

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: May 20, 2008

Consent []

Regular [X]

Public Hearing []

Submitted By: Water Utilities Department

Submitted For: Water Utilities Department

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: **A)** Reclaimed Water Agreement with Florida Power and Light (FP&L) to supply reclaimed water for the West County Energy Center; **B)** Interlocal Agreement with East Central Regional Wastewater Treatment Facilities Operation Board (ECRWTFOB) and the City of West Palm Beach (WPB) related to the construction, operation, and maintenance of reclaimed water facilities; **C)** Interlocal Agreement with WPB related to reclaimed water service; **D)** Supplement No. 2 to Consultant Service Authorization No. 21 to the contract with Jordan Jones and Goulding, Inc. (R2005-0775) for design, permitting and bidding of the ECRWRF Reclaimed Water Facility in the lump sum amount of \$1,634,875; **E)** Consultant Services Authorization No. 49 to the contract with Heller-Weaver & Sheremeta, Inc. (R2005-0778) for reclaimed water pipeline surveying and mapping services in the amount of \$685,957; and **F)** Consultant Services Authorization No. 73 to the contract with Mathews Consulting, Inc. (R2005-0777) for design, permitting and bidding of the FP&L on-site reclaimed water facilities in the amount of \$466,588.

Summary: The Agreement with FP&L provides for reclaimed water to become the primary source of cooling water supply to the West County Energy Center in 2011 and for FP&L to construct a 27 MGD reclaimed water facility at the East Central Regional Wastewater Reclamation Facility (ECRWRF) with a pipeline to the West County Energy Center. FP&L will utilize reclaimed water for cooling instead of Floridan Aquifer water thereby conserving the Floridan Aquifer for future drinking water supply. FP&L will reimburse the County for consultant and in-house design services for the reclaimed water facilities and piping. The estimated \$62,000,000 construction cost will be amortized over 30 years and paid in full by FP&L. Bonds will be issued by the County prior to the start of construction. The Agreement with FP&L is for 30 years of reclaimed water supply beginning in 2011 with three additional ten-year options for renewal. The Agreement provides for FP&L to have the first right of service and that interruptible reclaimed water may be provided to other users if is not required by FP&L thereby providing a potential benefit to communities in the vicinity of the reclaimed water transmission main. **Continues on Page 3**

Attachments:

1. Three (3) Original Agreements – County and FP&L
2. Three (3) Original Interlocal Agreements – County, WPB, and ECRWTFOB
3. Three (3) Original Interlocal Agreements – County and WPB
4. Two (2) Originals JJG Supplement No. 2 to Consultant Services Authorization No. 21
5. Two (2) Originals HW&S Consultant Services Authorization No. 49
6. Two (2) Originals Mathews Consultant Services Authorization No. 73
7. Location Map

Recommended By: _____

Department Director

Date

Approved By: _____

Assistant County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2008	2009	2010	2011	2012
Capital Expenditures	\$5,000,000.00	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	(\$5,000,000.00)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (County)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match County	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

Budget Account No.: Fund 4011 Dept 721 Unit W029 Object 6543

[illegible]Reporting Category **N/A**

B. Recommended Sources of Funds/Summary of Fiscal Impact:

The Agreement (Exhibit C) with FP&L provides for reimbursement of design services including \$2,787,420 for consultants and approximately \$2,000,000 for in-house design staff plus previously incurred expenses for a total of \$5,000,000. Construction of the reclaimed water facilities and piping will require a bond issue in FY 2009-2010 with capital expenditures to be recovered from user fees over a 30 year period beginning in FY 2011. The agenda item for the budget amendment is scheduled for June 3, 2008.

C. Department Fiscal Review: In Equity for All

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

OFMB Fiscal and/or Contract Development and Control Comments:
No Contracts will be encumbered until the budget amendment is processed.

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OFMB
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05/19
5/19/08

In 1 fact 5/19/08
 Contract Development and Control
 5/19/08
 This item complies with current

B. Legal Sufficiency:

**This item complies with current
County policies.**

4006 5/19/08
Assistant County Attorney

many of the documents
were in "draft" form
at the time of
our review.

