-00001)

Begin 160.22 feet West of Northeast corner of Block 23 according to the Official Map of Mount Dora recorded in Plat Book 3, Page 37, Public Records of Lake County, Florida, run South 253 feet, South 34°16' West to Lake, Begin as before, run West 499.78 feet, South 19° West to South line of Fairview Avenue West 20 feet, South 19° West to North line of Highway 441, East 20 feet, South 19° West to Lake, Southeasterly along lake to intersect first line. Lying in Section 30, Township 19 South, Range 27 East, Lake County, Florida.

Parcel No. 2: (2919270010-23-00003)

From the Southwest corner of the intersection of Eleventh Avenue (Tavares Road) and Helen Street, said point being the Northeast corner of Block 22, Section 30, Township 19 South, Range 27 East, according to the Official Map of Mount Dora, recorded in Plat Book 3, Page 37, Public Records of Lake County, Florida, run West 305 feet for point of beginning; run thence South 150 feet, thence West 160.22 feet, run thence North 150 feet to the South right of way line of Eleventh Avenue, run thence East along said right of way line 160.22 feet to point of beginning, also described as the North 150 feet of Lots 15 and 16, according to an unrecorded plat of Castle Manor.

Together with all appurtenances, privileges, rights, interests, dower, reversions, remainders and easements thereto appertaining.

Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through, or under said Grantor; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2011.

IN WITNESS WHEREOF, the Party of the First Part has set her hand and seal on the day and year first above written.

Signed, sealed and delivered
in the presence of:

[Signature]

M. PAGE EDGERTON, individually and as Trustee of the M. Page Edgerton Trust U/A dated June 27, 1988

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 27 day of DECEMBER, 2011, by M. PAGE EDGERTON,

(✓) who is personally known to me and did not take an oath.

( ) who has produced ___________________________ as identification
and did take an oath stating she was indeed the person set forth herein.

NOTARY PUBLIC - State of Florida
My Commission Expires: 3/2/13

[Notary Seal]
CITY OF MOUNT DORA, FLORIDA
NOTICE OF PUBLIC HEARING
REQUEST FOR COTTAGES ON 11TH
FINAL PLANNED UNIT DEVELOPMENT (PUD)

Notice is hereby given that the City of Mount Dora Planning and Zoning Commission will conduct a public hearing to consider a request for a Final PUD for the proposed Cottages on 11th. This hearing will be held on Wednesday, November 20, 2019 at 10:00 a.m., or as soon thereafter as possible at City Hall, 510 North Baker Street, Mount Dora, Florida.

FURTHER, notice is hereby given that the City of Mount Dora City Council will conduct a public hearing to consider the request for a Final PUD. This hearing will be held on Tuesday, December 3, 2019 at 5:30 p.m., or as soon thereafter as possible at City Hall, 510 North Baker Street, Mount Dora, Florida.

REQUEST FOR FINAL PUD; COTTAGES ON 11TH (PROJECT NAME); 10.90 ACRES (SITE AREA); WEST OF HELEN STREET AND BORDERED BY 11TH AVENUE AND LAKE DORA (LOCATION); CHRISTIAN HOME AND BIBLE SCHOOL, INC. (OWNER); FLORIDA REALTY AND DEVELOPMENT, INC., JOHN T. LIGHTSEY (APPLICANT). PUD19-01FNL

Interested parties may appear at these meetings and be heard with respect to the requested Final PUD.

These public hearings may be continued to a future date or dates. The times, places, and dates of any continuances of a public hearing shall be announced during the public hearing without any further published notice.

The file may be inspected by the public at the Planning and Development Department, City Hall, 510 North Baker Street, Mount Dora, Florida between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

NOTICE: If any person decides to appeal any decisions made at this meeting with respect to any matter considered at this meeting, such person may need a record of these proceedings. For such purpose, a person 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.

NOTICE: In accordance with the Americans with Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact the Planning and Development Department no later than seven (7) days prior to the proceedings. Telephone (352) 735-7112 for assistance, if hearing impaired, telephone the Florida Relay Service numbers, (800) 955-8771 (TDD) or (800) 955-8770 (Voice) for assistance.

Legal Ad Published: November 8, 2019
Notice is hereby given that the City Council of the City of Mount Dora, Florida proposes First Reading of Ordinance No. 2019-20 to rezone the lands within the area shown in the map in this advertisement. This meeting is to be held on Tuesday, December 3, 2019 at 5:30 p.m. or as soon thereafter as possible at City Hall, 510 North Baker Street, Mount Dora, Florida.

ORDINANCE NO: 2019-20

AN ORDINANCE OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THE FINAL DEVELOPMENT PLAN FOR COTTAGES ON 11TH; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR THE REZONING AND APPROVAL OF THE COTTAGES ON 11TH PLANNED UNIT DEVELOPMENT TERMS AND CONDITIONS; PROVIDING FOR IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR NON-CODIFICATION AND SCRIVENER’S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.
Interested parties may appear at the above meeting and be heard with respect to the proposed rezoning.

This public hearing may be continued to a future date or dates. The times, places, and dates of any continuances of a public hearing shall be announced during the public hearing without any further published notice.

The proposed ordinance may be inspected by the public at the Planning and Development Department, City Hall, 510 North Baker Street, Mount Dora, Florida between the hours of 8:00 AM and 5:00 PM, Monday through Friday.

**Notice:** If any person decides to appeal any decision made at this meeting with respect to any matter considered at this meeting such person may need a record of these proceedings. For such purpose, a person may need to ensure that a verbatim record of the proceedings is made, which records include the testimony and evidence upon which the appeal is to be based.

**Notice:** In accordance with the American with Disabilities Act persons with disabilities needing special accommodations to participate in this proceeding shall contact the Planning and Development Department no later than seven (7) days prior to the proceedings. Telephone (352) 735-7112 for assistance. If hearing impaired, telephone the Florida Relay service numbers (800) 955-8771 (TDD), or (800) 955-8770 (Voice) for assistance.
ORDINANCE NO: 2019-20

AN ORDINANCE OF THE CITY OF MOUNT DORA, FLORIDA, PERTAINING TO THE FINAL DEVELOPMENT PLAN FOR COTTAGES ON 11TH; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR THE REZONING AND APPROVAL OF THE COTTAGES ON 11TH PLANNED UNIT DEVELOPMENT TERMS AND CONDITIONS; PROVIDING FOR IMPLEMENTATION OF ADMINISTRATIVE ACTIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR NON-CODIFICATION AND SCRIVENER’S ERRORS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Christian Home and Bible School, Inc., is the property owner (Property Owner) of that property more particularly described in Exhibit “A” attached hereto (Property) and Florida Realty and Development, Inc., is the applicant representative (Applicant) acting on behalf of the Property Owner; and

WHEREAS, a preliminary development plan for the rezoning of the Property to Planned Unit Development (PUD) was approved by the City of Mount Dora on September 5, 2019, by way of Resolution No. 2019-120, for a project entitled “Cottages on 11th”; and

WHEREAS, pursuant to City of Mount Dora Land Development Code, Section 3.4.5., the Property Owner/Applicant filed a final development plan for the Property with the City for PUD rezoning; and

WHEREAS, the Cottages on 11th PUD terms and conditions are consistent with the City's Comprehensive Plan and the underlying Residential Low Density (2.5 dwelling units per acre or less) Future Land Use designation for the Property; and

WHEREAS, the City of Mount Dora has received public input related to the request for PUD rezoning on the Property; and

WHEREAS, the City of Mount Dora has received a recommendation of approval from City staff and the City’s Planning and Zoning Commission for the assignment of PUD zoning to the Property; and

WHEREAS, the City of Mount Dora finds the requested rezoning on the Property to be in the best interest of its citizens; and therefore, approves an amendment to the official Zoning Map of the City of Mount Dora as set forth hereafter.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MOUNT DORA, FLORIDA:
SECTION 1. Legislative Findings and Intent. The City of Mount Dora has complied with all requirements and procedures of Florida law in processing this Ordinance. The above recitals are hereby adopted.

SECTION 2. Rezoning and Approval of the Cottages on 11th PUD Terms and Conditions.

(a) The Property is hereby rezoned from R-1A to PUD, subject to the conditions set forth herein.

(b) The official Zoning Map of the City of Mount Dora shall be amended to reflect the rezoning on the Property from R-1A to PUD.

(c) The Property as rezoned shall be subject to all conditions set forth in the City’s Land Development Code, except for the conditions, zoning performance standards, site designs standards, permitted uses and other components described or graphically depicted on the final development plan for Cottages on 11th attached hereto as Exhibit “B” and Design Standards Manual Exhibit “C”, which shall be the controlling master plan for the Property.