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

Summary: (Continues from Page 1) The Interlocal Agreement with the ECRWTFOB and WPB provides for allocation of secondary effluent to the County and for the County to construct a 27 MGD reclaimed water facility at the ECRWRF site. The ECRWRF currently has a capacity to treat 70 MGD of wastewater and the average daily flow is 40 MGD. The FP&L reclaimed water facility will average 22 MGD and is anticipated to operate continuously throughout the year significantly reducing deep well injection at the ECRWRF thereby conserving water resources.

The Agreement with WPB provides for interruptible reclaimed water for three (3) developments within the city limits. WPB agrees to allow the pipeline to the West Coast Energy Center to be located to the south of the WPB catchment area berm, thereby minimizing wetland mitigation. In addition, WPB agrees to a step-in provision which allows an outside contractor to operate the reclaimed water facility to be built at the ECRWRF in certain emergency situations.

Supplement No. 2 to Consultant Services Authorization No. 23 with Jordan, Jones & Goulding, Inc. (JJG) provides engineering services for design, permitting and bidding of the ECRWRF 27 MGD reclaimed water facility to serve the West County Energy Center. The contract with JJG includes the small business (SBE) participation goal of 27%, which exceeds the 15% goal established by the Palm Beach County Ordinance (No. 2002-064). This Consultant Services Authorization includes 28.8% overall participation. The consultant's cumulative SBE participation, including this Authorization, is 27.44% overall.

Consultant Services Authorization No. 49 with Heller-Weaver & Sheremeta, Inc. (HW&S), provides surveying, and mapping services for approximately 20 miles of reclaimed water pipeline. The contract with HW&S includes the small business (SBE) participation goal of 51%, which exceeds the 15% goal established by the Palm Beach County Ordinance (No. 2002-064). This consultant services authorization includes 86.33% overall participation. The consultant's cumulative SBE participation, including this authorization, is 87.65% overall.

Consultant Services Authorization No. 73 with Mathews Consulting, Inc. provides for design, permitting and bidding of the FP&L on-site reclaimed water facilities, pipeline environmental permitting, value engineering, constructability review, project scheduling and facilitation of project management. The contract with Mathews Consulting, Inc. includes the small business (SBE) participation goal of 51%, which exceeds the 15% goal established by the Palm Beach County Ordinance (No. 2002-064). This consultant services authorization includes 84.50% overall participation. The consultant's cumulative SBE participation, including this authorization, is 52.62% overall. (WUD Project No. 08-031) Districts 2 and 6 (MJ)

Background and Justification: On November 29, 2007 the Board approved zoning modification DOA/EAC-2007-01182 to increase the FP&L West County Energy Center from 3,300 to 3,800 megawatts with a zoning condition requiring reclaimed water to be used as the primary source of cooling water. The use of reclaimed water for power plant cooling is allowed under FAC 62-610. This project increases reclaimed water usage, reduces deep well injection and conserves the Floridan Aquifer supply for future drinking water supply. Peak flows to FP&L are anticipated to occur during summer months and approximately 5 MGD of reclaimed water may be available for other uses during the spring dry season.

On April 19, 2005, the Board approved a contract for Professional Consulting Engineering Services with JJG (R2005-0775), to provide Wastewater & Telemetry Consulting Services. This Authorization provides for design, permitting and bidding of the 27 MGD ECRWRF reclaimed water facility to serve the West County Energy Center which will include reclaimed water filters, disinfection, storage, pumping, an emergency generator, and a control building.

On April 19, 2005, the Board approved a contract for Professional Consulting Engineering Services with HW&S (R2005-0778) to provide Utility Distribution & Collection System Consulting Services. This Authorization provides for surveying, mapping and utility soft-dig locates required for 20 miles of reclaimed water piping which will be designed by in-house staff.

On April 19, 2005, the Board approved a contract for Professional Consulting Engineering Services with Mathews Consulting, Inc. (R2005-0777) to provide Utility Architectural & Value Engineering Consulting Services. This Authorization provides for design, permitting and bidding of the FP&L on-site reclaimed water pipelines and a 5 million gallon reclaimed water storage tank, pipeline environmental permitting, value engineering, constructability review and project scheduling.

FPL Draft 05 08 08

RECLAIMED WATER AGREEMENT

between

PALM BEACH COUNTY

AND

FLORIDA POWER & LIGHT COMPANY

This RECLAIMED WATER AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2008 (the "Effective Date"), by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (hereinafter the "County"), and the FLORIDA POWER & LIGHT COMPANY, a Florida Corporation (hereinafter "FPL"). The County and FPL are hereinafter sometimes collectively referred to as the "Parties" and individually referred to as a "Party."

WITNESSETH

WHEREAS, FPL is currently constructing, and upon completion will own and operate, the West County Energy Center ("WCEC"), comprised of two (2) nominal 1250 MW combined cycle natural gas-fired power generation units and related facilities (collectively referred to as "WCEC Units 1 and 2") located on Southern Boulevard at 20 Mile Bend in the County;

WHEREAS, FPL has now filed a Site Certification Application with the Florida Department of Environmental Protection ("DEP") pursuant to the Florida Power Siting Act, requesting approval to construct a third combined cycle natural gas unit at WCEC (referred to as "WCEC Unit 3");

WHEREAS, FPL currently holds a license granted by the South Florida Water Management District ("SFWMD"), pursuant to which FPL has been allocated approximately twenty million (20,000,000) gallons of water per day (to be obtained from the Floridan Aquifer and surface water drawn from the L10/L12 Canals) to support FPL's operation of WCEC Units 1 and 2;

WHEREAS, FPL could similarly apply to the SFWMD for an additional allocation for approximately ten million (10,000,000) gallons of water per day (also to be obtained from the Floridan Aquifer and surface water drawn from the L10/L12 Canals) to support FPL's operation of WCEC Unit 3;

WHEREAS, the Floridan Aquifer is considered an alternative water supply by the SFWMD and the SFWMD encourages applicants for water use permits to use the deeper, more brackish water of the Floridan Aquifer, as opposed to the shallower and cleaner Surficial Aquifer;

WHEREAS, the County and the City of West Palm Beach ("WPB") are members of the East Central Regional Wastewater Treatment Facilities Operation Board (hereinafter "ECR"), which was organized and operates pursuant to that certain interlocal agreement among the County, WPB, the Town of Palm Beach, the City of Riviera Beach, and the City of Lake Worth (collectively, the "Members") dated September 9, 1992 (the "1992 Interlocal"). In accordance with the 1992 Interlocal, WPB operates and maintains the East Central Regional Wastewater Treatment Facilities

(the "ECR Wastewater Facility").

WHEREAS, operating pursuant to Permit No. FL004136, issued by the DEP, the ECR Wastewater Facility has a permitted capacity of sixty four million (64,000,000) gallons of wastewater per day and then uses deep-well injection to dispose of the majority of such treated wastewater;

WHEREAS, the County desires to find beneficial uses within the boundaries of the County for one hundred percent (100%) of the treated wastewater that is produced by the ECR Wastewater Facility;

WHEREAS, the Parties acknowledge that FPL will require an uninterrupted supply of significant quantities of water on a constant basis for cooling and other purposes in connection with its operation of the WCEC Units 1, 2 and 3;

WHEREAS, the location of the WCEC is sufficiently proximate to the ECR Wastewater Facility that the County can operate a pipeline to transport reclaimed water from the ECR Wastewater Facility to WCEC on a cost-effective basis and in a quantity sufficient to satisfy the operating demands of the WCEC Units 1, 2 and 3;

WHEREAS, the County has performed an evaluation of the current capabilities of the ECR Wastewater Facility, as well as the time and resources required to upgrade and expand the ECR Wastewater Facility and construct a water delivery pipeline running between the ECR Wastewater Facility and the WCEC and, based on the evaluation, has concluded that the upgrade and expansion of the ECR Wastewater Facility for the specific purpose of providing reclaimed water suitable for cooling and other purposes to FPL at the WCEC and the construction of the necessary pipeline to supply reclaimed water to WCEC can be achieved on a cost-effective basis;

WHEREAS, in light of such evaluation, the County has determined that the WCEC constitutes a highly-suitable user of large quantities of reclaimed water produced by the ECR Wastewater Facility;