SECTION 3. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such actions as are deemed necessary and appropriate in order to implement the provisions of this Ordinance and the rezoning on the Property. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 4. Savings Clause. All prior actions of the City of Mount Dora pertaining to the rezoning on the Property, as well as any and all matters relating thereto, are hereby ratified and affirmed consistent with the provisions of this Ordinance.

SECTION 5. Non-Codification and Scrivener’s Errors. The provisions of this Ordinance shall not be codified in the City of Mount Dora Code of Ordinances. Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 6. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

SECTION 8. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

Signatures on following page

Ordinance 2019-20
FIRST READING: ______________

SECOND READING: ______________

PASSED AND ADOPTED this _____ day of ________ 2019.

______________________________
CATHERINE T. HOECHST
MAYOR of the City of Mount Dora, Florida

ATTEST:

______________________________
GWEN KEOUGH-JOHNS, MMC
CITY CLERK

For the use and reliance of City of Mount Dora only.
Approved as to form and legality.

______________________________
Sherry G. Sutphen
City Attorney
Exhibit "A"

NORTH PARCEL
BEING A PORTION OF LAND LOCATED IN SECTION 30, TOWNSHIP 19 SOUTH, RANGE 27 EAST, LYING IN BLOCKS 23, 24, 25, AND 40 OF THE OFFICIAL MAP OF MOUNT DORA, RECORDED IN PLAT BOOK 3 PAGE 39 PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 22 OF SAID OFFICIAL MAP OF MOUNT DORA; THENCE RUN SOUTH 89°40'31" WEST ALONG THE SOUTH RIGHT OF WAY LINE OF ELEVENTH STREET FOR A DISTANCE OF 305.00 FEET TO THE CENTERLINE OF THE NOW VACATED ANNIE STREET PER DEED BOOK 288, PAGE 511, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, AND AS SHOWN ON SAID OFFICIAL MAP OF MOUNT DORA, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE DEPARTING AFORESAID SOUTH RIGHT OF WAY LINE RUN SOUTH 00°19'34" EAST ALONG THE FORMER CENTERLINE OF SAID ANNIE STREET FOR A DISTANCE OF 149.98 FEET; THENCE DEPARTING SAID FORMER CENTERLINE OF ANNIE STREET RUN SOUTH 89°40'31" WEST ALONG THE NORTH LINE OF THOSE CERTAIN PARCELS OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 1272, PAGE 1658 AND OFFICIAL RECORDS BOOK 4617, PAGE 990, INCLUSIVELY, FOR A DISTANCE OF 160.22 FEET TO THE NORTHWEST CORNER OF SAID PARCEL RECORDED IN OFFICIAL RECORDS BOOK 4617, PAGE 990; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 00°19'34" EAST ALONG THE WESTERLY LINE OF SAID PARCEL RECORDED IN OFFICIAL RECORDS BOOK 4617, PAGE 990, FOR A DISTANCE OF 103.00 FEET; THENCE CONTINUING SOUTH 34°19'36" WEST ALONG SAID WESTERLY LINE, SAID LINE ALSO BEING THE EASTERN LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 4109, PAGE 167, FOR A DISTANCE OF 660.91 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF OLD HIGHWAY 441 ACCORDING TO LAKE COUNTY RIGHT OF WAY MAINTENANCE MAP BOOK 2, PAGES 2 THROUGH 11, SAID POINT LYING 10.00 FEET MORE OR LESS, NORTHERLY OF THE NORTH EDGE OF PAVEMENT; THENCE RUN NORTH 67°18'51" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE OF OLD HIGHWAY 441 FOR A DISTANCE OF 406.37 FEET; THENCE DEPARTING SAID NORTHERLY RIGHT OF WAY LINE, RUN NORTH 19°31'34" EAST ALONG THE WESTERLY LINE OF LOT 40, OFFICIAL MAP OF MOUNT DORA, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 3, PAGE 39, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, A DISTANCE OF 6.25 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF OLD 441 AS SHOWN ON THE AFOREMENTIONED OFFICIAL MAP OF MOUNT DORA, AS RECORDED IN THE PLAT THEREOF, RECORDED IN PLAT BOOK 3, PAGE 39, OFFICIAL RECORDS OF LAKE COUNTY, FLORIDA; THENCE RUN NORTH 67°24'57" WEST ALONG SAID RIGHT OF WAY LINE FOR A DISTANCE OF 20.03 FEET TO A POINT ON THE CENTERLINE OF NOW VACATED FIRST STREET ACCORDING TO OFFICIAL RECORDS BOOK 143, PAGE 397 AND OFFICIAL RECORDS BOOK 810, PAGE 2089, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, AND, AS SHOWN ON THE PLAT OF SUBDIVISION OF LOT 4 RECORDED IN PLAT BOOK 1 PAGE 76, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE RUN NORTH 19°31'34" EAST ALONG THE FORMER CENTERLINE OF SAID FIRST STREET, FOR A DISTANCE OF 257.50 FEET TO A POINT ON THE SOUTHEASTERLY EXTENSION OF THE SOUTHERLY RIGHT OF WAY LINE OF FAIRVIEW AVENUE AS SHOWN ON SAID PLAT OF SUBDIVISION OF LOT 4; THENCE DEPARTING SAID FORMER CENTERLINE, RUN SOUTH 70°48'21" EAST ALONG SAID SOUTHEASTERLY EXTENSION, A DISTANCE OF 20.00 FEET TO A POINT ON THE FORMER EASTERN RIGHT OF WAY LINE OF AFORESAID VACATED FIRST STREET; THENCE DEPARTING SAID SOUTHEASTERLY EXTENSION, RUN NORTH 19°31'34" EAST ALONG SAID FORMER EASTERN RIGHT OF WAY LINE OF SAID FIRST STREET FOR A DISTANCE OF 413.17 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF AFOREMENTIONED ELEVENTH STREET; THENCE DEPARTING SAID FORMER EASTERN RIGHT OF WAY LINE, RUN NORTH 89°40'31" EAST ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 679.77 FEET TO THE POINT OF BEGINNING.
TOGETHER WITH:

BEING A PORTION OF LAND LOCATED IN SECTION 30, TOWNSHIP 19 SOUTH, RANGE 27 EAST, LYING IN
NOW VACATED FIRST STREET OF THE PLAT OF GARDNERS SUBDIVISION, RECORDED IN PLAT BOOK 1
PAGE 76 PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS
FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 22 OF THE OFFICIAL MAP OF MOUNT DORA,
RECORDED IN PLAT BOOK 3, PAGE 39, PUBLIC RECORDS OF LAKE COUNTY; THENCE RUN SOUTH
89°40'31" WEST ALONG THE SOUTH RIGHT OF WAY LINE OF ELEVENTH STREET FOR A DISTANCE OF
984.77 FEET TO A POINT ON SAID SOUTH RIGHT OF WAY LINE, SAID POINT ALSO BEING THE NORTHERLY
EXTENSION OF THE EASTERLY RIGHT OF WAY OF NOW VACATED FIRST STREET AS SHOWN ON THE PLAT
OF GARDNERS SUBDIVISION, RECORDED IN PLAT BOOK 1 PAGE 76 AND VACATED IN OFFICIAL RECORDS
BOOK 810, PAGE 2089, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, SAID POINT ALSO BEING THE
NORTHWEST CORNER OF BLOCK 24 OF THE OFFICIAL MAP OF MOUNT DORA, RECORDED IN PLAT BOOK
3 PAGE 39, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, THENCE DEPARTING SAID RIGHT OF WAY LINE
RUN, SOUTH 19°31'34" WEST ALONG SAID NORTHERLY EXTENSION AND WEST LINE OF SAID BLOCK 24
FOR A DISTANCE OF 14.40 FEET, FOR A POINT OF BEGINNING; THENCE CONTINUE SOUTH 19°31'34"
WEST ALONG THE EASTERLY RIGHT OF WAY OF NOW VACATED FIRST STREET AND WESTERLY LINE OF
BLOCK 24 FOR A DISTANCE OF 398.77 FEET TO THE EASTERLY EXTENSION OF THE SOUTHERLY RIGHT OF
WAY OF FAIRVIEW AVENUE AS SHOWN ON SAID GARDNER PLAT; THENCE DEPARTING THE EASTERLY
RIGHT OF WAY OF SAID FIRST STREET, RUN NORTH 70°48'21" WEST FOR 20.00 FEET ALONG THE SAID
EASTERLY EXTENSION OF THE SOUTHERLY RIGHT OF WAY LINE, TO A POINT ON THE CENTERLINE OF
NOW VACATED FIRST STREET; THENCE RUN NORTH 19°31'34" EAST ALONG SAID CENTERLINE FOR A
DISTANCE OF 397.90 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF ELEVENTH STREET
PER GARDNERS PLAT AS RECORDED IN PLAT BOOK 1, PAGE 76; THENCE RUN SOUTH 73°18'00" EAST
ALONG SAID SOUTH RIGHT OF WAY LINE FOR A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