WHEREAS, the County is willing, subject to and in accordance with the terms and conditions hereinafter specified in this Agreement, and subject to and in accordance with the terms and conditions related to ownership and operation of the ECR Wastewater Facility, to design, engineer, permit, finance and procure, and cause WPB to operate and maintain, the expanded ECR Wastewater Facility, and to design, engineer, permit, finance, procure, own and operate (i) the water delivery pipeline (and related easements) running between the ECR Wastewater Facility and the WCEC and (ii) the WCEC On-Site RWP Facilities (as defined in Section 1), all as hereinafter more fully described and specified in this Agreement (as hereinafter more fully defined, the "Reclaimed Water Project");

WHEREAS, FPL is willing, subject to and in accordance with the terms and conditions hereinafter specified in this Agreement, to construct and commission the Reclaimed Water Project and to reimburse the County for those costs incurred directly and indirectly by the County for designing, engineering, permitting, financing, procuring, operating and maintaining the Reclaimed Water Project;

WHEREAS, the Parties recognize and acknowledge that implementation of this Agreement would significantly: (i) enhance the conservation of vital water resources; (ii) reduce UIC injection costs currently being incurred by the Members at the ECR Wastewater Facility; and (iii) promote a variety of associated environmental benefits for South Florida, thus providing substantial additional support for the Parties' decision to enter into this Agreement.

NOW, THEREFORE, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, and good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, and subject to the terms and conditions hereinafter set forth, the County and FPL hereby covenant and agree as follows:

1. Definitions

The following definitions and references are given for the purpose of interpreting the terms used in this Agreement and apply unless the context indicates a different meaning:

"1992 Interlocal" has the meaning specified in the preamble to this Agreement.

"Agreement" has the meaning specified in the preamble to this hereto, and includes all exhibits, schedules, appendices attached hereto.

"Applicable Laws" means any and all federal, state, regional or local statutes, laws, municipal charter provisions, regulations, ordinances, rules, mandates, judgments, orders, decrees, governmental approvals, codes, licenses or permit requirements or other governmental requirements or restrictions, or any interpretation or administration of any of the foregoing by any Governmental Authority that apply to the facilities, services or obligations of either Party under this Agreement, whether now or hereafter in effect.

"Base Service" means the supply of Reclaimed Water to WCEC Units 1 and 2 in the quantities specified in Section 7.1.

"Bill of Sale" has the meaning set forth in Section 6.10.

"Bond Account" has the meaning set forth in Section 6.9(b).

"Bond Documents" has the meaning set forth in Section 6.5(c).

"Bond Proceeds" has the meaning set forth in Section 6.9(a).

"Bonds" means the long-term, tax exempt, Reclaimed Water Project-specific bonds to be issued by the County to finance the permitting, design, engineering, procurement, construction, and commissioning of the Reclaimed Water Project.

"Budget" has the meaning set forth in Section 6.8.

"Business Day" means any day on which Federal Reserve Member Banks in Miami, Florida are open for business.

"Capital Fee" has the meaning specified in Section 8.1(a).

"Carrying Fee" has the meaning set forth in Section 8.1(b).

"Change in Law" has the meaning set forth in Section 6.8(b).

"Commitment Date" has the meaning set forth in Section 4.

"County" has the meaning specified in the preamble to this Agreement.

"County RWP Costs" has the meaning set forth in Section 6.8.

"County Services" means, consistent with the terms of this Agreement: (i) the procurement of all permits, lands and easements necessary for the Reclaimed Water Project, (ii) the financing of the Reclaimed Water Project, (iii) designing, engineering, and procuring the Reclaimed Water Project, and (iv) operating and maintaining the Pipeline and WCEC On-Site RWP Facilities and causing WPB to operate and maintain the expanded ECR Wastewater Facility, all as more specifically detailed in Section 6.1(a).

"County Subcontractor(s)" has the meaning specified in Section 6.4.

"County's Potable Water System" means the system owned and/or operated by the County for the production and distribution of Potable Water to all retail, wholesale, and/or bulk customers of the County and including all Potable Water meters and related appurtenances.

"Coverage Fund" shall have the meaning specified in Section 8.1(a).

"Declaration" has the meaning specified in Section 9.4.

"Deficiency" has the meaning specified in Section 6.6.