SUBJECT TO RIGHTS OF WAY, EASEMENTS, AND MATTERS OF RECORD

CONTAINING 9.85 ACRES MORE OR LESS

SOUTH PARCEL

THAT PORTION OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4109, PAGES 167-168, PUBLIC
RECORDS OF LAKE COUNTY, FLORIDA LYING SOUTHERLY OF OLD HIGHWAY 441 LOCATED IN SECTION 30,
TOWNSHIP 19 SOUTH, RANGE 27 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 22 OF SAID OFFICIAL MAP OF MOUNT DORA;
THENCE RUN SOUTH 89°40'31" WEST ALONG THE SOUTH RIGHT OF WAY LINE OF ELEVENTH STREET FOR
A DISTANCE OF 305.00 FEET TO THE CENTERLINE OF THE NOW VACATED ANNIE STREET PER DEED BOOK
288, PAGE 511, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, AND AS SHOWN ON SAID OFFICIAL MAP
OF MOUNT DORA, THENCE DEPARTING AFORESAID SOUTH RIGHT OF WAY LINE RUN SOUTH 00°19'34"
EAST ALONG THE FORMER CENTERLINE OF SAID ANNIE STREET FOR A DISTANCE OF 149.98 FEET;
THENCE DEPARTING SAID FORMER CENTERLINE OF ANNIE STREET RUN SOUTH 89°40'31" WEST ALONG
THE NORTH LINE OF THOSE CERTAIN PARCELS OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 1272,
PAGE 1658 AND OFFICIAL RECORDS BOOK 4617, PAGE 990, INCLUSIVELY, FOR A DISTANCE OF 160.22
FEET TO THE NORTHWEST CORNER OF SAID PARCEL RECORDED IN OFFICIAL RECORDS BOOK 4617,
PAGE 990; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 00°19'34" EAST ALONG THE WESTERLY LINE OF SAID PARCEL RECORDED IN OFFICIAL RECORDS BOOK 4617, PAGE 990, FOR A DISTANCE OF 103.00 FEET; THENCE CONTINUING SOUTH 34°19'36" WEST ALONG SAID WESTERLY LINE, SAID LINE ALSO BEING THE EASTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 4109, PAGE 167, FOR A DISTANCE OF 660.91 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF OLD HIGHWAY 441 ACCORDING TO LAKE COUNTY RIGHT OF WAY MAINTENANCE MAP BOOK 2, PAGES 2 THROUGH 11, SAID POINT LYING 10.00 FEET MORE OR LESS, NORTHERLY OF THE NORTH EDGE OF PAVEMENT; THENCE CONTINUE SOUTH 34°19'36" WEST ALONG THE SOUTHWESTERLY EXTENSION OF SAID EASTERLY LINE, A DISTANCE OF 96.47 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF CSX RAILROAD, ACCORDING TO LAKE COUNTY RIGHT OF WAY MAINTENANCE MAP BOOK 2, PAGES 2 THROUGH 11, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 34°19'36" WEST ALONG SAID EASTERLY LINE, A DISTANCE OF 76.06 FEET TO A 5/8 INCH, IRON ROD AND CAP STamped LB 6676, SAID POINT BEARS SOUTH 71°17'46" EAST A DISTANCE OF 361.72 FEET AS A TIE LINE FOR GEOMETRIC CLOSURE, THENCE CONTINUE SOUTH 34°19'36" WEST FOR A DISTANCE OF 34.5 FEET MORE OR LESS TO THE WATERS OF LAKE DORA; THENCE RUN NORTHWESTERLY ALONG THE WATERS OF LAKE DORA FOR 363 FEET MORE OR LESS TO A POINT ON THE SOUTHWESTERLY EXTENSION OF THE WESTERLY LINE OF BLOCKS 24, 25 AND 40, OFFICIAL MAP OF MT. DORA, SECOND ADDITION, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 3, PAGE 39, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA; THENCE DEPARTING SAID WATERS OF LAKE DORA, NORTH 19°31'34" EAST, ALONG SAID SOUTHWESTERLY EXTENSION, 40.8 FEET MORE OR LESS TO A 5/8 INCH IRON ROD AND CAP STamped LB 7514 WITNESS, SAID POINT BEARS NORTH 71°17'46" WEST, A DISTANCE OF 361.72 FEET AS A TIE LINE FOR GEOMETRIC CLOSURE; THENCE CONTINUE NORTH 19°31'34" EAST ALONG SAID SOUTHWESTERLY EXTENSION OF THE WESTERLY LINE, A DISTANCE OF 99.77 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF CSX RAILROAD, ACCORDING TO LAKE COUNTY RIGHT OF WAY MAINTENANCE MAP BOOK 2, PAGES 2 THROUGH 11; THENCE RUN SOUTH 67°18'51" EAST ALONG SAID SOUTHERLY CSX RAILROAD RIGHT OF WAY LINE, A DISTANCE OF 381.69 FEET TO THE POINT OF BEGINNING.
EXHIBIT “B”
Final Planned Unit Development for Cottages on 11th
COTTAGES ON 11th. FINAL DEVELOPMENT PLAN
PLANNED UNIT DEVELOPMENT
SECTION 29, T19S, R27E
MOUNT DORA, FLORIDA 32757

DEVELOPER:
CHRISTIAN HOME & BIBLE SCHOOL, INC.
301 W. 13th. AVENUE
MOUNT DORA, FL. 32757

Wicks Engineering Services, Inc.
225 West Main Street, Tavares, Florida 32778
www.wicksengineering.com (352) 343-8667
C.A. #30062

SOILS MAP
AERIAL
LOCATION MAP
INDEX OF SHEETS
1. COVER SHEET
2. SURVEY NOTES
3. SURVEY
4. FINAL PUD
5. FINAL DEVELOPMENT PLAN
6. COLOR RENDERING
Exhibit "B"

- 2 - 2.5" combined caliper Lagerstroemia indica Muscogee MT, 6'X4' min.
- 3 - 1.5" caliper Prunus caroliniana, 6'X4' min.
- 3 gal. Viburnum obovatum 3.0' on center
- SOD (Paspalum notatum - Bahiagrass)
- 2 - 3.5" caliper Quercus virginiana 8' tall min.
- 2 - 3.5" caliper Magnolia grandiflora 8' tall min.

Buffer detail is to illustrate plant material quantity and specifications only. Actual plant material placement may vary.

Landscape buffer irrigated with automatic system.

100 Feet of
Typical 20' Landscape Buffer
not to scale
The Cottages on 11th Planned Unit Development (PUD) Design Guidelines

1. Overall Architectural Design and Layout
   a. The lots will be draped with patterns by the development's form and encourage neighborhood interaction. The site plan is designed to take advantage of the existing topography of the site. A few smaller changes to existing trees where needed.
   b. The conceptually will set the tone and the entrance signage will be undertaken with complimentary landscaping.
   c. With the private site concept, the lot designs will be woven into the existing neighborhoods by having 25% of the site boundary (25% of the site area, and not each lot) border other projects and adjacent properties.
   d. The open front yard design will be enhanced with elements such as pergolas and lattice.

2. Architectural Styles and Elevation
   a. The architectural style emphasis will create a variety of home conditions in accordance with existing architectural build in the Lake Doro neighborhoods.
   b. The conceptually will set the tone and encourage the design subject to the Board of Commissioners, Conditions and Specifications.
   c. The architectural style guidelines will provide for an authentic colonial theme in the design.
   d. The open front yard design will be enhanced with elements such as pergolas and lattice.
   e. The open front yard design will be enhanced with elements such as pergolas and lattice.
   f. The open front yard design will be enhanced with elements such as pergolas and lattice.
   g. The open front yard design will be enhanced with elements such as pergolas and lattice.
   h. The open front yard design will be enhanced with elements such as pergolas and lattice.
   i. The open front yard design will be enhanced with elements such as pergolas and lattice.
   j. The open front yard design will be enhanced with elements such as pergolas and lattice.
   k. The open front yard design will be enhanced with elements such as pergolas and lattice.
   l. The open front yard design will be enhanced with elements such as pergolas and lattice.
   m. The open front yard design will be enhanced with elements such as pergolas and lattice.
   n. The open front yard design will be enhanced with elements such as pergolas and lattice.
   o. The open front yard design will be enhanced with elements such as pergolas and lattice.
   p. The open front yard design will be enhanced with elements such as pergolas and lattice.
   q. The open front yard design will be enhanced with elements such as pergolas and lattice.
   r. The open front yard design will be enhanced with elements such as pergolas and lattice.
   s. The open front yard design will be enhanced with elements such as pergolas and lattice.
   t. The open front yard design will be enhanced with elements such as pergolas and lattice.
   u. The open front yard design will be enhanced with elements such as pergolas and lattice.
   v. The open front yard design will be enhanced with elements such as pergolas and lattice.
   w. The open front yard design will be enhanced with elements such as pergolas and lattice.
   x. The open front yard design will be enhanced with elements such as pergolas and lattice.
   y. The open front yard design will be enhanced with elements such as pergolas and lattice.
   z. The open front yard design will be enhanced with elements such as pergolas and lattice.

3. Landscape
   a. There will be a site landscape plan as a part of the project. The plan will be subject to the approval of the Board.
   b. The site landscape plan is subject to the approval of the Board for review and approval.
   c. The site landscape plan is subject to the approval of the Board for review and approval.
   d. The site landscape plan is subject to the approval of the Board for review and approval.

4. Public Art Contribution
   a. An amount of $100,000 to be paid by the developer of the time of project development certificate of completion. No lots are vacant at the present time for this purpose.
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FOREWORD

PURPOSE

The purpose of these Design Standards is:

1. Establish a design standards vocabulary;
2. Create minimum design criteria;
3. Encourage and preserve the best design and construction standards possible.

OBJECTIVE

The overall objective of the design standards process is to create a neighborhood that is consistent with the existing architecture of Mount Dora and foster designs of architectural interest and create a warm and welcoming environment that will make the community one of the premier residential communities in Central Florida.

All design solutions should include:

(a) Timeless Architecture;
(b) Unique, well-apportioned, traditional and quality elevations, and functional plans;
(c) Sensitive approaches to surrounding structures;
(d) Creative use of the natural terrain

ARC

The Architectural Review Committee (ARC) has been established by the Declarations of Covenants, Conditions and Restrictions of the Cottages on 11th to oversee all developments and insure the achievement of the objectives of Cottages on 11th. As provided in this Design Standards Manual, all plans and specifications are required to be reviewed and approved by the ARC. This Design Standards Manual contains guidelines for the development of such plans and specifications. This Design Standards Manual may be amended at any time by the ARC, in its sole and absolute discretion. The Owner and his consultants should review the ARC Design Standards and consult with the ARC to ensure compliance.
A. GENERAL

All Improvements must be constructed in accordance with detailed plans and specifications prepared in conformance with all applicable Governmental Regulations and approved by the ARC and as more particularly provided in the Declaration of Conditions, Covenants and and Restrictions (the “Declaration of Conditions, Covenants and Restrictions”).

All Improvements placed, located, erected, constructed and installed upon Residence shall conform to and comply with all applicable Governmental Regulations, including, without limitation, all building and zoning regulations of the County.

B. EASEMENTS

Each Lot is served with underground electricity, TV cable, telephone, natural gas, and water. The location of these utilities within the right-of-way and on-site should be confirmed in the field.

All utility company pull boxes, transformers, etc., have been set within the easements or rights-of-way. Future grading around these structures shall insure proper drainage. Planting shall be installed by each lot owner in a manner that reduces the visual impact of these structures.

All utility lines and facilities shall be located and installed underground, concealed under or within a building setback or other on site improvements approved by the ARC; provided, however, that the foregoing restriction shall not be deemed to prohibit the following: (a) temporary electric power and telephone service poles and water lines which are incident to the ongoing construction of approved permanent improvements, and, provided further, that the same are removed immediately following the completion of such construction; (b) above ground electric transformers, meters and similar apparatus properly screened as specified in the Design Standards Manual or as otherwise approved by the ARC; (c) permanent outdoor lights located and installed in conformance with the applicable provisions of the Design Standards Manual, or as otherwise approved by the ARC.

C. BUILDING SETBACKS

No part of any building shall be constructed, erected, placed or installed any closer to the property boundary lines of Residence than as follows.

Front Yard - No closer than twenty five (20) feet to the front yard property line for first floor and twenty-five (25) for second floor. Variable front setbacks will be encouraged by the ARC to reduce streetscape monotony. Two story homes on Lots 4,5,6,7,8,16,17,18,19,20 shall be setback twenty-five (25) feet from the front lot line.

Rear Yard –

Shall be ten (10) feet to the rear yard property boundary line except for Lots 9,10,11,12,13,14 and 15 which shall be five (5) feet to the rear yard property boundary line.

All garage doors must be twenty-two (22) feet minimum from front or rear property line.

Side Yard – Five (5) feet to the side yard property line for 1st floor wall.

Swimming Pools - No closer than the otherwise established side yard building setback line of five (5) and no closer than ten (10) feet to any rear yard property line. No swimming pools shall be constructed in front yards. No swimming pools shall be constructed in side yards, unless the pool and pool deck are contained within the limits of the building structure on the side of the residence or garage.
Pool Decks, Patios and Enclosures: No swimming pool deck may be constructed nearer than ten (10) feet from any rear yard property line or private drive easement and five (5) feet to the side yard building setback line to any side yard property line. This includes patios, whether constructed of concrete, cool deck, pavers, aggregate wood or any other material.

Mechanical Systems: Air-conditioning equipment, swimming pool equipment and electric generators shall not be located in any front yard. Air-conditioning equipment, swimming pool equipment and electric generators may be located in the side yard if totally shielded from view from the street by shrubbery or walls and fences otherwise complying with the zoning code. Air-conditioning equipment may be located up to ten feet from a rear lot line as long as they are adjacent to the accessory structure or principal structure.

Other Detached Structures: Roofed, trellised or any structures shall recognize building setbacks and may not be constructed nearer than fifteen (15) feet from any rear yard property line and five (5) feet to the side yard building setback line to any side yard property line.

D. DRIVEWAYS and CURB CUTS

Vehicular access to each Lot on Residence shall be through or over such driveway and curb cut as shall be approved by the ARC prior to construction. The location, size and angle of the approach of all driveways and curb cuts shall be subject to the approval of the ARC. Lots # 1,2,3,4,5,6,7,8,16,17,18,19,20,21,22,23,24 and 25 will all be required to have rear loaded garages. Lots # 9,10,11,12,13,14,15 and 26 will be required to have front or motor court entry garages. Lot # 27 garage will be designed to enter from the front or rear of the lot. No curb cuts will be allowed on 11th Ave and the main boulevard.

All driveways, turnarounds, entry sidewalks, and parking areas shall utilize, decorative (brick) pavers as approved by the ARC. Each driveway shall extend the entire distance from the garage door to the “back of the common concrete sidewalk” in front of or adjacent to the Lot on which such driveway is constructed and to the edge of pavement of the private drive when applicable. Pavers shall also be placed within the area of the driveway between the “back of curb” and the “front of sidewalk.” Driveways shall be placed no closer than two and one-half (2.5) feet from the side property line.

E. DRAINAGE

All storm water from any lot shall drain in accordance with the Lot/Block Grading Plan approved by City of Mount Dora. Storm water from any Lot shall not be allowed to drain or flow onto, over, across or upon an adjacent lot unless a drainage easement shall exist therefore. No Owner shall be permitted to change the direction of, obstruct or retard the flow of surface water drainage as designed on the Lot/Block Grading Plan.

Manipulation of the ground surface within the individual lots must consider overall drainage and the impact of berming both within the site and as it meets the adjacent land functionally and aesthetically. All berms and/or swales may be incorporated by the builder to achieve specific drainage requirements and same shall be designed as gently rolling, free form ground sculpture and otherwise in accordance with the plans for the Surface Water Management System.

Cottages on 11th has incorporated a major drainage system through the entire community, which is designed to accept individual lot drainage water at designated points. Lots must drain by positive drainage flow as much as possible in accordance with the approved Grading Plan.
Section 2: ARCHITECTURAL STANDARDS

A. GENERAL

Each residential design shall be reviewed by the ARC on its own merits. Any special approval or consent of the ARC which can be interpreted as a variance or deviation from these Standards, but which forms a unique feature of a particular design, will not be considered a precedent for any other future designs and can very well be disapproved or rejected by the ARC when submitted on another submission.