"Delivery Point" shall be at the Meter (as defined herein) to be located at the WCEC, as more specifically identified on Exhibit A.

"DEP" means the Florida Department of Environmental Protection.

"Dispute" has the meaning specified in Section 16.13.

"ECR Authority" means the authority of the County as set forth in the ECR-WPB-County Interlocal (as amended or supplemented), the 1992 Interlocal (as amended or supplemented), and any other delegation, agreement, rule, regulation, or ordinance regulating the operation and maintenance of the ECR Wastewater Facility.

"ECR Governing Board" means the governing board for the ECR Facility.

"ECR Property" means the property described in Exhibit B.

"ECR Wastewater Facility" has the meaning specified in the preamble to this Agreement.

"ECR-WPB-County Interlocal" has the meaning specified in Section 5.

"Effective Date" has the meaning specified in the preamble to this Agreement.

"Event of Default" has the meaning set forth in Section 12.1.

"Final Form" has the meaning set forth in Section 4.

"Final Notice" has the meaning set forth in Section 4.

"Force Majeure" shall mean an event or circumstance that is not reasonably foreseeable, is beyond the reasonable control of and is not caused by the negligence or lack of due diligence of the affected Party or its contractors or suppliers. Such events or circumstances may include, but are not limited to, actions or inactions of civil or military authority (including Governmental Authority); acts of God; war, riot or insurrection; blockades; embargoes; sabotage; epidemics; explosions and fires not caused by the operation of the ECR Wastewater Facility; floods; national labor disputes and state-wide strikes; and legal challenges to permitting, procurement and/or construction of the Reclaimed Water Project. Force Majeure shall not include events that affect the cost of equipment, labor, materials or supplies (except to the extent such events have been otherwise caused by a Force Majeure event), strikes, lockouts or other labor disputes with respect to the labor of the County, FPL or any subcontractor or vendor (provided to the extent the subcontractor or vendor is entitled to Force Majeure relief with respect to a strike, lockout or other labor dispute, the County or FPL shall be entitled to Force Majeure relief hereunder if all other requirements regarding a Force Majeure are satisfied), economic hardship or the lack of money, changes in market conditions or the availability of a more attractive market, normal climactic conditions (including normal inclement weather) affecting construction, testing, start-up, operation or maintenance of the ECR Wastewater Facility or the Reclaimed Water Project, equipment breakdown (or inability to use equipment) caused by a failure to properly operate or maintain the ECR Wastewater Facility or the Reclaimed Water Project, or the inability of the County, for any reason to maintain, or comply with all governmental approvals required under Applicable Law, including environmental requirements.

"Force Majeure Aggregate Allowance" has the meaning set forth in Section 12.1 and Section 12.2.

"FPL" has the meaning specified in the preamble to this Agreement.

"FPL Entities" shall mean FPL, its parent, present and future subsidiaries and affiliated entities and any other entity that directly or indirectly controls, is controlled by or under common control with any of the foregoing, and each of their respective officers, directors, employees, and agents.

"FPL RWP Costs" has the meaning set forth in Section 6.8.

"FPL Services" means, consistent with the terms of this Agreement, those construction and commissioning services (and limited design and procurement services) provided by FPL related to the Reclaimed Water Project, as more specifically detailed in Section 6.1(b).

"FPL Subcontractor(s)" has the meaning specified in Section 6.4.

"GAAP" means generally accepted accounting principles, consistently applied throughout the specified period and in the immediately prior comparable period.

"Governmental Authority" means any national, state, regional or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, executive, legislative, administrative, public or statutory instrumentality, authority, body, agency, department, bureau or entity or any arbitrator with authority to bind a party at law.

"Institution" shall have the meaning specified in Section 6.9(a).

"Interest Rate" has the meaning set forth in Section 8.2.

"Interruptible Service" has the meaning specified in Section 10.1.

"Interruption" has the meaning specified in Section 9.3.

"Labor Costs" means the costs related to those employees of the County and of FPL that are detailed, and contribute, to the Reclaimed Water Project, including salary, payroll taxes, insurance and fringe benefits as specified in Exhibit C.

"Licenses" shall have the meaning specified in Section 6.6.