B. FLOOR PLAN

The minimum square footage of air-conditioned area shall be 1800 square feet per dwelling

Access to main door should be emphasized.

Plans should strive to allow the abundant use of natural lighting in all spaces and to accentuate the semitropical climate of Florida.

Ceiling heights should be a minimum of 10'-0" for the first floor for flat ceilings and 9'-0" for the second floor.

C. ELEVATIONS and FACADES

No Improvement on Residence shall exceed thirty-five (35) feet in height from the “natural grade” at the front door, except as expressly permitted by the ARC. Each residential dwelling on a Lot shall consist of not more than two (2) full stories (not including basement) unless otherwise approved in writing by the ARC.

The facades should feature special attractions such as a prominent main doorway, loggias, gates, fountains, special windows, chimneys, etc. Porches and Second floor balconies are encouraged when applicable. Corner lots are required to have side facades of interest matching the architectural style of the home.

Variety in building massing is encouraged. Varied roof heights which give interest and animation to the building are considered desirable.

Windows and doors shall make up 30% of the primary front facade

Acceptable wall finishes shall include wood, cementitious siding, stucco, brick and natural stone finishes as more particularly described in Section H. No exposed concrete or block will be allowed. No foam type material will be allowed.

The use of ornamentation as an accent for entrances, windows, or as focal points is an appropriate expression of these standards. While design creativity is expected and encouraged, it must be kept in mind that traditional motifs are timeless. The term "ornamentation" shall be interpreted to mean a special attraction; not "gingerbread," which is and will be discouraged.

Operable shutters are permitted as protection to windows whenever these shutters are appropriate to the dwelling design.

Awnings above windows, shutters, shutter dogs, doors or other openings are allowed subject to the approval of the ARC. The best quality materials are required. Awnings must relate to the overall design and must be maintained in good, like new condition.

D. OUTBUILDINGS and ACCESSORY STRUCTURES
Exhibit "C"

All outbuildings and accessory structures must be of a design complimentary to the main residential structure and shall be located within the building setback lines otherwise established for the Lot, unless otherwise approved in writing by the ARC. ARC approval is required, prior to the construction or erection of any outbuilding.

E. GARAGES

Each residence shall have a garage as an appurtenance thereto. All garages shall be for not less than two (2) standard sized passenger automobiles. Detached garages or garages for more than three (3) automobiles must be specifically approved by the ARC. Extra back-up and turn around spaces are encouraged.

Minimum Dimensions - A minimum distance of twenty-two (22) feet shall be provided in front of garages for parking and turn around space, except on corner lots a minimum distance of twenty-two (22) feet may be permitted in front of a garage. Each garage shall have a minimum width, as measured from inside walls, of ten (10) feet for separated single cars and twenty (20) feet for two car garage and a minimum depth of twenty (20) feet for all garages unless otherwise approved by the ARC. Eighteen (18) foot wide garage doors are recommended for Lots #1, 2, 3, 4, 5, 6, 7, 8, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25.

All garages shall be designed, erected, constructed, installed or maintained in such manner that the garage doors thereof shall be of architectural interest and compliment the style of the residence. Additional landscaping or other efforts shall be taken to minimize the impact of a courtyard style garage entry to the street and adjacent residence.

All Garge Doors must ne approved by the ARC. Garage doors must be operated by electric door openers. All garage doors must be the same height and style. Garages are encouraged to contain appropriately sized storage areas as approved by the ARC.

F. ROOFS and ROOF STRUCTURES

The roofs of the main body of all buildings and other structures, including the principal residence, must be approved by the ARC. All roofs shall be in keeping and compatible with the architectural style of the home Flat roofs shall be permitted with the approval of the ARC.

All roofs shall be constructed of architectural shingle, clay tile, cement tile, slate, standing seam metal, copper, TPO systems or other materials or as otherwise approved by the ARC. All roof material and colors must be approved by ARC.

Fascia shall be a minimum of eight (8) inches. Overhang depths shall be minimum of 12” from the face of the wall unless approved by the ARC. Roof overhangs may extend into setbacks a maximum of 2'-0”.

No antennas, windmills, appliances, rooftop attic ventilators, fans, solar collector panels or other rooftop installations or structure of any type shall be placed, located, erected, constructed, installed or maintained upon the exterior roof of any building or structure unless the same shall first be approved in writing by the ARC and shall otherwise be erected, constructed, installed and maintained on the rear yard side of the roof or otherwise in such manor and at such location that the same shall not be visible from any street or neighboring residences.

Chimneys shall be designed to coordinate with the general theme of the residence. Metal chimneys and ventilator cap designs shall be approved by the ARC. Metal flashing, gutters, downspouts and any other exposed sheet metal may not be unfinished metal, except copper. Gutters must be properly integrated into the roof design.

Skylights and solar collectors must be integrated as part of the roof design and are subject to the approval of the ARC. No roof mounted mechanical equipment other than skylights and solar collectors shall be permitted.
G. SWIMMING POOLS AND POOL SCREENS

No swimming pools shall be enclosed by any screen, screening or other enclosure or under roof of any kind unless the same shall be located entirely within the extension of the side walls and below the roof line of the main residential dwelling. The enclosure shall be defined and dominated by architectural elements that are consistent with the style and structure of the main building. So far as it is possible, the screening must be blended in with the architecture in such a way as to ensure it has minimal visual impact and shall be an integral part of the main building. All pools shall be subject to approval by the ARC.

H. MATERIALS AND COMPONENTS

One of the most important objectives for the selection of materials is longevity. The materials used should give the appearance of permanence. They should state the refinement and gracious elegance of the architecture. Only the best quality materials will be allowed.

Recommended exterior finish materials include: Composite/Cementitious siding, Exterior grade painted wood, , Tile, Color Fast Sheet Metal, Artificial or cast stone, and Stucco. Cast or wrought iron gates, grilles, ornaments, etc. Leaded or stained glass. Fiberglass screening and Others as approved by ARC.

Doors - All exterior doors must be made of exterior grade wood, fiberglass (or similar), or insulated metal. Panel and French type doors are encouraged. Unless otherwise approved by the ARC, all entry doors must have a minimum height of 8'-0". The use of transoms is recommended.

I. WINDOWS

The windows of all buildings on residence shall have frames and window hardware, if any, constructed of materials conforming with the applicable provisions of the Design Standards Manual. In no event shall raw or silver aluminum windows be permitted. If "mutins" are used on the windows on the front elevation, then the windows on the side elevation must also have mutins. All mutins must be of the "raised-profile" design. All window openings shall be recessed or banded as determined by the ARC. Windows on the second floor must feature the same “recess from finished surface of exterior wall” as the windows on the first floor. No single pane and/or glass block windows shall be permitted on exterior elevations.

No reflective or mirrored glass shall be used on, in or for the windows or doors of any buildings or other Improvements constructed upon residence. No tinted windows or doors shall be permitted unless first approved by the ARC in writing taking into account the degree of tinting and the aesthetics of the Improvements involved.

No window of any building or other Improvements constructed upon Residence shall be covered by any awnings, canopies, shutters, (including hurricane or storm shutters), boards, or similar type window coverings, except as approved by the ARC or such as may be required for protection from storms and only then during the period of any such storm. Nor shall any such windows be covered by or coated with any foil or other reflecting or mirrored materials. The foregoing restriction shall not be construed as a prohibition against decorative exterior shutters located to the side of window openings or as a prohibition against suitable awnings located over or above window openings.

J. COLOR

This Design Standard considers the most delicate compliment to the architectural expression to be color. Bright colors will be discouraged. The color of the roof is expected to enhance the overall appearance of the building. Copper metal roofs must not be painted and should be allowed to weather. Solid primary colors, including black are not permitted. All color selections are subject to approval of the ARC.
Prior to requesting ARC approval, a sample paint swatch of 3’ x 3’ shall be applied to the residence on the front elevation. The sample shall be painted with the body color of the house with a 6-in band of the trim color abutting the body color. If more than one swatch is displayed, they must be clearly labeled. A paint chip or sample swatch must also be provided indicating the brand, color number and name (or formulation) with the submittal of the residence.

K. WALLS AND FENCES

No fences or walls shall be erected on residence unless approved in writing by the ARC. The use of fences is discouraged and should be limited to areas requiring privacy or safety (i.e. swimming pools, garden courtyards) or for concealment of service areas (trash containers, mechanical equipment, etc.). All service areas must be screened from view of adjacent properties. The use of decorative knee walls and front courtyard walls with opening or gates will be required on Lots # 4,5,6,7,8,16,17,18,19 and 20. For more detail requirements refer to Section 3 Landscape Design Standards.