"Members" has the meaning specified in the preamble to this Agreement.

"Meter" shall have the meaning specified in Section 7.4.

"MGD" means million gallons per day.

"Milestone Schedule" has the meaning set forth in Section 6.2(a).

"Monthly Base Fee" has the meaning set forth in Section 8.1(c).

"Monthly Commodity Fee" has the meaning set forth in Section 8.1(d).

"Obligation Month" has the meaning set forth in Section 8.2.

"Office of Small Business Assistance" or "OSBA" means the County office responsible for certification of and assistance to Small Business Enterprises in relation to County procurements.

"Operating Fee" means the total of the Monthly Base Fee, Capital Fee, Carrying Fee, Monthly Commodity Fee, the R&R Fee and RPB Service Area Fee.

"Order" has the meaning set forth in Section 4(a).

"Oversight Committee" has the meaning specified in Section 6.2(b).

"Parties" has the meaning specified in the preamble to this Agreement.

"Pipeline" means the pipeline that, in accordance with the requirements of this Agreement, is to be: (i) designed, engineered, procured, permitted, financed, owned and operated by the County, (ii) constructed and commissioned by FPL, (iii) will run from the ECR Property to the Delivery Point, and (iv) will be used by the County to transport the Reclaimed Water to FPL pursuant to this Agreement.

"Plan" has the meaning specified in Section 6.6.

"Potable Water" means water for human consumption that meets all applicable federal, state, and County standards;

"Project Completion Date" means the date that all construction and commissioning activities related to the Reclaimed Water Project are completed and FPL has provided any and all requisite final acceptance notices.

"Project Contracts" has the meaning set forth in Section 6.5(a).

"Project Control Requirements" are set forth in Exhibit D.

"Project Manager" means that individual who shall be responsible for developing the Reclaimed Water Project on a schedule that achieves the Service Initiation Date consistent with the Budget.

"Quality Requirements" has the meaning set forth in Section 9.1.

"Reclaimed Water" means water that is processed and treated by the Reclaimed Water Project and, subsequent to such processing and treatment, meets the Quality Requirements set forth in Section 9.1.

"Reclaimed Water Project" or the **"RWP"** means (i) the permitting, ownership, financing, siting, construction, commissioning, operation and maintenance of any additional facilities or upgrades at the ECR Wastewater Facility enabling the facility to produce and deliver Reclaimed Water exclusively for use by FPL at the WCEC for cooling and other purposes, together with (ii) the permitting, ownership, financing, siting, construction, commissioning and operation of the Pipeline and associated easements; and (iii) the permitting, ownership, financing, siting, construction, commissioning, operation and maintenance of the WCEC On-Site RWP Facilities.

"Required Funding" has the meaning set forth in Section 6.9(a).

"Reserve" has the meaning set forth in Section 8.1(a).

"RPB Service Area Fee" has the meaning set forth in Section 8.1(e).

"R&R Fee" has the meaning set forth in Section 8.1(c).

"R&R Fund" has the meaning set forth in Section 8.1(c).

"RWP Required Approvals" means all federal, state and local governmental permits and regulatory approvals required for the ownership, financing, siting, construction and operation of the Reclaimed Water Project, which are listed in Exhibit E.

"Service Account" has the meaning set forth in Section 6.9(c).

"Service Initiation Date" has the meaning specified in Section 7.1.

"SFWMD" has the meaning specified in the Recitals to this Agreement.

"Siting Board" means the Governor and Cabinet for the State of Florida, acting in their capacity as the siting board pursuant to the Power Plant Siting Act.

"Small Business Enterprise" or "SBE" means a business certified by the Palm Beach County Office of Small Business Assistance as a Small Business Enterprise.

"SBE Project Goal" has the meaning specified in Section 6.1(b)(iii).

"Supplemental Service" means the supply of Reclaimed Water to WCEC Unit 3 in the quantities specified in Section 7.2.

"Term" has the meaning specified in Section 3.1.

"UIC" means underground injection control.

"Unit" means any of the three natural gas-fired power generation units that FPL is constructing or has proposed to construct, and will operate, at the West County Energy Center.

"WCEC On-Site RWP Facilities" shall mean the storage tank and other facilities which are located at the WCEC and are a part of the Reclaimed Water Project.

"WCEC Required Approvals" means all federal, state and local governmental permits and regulatory approvals required for the ownership, financing, siting, construction and operation of WCEC Unit 3, which are set forth in Exhibit F, including a final certificate issued by either the Siting Board or the DEP with respect to WCEC Unit 3.

"WCEC Units 1 and 2" means FPL's fully licensed and approved two (2) natural gas-fired power generation units that are currently under construction at West County Energy Center.

"WCEC Unit 3" means the third Unit that FPL seeks to construct and operate at the West County Energy Center.

"West County Energy Center" or "WCEC" means FPL's power plant located near 20 mile bend on Southern Boulevard in the County.

"Work" has the meaning set forth in Section 6.4.

"WPB" has the meaning set forth in the Recitals to this Agreement.

2. Rules for Interpretation

(a) Unless the context of this Agreement otherwise requires, (i) words of any gender include each other gender; (ii) words using the singular or plural number also include the plural or singular number, respectively; (iii) the terms "hereof," "herein," "hereby" and derivative or similar words refer to this entire Agreement; (iv) the term "Section" refers to the specified Section of this Agreement; (v) the words "include" and "including" are not words of limitation and shall be deemed to be followed by the words "without limitation;" and (vi) the use of the word "or" to connect two or more phrases shall be construed as inclusive of all such phrases (e.g., "A or B" means "A or B, or both").

(b) Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

(c) All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP.

(d) Unless the context otherwise requires, a reference to any law includes any amendment, modification or successor thereto.

(e) Any representation or warranty contained herein as to the enforceability of this Agreement shall be subject to the effect of any bankruptcy, insolvency, reorganization, moratorium or other similar law affecting the enforcement of creditors' rights generally and to general equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(f) In the event of a conflict between the body of this Agreement and any exhibit, schedule or appendix hereto, the body of this Agreement shall control.

(g) The paragraph headings have been used solely for convenience, and are not intended to describe, interpret, define or limit the scope of this Agreement.

(h) Conflicts or discrepancies, errors or omissions in this Agreement or the various documents delivered in connection with this Agreement will not be strictly construed against the drafter of the contract language; rather, they shall be resolved by applying the most reasonable interpretation under the circumstances, giving full consideration to the intentions of the Parties at the time of contracting.

(i) A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time.

(j) Any reference herein to a time of day means Juno Beach, Florida local time.

3. Term

3.1 The term of this Agreement ("Term") shall commence upon the Effective Date and shall, unless this Agreement is either: (a) earlier terminated or (b) extended, in either case in accordance with the provisions of this Agreement, continue until the thirtieth (30th) anniversary of the Service Initiation Date. After the thirty (30) year Term, FPL shall, in its sole discretion, have the right to extend the Term of this Agreement for as many as three (3) successive extension periods, each of which extension periods to run for an additional ten (10) years; provided, any such extension is contingent on, and would run concurrent with, an extension of the ECR-WPB-County Interlocal agreed to by the ECR, WPB, and the County, such extension to the ECR-WPB-County Interlocal on terms and conditions satisfactory to FPL in all material respects. In order to effectuate such extensions, FPL shall provide a written extension notice to County within two (2) years of the expiration of the initial Term, or, if applicable, whichever extension Term is then in effect and, promptly upon receipt of such notice, the County shall use best efforts to obtain an extension of the ECR-WPB-County Interlocal. In the event that despite the County's best efforts the ECR WPB County Interlocal extension is not obtained, the County shall dedicate and cause to be processed and delivered to FPL the County's entitlement to secondary treated effluent produced by the ECR Wastewater Facility up to 22 MGD annual average daily flow/27 MGDF peak flow (calculated consistent with Section 9, herein); provided, the County shall be permitted to reserve six (6) MGD for sale by the County to the Central Region Reclaimed Water Production Facility.