Other than those constructed by Developer and/or the Association within the Wall and Landscape Easements, no fences or walls shall be erected on Residence unless approved in writing by the ARC.

The height of all fences or walls shall be subject to the control and approval of the ARC. All fences and walls shall be constructed of aluminum, wrought iron, brick, stucco or other masonry materials. Aluminum and wrought iron fences shall be bronze, black or pewter finish. Exceptions to such specifications may be permitted by the ARC, in its discretion; provided, however, that in no event shall chain link or wood fences be permitted, unless constructed on a temporary basis by the Developer. Decorative knee-wall or front courtyard fences must be approved by the ARC.

L. GARAGE AND TRASH CONTAINERS

All garage and trash containers (standard trash containers as approved or provided by the County) shall be placed within enclosures approved by the ARC or behind opaque walls made a part of the dwelling constructed on each Lot. Said containers shall only be set out on the day of the pickup and shall be collected on the day of the pickup. In no event shall such items be visible from any neighboring property, whether private or public.

M. AIR CONDITIONING EQUIPMENT

All air conditioning compressors and other equipment located outside of residential dwelling shall be screened from the view of street and road rights way, and adjacent Lots by opaque walls or landscaping attached to and made a part of each single family residential dwelling and otherwise in conformity with the applicable provisions of the Design Standards Manual or as otherwise approved by the ARC. Absolutely no window or roof mounted air conditioning units shall be permitted, except in the case of extended electric power outage conditions in the subdivision.
Section 3: LANDSCAPE DESIGN STANDARDS

A. GENERAL:

The plant materials chosen for the avenues, entrances and common areas are indicative of the community's commitment to establish the natural character of landscape. The plantings must be able to stand up to the rigors of the Central Florida climate, with its cold winters, tropical summers and hot sun while creating exterior living space and allowing for privacy.

Boundaries between lots should be soft and landscaping between neighboring lots must flow into each other without creating an abrupt edge. The plantings on each lot must work within the overall community framework to achieve a continuity of landscape, rather than a hodgepodge of disparate elements.

All landscaping plans must meet Florida Friendly Landscape requirement guidelines. https://ffl.ifas.ufl.edu/homeowners/publications.htm

B. LANDSCAPING MATERIALS:

Each Lot shall be landscaped in accordance with a landscape plan which is (a) in conformance with the applicable provisions of and using the plant pallet specified in the Design Standards Manual (b) incorporating the required trees and landscaping and (c) otherwise approved by the ARC.

Required Trees - At the time of landscape installation following home construction, the lot owner shall be required to purchase, install and maintain one (1) new 3.5" caliper Live Oak (Quercus virginiana) or one (1) new 3.5" caliper Southern Magnolia (Magnolia Grandiflora) street tree to be located in the street facing yard in accordance with a landscape plan approved by the ARC. The requirement to plant a street tree may be waived by the ARC, if, in the discretion of the ARC, the existing trees and/or plants should be preserved in lieu of the new street tree. A minimum of two (2) - 2” caliper understory trees shall also be required. Understory trees may be single trunk or multi-trunk from the list of approved understory trees attached.

Minimum Landscape Standard - Upon the completion of home construction and prior to receipt of the certificate of occupancy for the dwelling, landscaping, sod and irrigation shall be installed. The landscape budget shall be $6,000 minimum, and may adjusted from time to time. The budget shall include street trees, accent trees, shrubs, and ground cover plants arranged in a landscape design approved by the ARC. The budget does not include sod, irrigation, hardscape features, or earthwork.

All landscaping approved by the ARC shall be installed in conjunction with the construction of the main residential dwelling on a Lot and prior to receipt of the certificate of occupancy for such dwelling. The lot landscaping, including, without limitation, the trees, shrubs, lawns, flower beds, walkways and ground elevations, shall be maintained by the Owner, unless the prior approval for any change, deletion or addition is obtained in writing from the ARC.

Turf - Drought tolerant sod of a variety other than Bahia (Paspalum notatum) shall be installed on the lot. Partial sodding or seeding is prohibited. The use of ground cover and planted beds are encouraged to minimize turf areas.

Irrigation - An automatic irrigation system shall be professionally designed, permitted and installed to cover 100% of the landscape area on the lot, and the turf right of way areas directly adjacent to the lot.

Artificial vegetation shall not be permitted anywhere on the lot.
Landscape Standards

The landscape of the home is an important area where appropriate use of plant material and design of an efficient irrigation system can contribute to the home’s certification. The use of drought tolerant plants as well as drip or micro jet irrigation systems is encouraged. Where possible the elimination of irrigation can also be considered.

A. Sustainable Landscapes

Principles and Practices – A sustainable landscape is a landscape that requires minimal water, fertilizer, pesticides, and labor to maintain and should be constructed of renewable, durable and ecologically sensitive building materials. Sustainable landscapes should be:

- Functional – Functionality should address the processes of activities occurring within spaces and the relationship of the spaces to the surrounding landscape and built architectural environment.
- Maintainable – a sustainable landscape minimizes the need for fertilizers, pesticides, equipment and water, thus lowering maintenance labor costs and making maintenance operations easier.
- Environmentally Sound – Successfully choosing the right plant for a specific location and purpose can dictate the amount of environmental, disease, and insect stress that a plant can tolerate.
- Cost Effective – In many cases, the installation cost of a sustainable landscape may be less and the ongoing maintenance costs lower, resulting in considerable savings throughout the life of the landscape.

B. Sustainable Practices

Soils – In order to determine soil chemistry, organic content and the need for any soil amendments, a soils test by a qualified professional testing agency is recommended.

Mulching – Mulching with organic, renewable mulches is required. All shrub, groundcover and seasonal color beds require mulching and must be maintained at a 3” minimum depth. All tree plantings require a minimum 2” diameter mulch saucer surrounding the trunk at its base at the time of installation and be maintained at a 3” minimum depth. Use of cypress, rubber, colored or synthetic recycled mulches are not allowed.

Irrigation – The irrigation should be efficiently designed including individual zones according to plant needs, separation of sod from shrub and groundcover zones and the use of time clocks and rain gauge shut off sensors. Drip irrigation should be utilized where possible to deliver water directly to the soil minimizing loss through evaporation. All roadway tree planting strips, front, rear and side yards must be irrigated by the homeowner.

C. Principle Landscape Zone

Public Zone – This zone includes the area from the curb to the outside edge of the sidewalk. Fronting residential lots, this layer extends the length of each block and provides continuity within the streetscape typically in the form of a continuous lawn or ground cover panel and irregularly spaced street trees and or palms.

Semi-Public Zone – This area is the transition zone between public space and private space. This zone begins at the outside edge of the sidewalk and extends to the base of the porch and/or house. Here, the front yard and street side yard lawn, plant beds, fences, and walls establish privacy boundaries, define the entry and accentuate architectural features.

Semi-Private Zone – The private zone is defined by the front edge of the porch and the primary façade of the building. Slightly raised above the sidewalk elevation and comfortably set back, this semi-private space allows for landscape pots, hanging baskets and window boxes.

D. Landscape Elements

Overhead Elements – Large canopy trees provide spatial definition, shade and a buffer between the street and the semi-private zone. Their canopies provide a sense of enclosure and comfort in
the form of shade at the sidewalk and create the framework for smaller “garden rooms” of ornamental trees and shrubs within the semi-public zone or transition zone.

Eye-Level Elements – This layer creates comfort and visual interest through the use of human-scaled elements such as hedges, walls, columns and fences, and perennial borders. These elements provide separation between the public and semi-private zones, define entries and help to visually and physically connect the home to the surrounding landscape or streetscape. Ground-Level Elements – Ground-level elements include groundcover, low hedges, potted plants and paving. They should be an extension of the architecture of the house in that they frame private entrances, respecting the edges of the home, porch, sidewalk and property lines.

E. Landscape Design

The use of these elements in the design of the landscape is similar to the design process for the home. The landscape design should be specific to the lot in consideration of size, context, orientation, relationship to the street and views. The design should contemplate the flow of interior to exterior spaces, both public and private and appropriateness to the architectural style. Plant specific considerations should include the site’s soil type and moisture content, solar orientation and microclimates as well as existing and historic vegetation.

The landscape character should, in general, be ordered, full and well composed rather than random, sparse and scattered. Trees, shrubs and groundcovers should be massed in groupings to compliment the architecture, define entries, relate to the sidewalk and the street and define outdoor spaces.

All facades facing a public thoroughfare or public space must have a continuous foundation planting except where precluded by building access or parking areas. A minimum of fifty percent of this face must have a 4’ deep shrub and/or groundcover bed.

Preservation of existing landscape is highly encouraged. If existing vegetation is not present for preservation, the design of the landscape is encouraged to provide new residential landscapes that are sustainable and harmonious with the site’s natural ecosystems. Refer to the Approved Plant Palette for a list of recommended plant species, although other plant materials may be used pending review by the ARC. The use of qualified sources such as landscape architects, landscape contractors and landscape nurseries are highly recommended for the landscape design. All landscape material shall meet or exceed the grade of Florida #1 according to the Standards of the current edition of American Standard for Nursery Stock

F. Plant Selection and Design

Landscape plans will be reviewed by the ARC and evaluated using the principles of Florida Friendly Landscape requirement guidelines. [https://ffl.ifas.ufl.edu/plants] Planting plans will be reviewed for compatibility with the adjoining lot or common area.

The approved Plant Palette shall be used as the basis for design. Variations from this list must be requested as a waiver and will be considered on a case by case basis. All plants should be fully acclimated for USDA Plant Hardiness Zone 9b.

G. Street Trees and Street Side Parkways

The individual lot owner is responsible for installation and maintenance of the landscape within the parkway or parkways adjacent to the lot. Trees required to be planted in the parkway are shown on the Cottages on 11th Tree Plan. Zoysia sod is required in the area between the sidewalk and the curb. No other trees are to be planted in the parkway. A detail planting plan must be included in the landscape plan submittal for planting of any required oak trees within the parkway. Walkway connections between the sidewalk and curb must be approved by the ARC prior to installation and cannot be no wider than five feet (5’).

H. Site Screening – Walls, Fences and Hedges
Walls, fences and hedges have traditionally been used to create a sense of enclosure and to define the bounds of the private lot both on the street and in between house lots. They provide for transition from the public zone of the street to the private zone of the front lawn or porch. Low fences, hedges or walls should also be utilized to screen utilities and trash containers from the public zone.

Walls  Front, Street Side (Public), and Rear Yards

Maximum Height: 30” (with posts or columns being a maximum of 36”). Side yard walls adjacent to the public rights of way may be taller to create private spaces or courtyards within the private zone of the lot and require individual case by case review.

Placement: Shall be placed between 18” and 3’ from back of sidewalk with an opening or gate and associated columns at access walks. In no case shall any wall, or portion thereof, be placed closer than 5’ from the rear property line if the home is rear loaded.

Materials and Styles: The style, scale, and materials shall be compatible with the home. Brick or stucco over block depending on architectural style. Fence and wall combinations are allowed as long as they are within the opacity requirements for the zone. Columns should have simple decorative caps.

Special Requirements: Provide landscape/hedge on the public side of the wall (where visible from the street, alley, or common area). Low walls can be utilized to retain grade changes from the semi-private zone of the lot to the public zone of the sidewalk. Maximum grade change from front to back of wall is 30”. When installed in a drainage easement, wall may not impede or block any planned surface flow.

Fences  Front Yard and Street Side Yard (Public Zone)

Maximum height: 30” (with posts or columns being a maximum of 36”) Side yard fences adjacent to the public rights of way may be taller to create private spaces or courtyards within the private zone of the lot and require individual case by case review.

Placement: Shall be placed between 18” and 3’ from back of sidewalk with an opening or gate and associated post or columns at access walks. Front yard fences should be continuous around the perimeter of the front yard.

Materials and Styles: The style, scale, and materials shall be compatible with the home. Picket in white painted wood, wrought iron, black or bronze aluminum (resembling iron), or a combination of aluminum with brick or masonry piers. The individual pickets on metal fences in the front and side street yards shall rise above the topmost horizontal rail. An exception may be made if the fencing is located on top of a retaining wall. Fence and wall combinations are allowed if they are within the opacity requirements for the zone. Posts should have simple decorative caps. Structural support elements shall be located on the private zone (Behind the fence) or centered along the main axis with the infill material of the fence.

Special Requirements: Provide landscape/hedge on the public side of the fence (Where visible from the street, alley, or common area). When fences are installed in sloping conditions, the top rail must be level. Changes in grade should be accommodated by stepping individual panels up or down depending upon grade change.

Side, Private Drive & Rear Yards (Private Zone)

Maximum height: 6’ measured from private drive grade

Maximum opacity: May be 100% opaque (solid) except along the alley and corner lots.

Placement: Fences that do not meet the Front Yard and Side Street Yard requirements may not encroach front façade zone and shall be no closer than 8 feet from the front corner of the home. May extend to and be placed on property lines between lots. Fencing shall not be located in utility
Exhibit "C"

easements. When installed in a drainage easement, fencing shall not impede or block any planned surface flow. In no case shall any fence be placed closer than 25’ from the rear property line if the home is rear loaded. If installed on a common property line the fence shall be set 6” within the property line of the lot on which the fence is to be installed.

Materials and Styles: The style, scale, and materials shall be compatible with the home. Materials may include white painted wood, white PVC, wrought iron, and black or dark bronze aluminum (resembling iron). Fence and wall combinations are allowed as long as they are within the opacity requirements for the zone. Posts should have simple decorative caps. Structural support elements shall be located on the private zone (behind the fence) or centered along the main axis with the infill material of the fence.

Special Requirements: Provide landscape/hedge on the public side of the fence (where visible from the street, alley, or common area) When fences are installed in sloping conditions, the top rail must be level. Changes in grade should be accommodated by stepping individual panels up or down depending upon grade change.

Hedges

Materials: Evergreen

If used for screening, height shall be set such that it achieves its objective. Hedges are to be reviewed by ARC as part of overall landscape design.

For purposes of fence location, the back of the front yard zone and start of the side yard zone is defined as the greater of either the back of the Front Façade Zone (FFZ) or 8’-0” behind the front corner of the main body of the home.

I. Hardscape Materials and Elements

Horizontal Surfaces

Horizontal surfaces in the landscape include paving for pedestrian walks and spaces, vehicular drives and parking area. These elements should be simple in design and texture and soft in color. They are the common elements that tie outdoor spaces and vertical elements together. Hardscape paving materials provide opportunity to utilize materials expressive of the region and indigenous to Florida. Paving materials adjacent to the public zone of the streetscape should be compatible in material, color and texture. Paving materials in the private zone should be complimentary to the landscape design as well as compatible with the vertical hardscape elements and the architectural style of the home and Cottages on 11th.

Vertical Elements and Structures

The landscape may include columns, trellises, pergolas, or gateway elements to support vines or other plant material and larger shade structures, such as gazebos or pavilions. Vertical hardscape elements should be expressive of the region and in keeping with the scale and style of the architecture of the home and Cottages on 11th. These can be used to accentuate entries, direct views, define boundaries, shade walks and terraces and provide scale and comfort to spaces in the landscape. Vertical elements adjacent to the public zone of the street sidewalk should be in scale with the space and provide for a complimentary streetscape with that of the adjacent lots and overall character of the community.

J. Lot Landscape Criteria Lot Landscape Zone Definitions

Each lot within Cottages on 11th can be generally separated into four areas: the front yard, side yard, private zone and alley yard. Each of these yard areas serves a different function and therefore has a different approach to the type of landscape material.
Front Yard: The Front Yard serves as a transition zone between the public and private zone environment of the homeowner. The yard also helps create an edge to the pedestrian environment in the public zone.

Side Yard: The Side Yard can be used as a buffer or an accent area for the Private Zone.

Private Zone: Contained by the Front, Side, and Alley Yards, the Private zone is the area that is most appropriate for outdoor entertaining

Alley Yard: The main purpose of the Alley Yard is to disrupt the repetition of garage facades.

E. IRRIGATION SYSTEM:

Irrigation or sprinkling system shall be installed prior to or simultaneously with the implementation of the landscape plan approved by the ARC. All work shall be done in accordance with local codes.

One Hundred Percent Coverage - All landscaped and open areas which are to be with low water sod on Residence (including such areas which are within road rights way adjacent to and contiguous with the Residence) shall be irrigated by means of an automatic underground irrigation or sprinkling system capable of regularly and sufficiently irrigating all lawns and plantings within such open areas.

Rain Sensors - All irrigation systems shall be installed with rain sensors.

Hidden Controls - The irrigation system shall be designed so as to blend into the landscape when not in operation. Pop-ups shall be used where practical. Risers shall be painted to blend into the landscape. All valves shall be buried in Ametek (or equal) valve boxes. Backflow preventers shall be located in planting beds with material of sufficient size to hide it. Controllers shall be located inside of garages or otherwise out of street view.

F. EXTERIOR LIGHTING:

Exterior lighting or illumination of buildings, yards, parking areas, sidewalks and driveways on a Lot shall be designed and installed so as to avoid visible glare (direct or reflected) from street and road rights-of-way, and all other Residence. All exterior lighting shall conform to and with the applicable provisions of the Design Standards Manual. Special exceptions to such specifications may be approved by and within the discretion of the ARC upon a showing of good cause therefor.

Exterior lighting is often the only way to perceive a landscape at night. It can not only serve as a strong design element but can provide direction and safety. Overall principles for lot lighting will embody the following:

1. All exterior light fixtures shall be approved in advance by the ARC.

2. Above-grade flood lights for the lighting of trees and plantings shall be concealed as much as possible by shrubs to prevent daytime visibility. These fixtures are not allowed in grass areas visible from the street or adjacent property. They shall be installed and shielded so as not to produce glare into neighboring properties and streets.

3. Where below-grade fixtures are used to up-light trees, standards shall conform to those listed above for flood and spotlight fixtures.

4. All outdoor fixtures to use incandescent lamps or LED lighting within the warm color spectrum(3500k or lower). No colored lamps will be allowed, e.g. red, green, blue, and amber.

5. Avoid excessive spill lights on buildings, garage doors, driveways, etc. to allow full quality effect of the landscape lights.
6. All exterior wall mount or ceiling mounts "decorative" fixtures to be of high quality and in conformance with the house architecture. Only incandescent or gas lamps will be allowed.

7. All security lighting must be approved by the ARC.

8. Walk lights placed in grass areas or adjacent to walkways in shrub or groundcover areas must use below grade junction boxes to minimize the daytime visibility of the hardware.

9. The ARC recommends field testing of all fixture location at night, prior to final installation.
GENERAL CONDITIONS OF THE ARC ARCHITECTURAL DESIGN STANDARDS:

The ARC will review and act on all plans and specifications submissions within thirty (30) days of receipt. All plans must be approved before submission to the city for a building permit.

Revisions to the Design Standards become effective fourteen (14) days after the adoption by the ARC.

Two (2) sets of plans and specifications must be submitted and received at least two (2) days prior to the ARC meeting and must include:

a) Two copies of the attached ARC submittal form. Submittal form should include all pertinent information regarding the builder, architect and owner, including name, address, phone and e-mail address.

b) Two site plans clearly indicating building location, all setbacks, proposed clearing, grading and drainage.

c) Two final construction plans including all elevations, floor plans with square footage, truss plans. Window and door sizes and ceiling heights must be clearly labeled. (Submittal of foundation plans, construction details, engineering and framing/truss plans is discouraged).

d) Two professionally prepared landscape plans with plant list including quantity, size and specifications. (Prior to any landscape or irrigation installation). All proposed fences or walls must be included on the site plan or landscaping plan.

e) Two copies of exterior material and color selections including 8-1/2” x 11” samples or color pictures of stain, paint, brick, roofing, etc. Color selections and landscaping plan may be submitted at a later date, but prior to painting and installation.

One (1) set of comments and/or approved plans and specifications will be returned to the Builder.

The design development documents, as approved, represent the lot owner’s commitment to construction intent. If the owner, or his design team, wishes to change approved plans, proposed revisions must be submitted to the ARC for further review and approval. No revisions can be implemented prior to this approval. The owner is responsible for providing a copy of the Design Standards Manual to any consultants used in the construction of his residence and is responsible for making sure his contractors construct his residence in conformance with approved plans and revisions. It shall be the owner’s obligation to comply with all Cottages on 11th Covens, Conditions and Restrictions set upon the parcel under review. Unless specifically identified as exception to the Artisan Bluff- Cottages on 11th Covens, Conditions and Restrictions, no item contained within an approved plan, which conflicts with those Artisan Bluff- Cottages on 11th Covens, Conditions and Restrictions, shall be deemed approved.

Precedence over Less Stringent Governmental Regulations. In those instances where the the Design Standards Manual or the Declaration of Artisan Bluff- Cottages on 11th Covens, Conditions and Restrictions, Conditions, Easements and Restrictions of Cottages on 11th set forth or establish minimum standards in excess of Governmental Regulations, including, without limitation, building and zoning regulations, the Design Standards Manual or the Declaration of Shoresnats, Conditions, Easements and Restrictions shall take precedence and prevail over less stringent Governmental Regulations. Conversely, in those instances where such Governmental Regulations set or establish minimum standards in excess of the Design Standards Manual or the Declaration of Shoresnats, Conditions, Easements and Restrictions of Cottages on 11th, the Governmental Regulations shall take precedence and prevail.

Waivers exceptions and Variances by Developer. Notwithstanding anything to the contrary set forth in or which may otherwise be implied from the terms and provisions of the Declaration, Developer specifically reserves exclusively unto itself, for the duration hereinafter specified, the right and privilege (but Developer shall have absolutely no obligation), upon a showing of good cause therefor, to: (a) grant waivers with respect to any existing or proposed future deviation from, or violation or infraction of, the building restrictions specified in these Design Standards and in
Article VIII of the Declaration where, in the reasonably exercised good faith judgment and discretion of Developer, Developer shall determine or decide that such deviation, violation or infraction is de minimus, minor, or insignificant, and (b) grant waivers of, exceptions to, or variances from, the building restrictions specified in Article VIII of the Declaration where special conditions and circumstances exist which are peculiar to a particular Lot and not generally applicable to other Lots (e.g., because of its unusual size, configuration or location) or where a literal interpretation or application of any such building restriction to a particular Lot would be inappropriate, inequitable or would otherwise not work or result in a hardship or deny such Lot and the Owner thereof specific rights which are generally enjoyed by other Lots and Owners; it being expressly provided, however, that, in all cases, Developer, in its exercise of such right and privilege shall, in its reasonably exercised and good faith judgment and discretion determine or decide that its grant of any such waiver exception or variance shall not result in, represent, be, or constitute a significant deviation of or derogation from (a) the uniform plan of development for the Cottages on 11th, (b) the high architectural, ecological, environmental and aesthetic standards otherwise established for Cottages on 11th or (c) the objects and purposes of the Declaration as enumerated in Article II of the Declaration. Notwithstanding anything to the contrary, any waivers of, exceptions to, or variances from said building restrictions shall be in compliance with Governmental Regulations. Developer shall have such right and privilege to grant waivers, exceptions and variances, as aforesaid, until either (a) the expiration of a period of fifteen (15) years from the date of the recordation of the Declaration among the Public Records of the County or (b) the sale by Developer in the ordinary course of business, and not in bulk, of ninety percent (90%) of all Lots Cottages on 11th, whichever shall last occur. Following the occurrence of the last of the foregoing events to occur, the right and privilege of Developer to grant waivers, exceptions and variances, as aforesaid, shall be delegated and assigned by Developer to and thereafter vest in the ARC. To the extent that any such waiver, exception or variance is granted in a particular instance or with respect to any particular Lot or Improvement pursuant to the provisions of Section 8.35 of the Declaration, as aforesaid, the same shall not be deemed to be a precedent for the granting of such or any similar waiver, exception or variance in any other particular instance or any other particular Lot or Improvement.

ARC Approval. Notwithstanding any other provision of this Declaration to the contrary, no Improvements may be constructed upon any Lot except by licensed building contractors approved by the Developer in its sole discretion and named on the list of Approved Builders maintained by the ARC at the time of construction on the Lot. Any approval by the ARC of any plans and specifications for Improvements on any Lot shall be subject to the Owner conforming to the requirements of Section of the Declaration. The Developer and the Association reserve the right to enforce these provisions by injunction or other remedies available at law or equity.

Inspections - During the duration of the construction phase, any number of inspections of the house and its surrounding improvements may be made by the ARC.
DATE: December 3, 2019

TO: Honorable Mayor and City Council Members

FROM: Robin R. Hayes, City Manager

SUBJECT: City Manager Discussion

- Trails Update
- Construction Projects Update

Introduction:
This is an opportunity for City Manager Robin R. Hayes to present the following topics and supplemental information to City Council for discussion:

- Trails Update
- Construction Projects Update
- Campaigning & Soliciting at Events

Discussion:
Robin R. Hayes, City Manager, reports to City Council Members on a periodic basis about various special events or departmental happenings. Departmental directors may be asked to address City Council when appropriate.

Budget Impact:
N/A

Strategic Impact:
N/A

Recommendation City Council update and discussion regarding projects.

Prepared by: Misty Sommer, Deputy City Clerk
Reviewed by: Robin R. Hayes, City Manager Final Approval - 11/25/2019