3.2 Notwithstanding anything to the contrary contained in this Agreement, FPL may, at its convenience, terminate this Agreement at any time for any reason in its sole discretion with no liability or obligations to the County by giving written notice thereof to the County, which termination shall be effective upon the giving of such notice by FPL; provided, if such termination notice is delivered prior to the issuance of the Bonds, FPL shall remain obligated to reimburse the County for County RWP Costs incurred prior to FPL's termination for convenience of this Agreement; and, provided, further, if such termination notice is delivered after the issuance of the Bonds, FPL shall be obligated to reimburse the County for County RWP Costs incurred prior to FPL's termination for convenience of this Agreement and any and all costs related to the issuance of the Bonds, including the repayment of the Bond Proceeds in a manner consistent with Section 12.6.

4. Conditions Precedent

Notwithstanding FPL's execution and delivery of this Agreement, FPL's obligations hereunder (except for FPL's obligation to provide the FPL Services and to reimburse the County for County RWP Costs in a manner consistent with Section 6.8) shall only become effective upon the Commitment Date (as provided for herein) and upon the following conditions being satisfied prior to the Commitment Date (or waived by FPL, in its sole discretion):

(a) FPL has received all WCEC Required Approvals in Final Form and containing terms and conditions satisfactory to FPL in its sole discretion.

(b) The County shall have received all RWP Required Approvals required for the

commencement of construction if the RWP in Final Form and containing terms and conditions satisfactory to FPL in its sole discretion.

For purposes of Sections 4(a) and 4(b), the term “**Final Form**” means that (i) the determination, decision or order (each referred to as an “**Order**”) from the relevant Governmental Authority that issues, grants or confirms the WCEC Required Approval or the RWP Required Approval in question has been issued and adopted by such Governmental Authority, (ii) such Order has not been and cannot be stayed, enjoined, appealed, set aside or suspended, (iii) such Order is no longer subject to any prescribed waiting or appeal period, and (iv) any and all pre-conditions to the effectiveness of the WCEC Required Approval or the RWP Required Approval in question as are prescribed in such Order or as are otherwise required by applicable law have been satisfied.

Within fifteen (15) days following the receipt of all WCEC Required Approvals and RWP Required Approvals, the appropriate Party shall send written notice to the other Party confirming such receipt and whether such approvals are in Final Form. The “**Commitment Date**” shall be the date upon which FPL provides final notice (the “**Final Notice**”) to the County that the WCEC Required Approvals and the RWP Required Approvals are satisfactory to FPL and that the County should issue the Bonds as contemplated in Section 6.9.

5. ECR Commitment to Reclaimed Water Project

The ECR Governing Board, on _____, 2008, approved an interlocal agreement between the ECR, WPB, and the County, relating to the Reclaimed Water Project (a copy of that interlocal agreement is attached as Exhibit B hereto and is referred to herein as the “**ECR-WPB-County Interlocal**”). The ECR-WPB-County Interlocal allows the County to: (a) design, engineer, finance, procure, construct, commission, own, operate and maintain those portions of the Reclaimed Water Project not located on ECR Property, (b) design, engineer, finance, procure, construct and commission those portions of the Reclaimed Water Project located on ECR Property, (c) produce Reclaimed Water in the quantities necessary to supply Reclaimed Water to FPL in accordance with this Agreement, and (d) transport and sell such Reclaimed Water to FPL.

6. Development and Operations of the Reclaimed Water Project

6.1 Services

(a) In accordance with the terms and conditions specified in this Agreement, the County shall be responsible for:

(i) obtaining the RWP Required Approvals and any other permits necessary for designing, engineering, financing, procuring, constructing, commissioning, owning, operating and maintaining the Reclaimed Water Project in such manner and pursuant to such schedule as will enable the County to deliver Reclaimed Water to FPL at the WCEC;

(ii) acquiring all lands and easements necessary for the construction, commissioning, operation and maintenance of the Reclaimed Water Project; provided, to the maximum extent possible, the County shall utilize public lands and, as permitted by law, shall exercise its power of eminent domain to obtain such lands and easements;

(iii) those activities necessary to design, engineer, and procure materials for the construction of the Reclaimed Water Project;

(iv) for all interactions with the public, including community and public relations activities, and public meetings necessary for the permitting, construction, commissioning, operation and maintenance of the Reclaimed Water Project. and

(v) the ownership, operation and maintenance of the Reclaimed Water Project not located at the ECR Wastewater Facility, and causing WPB to operate and maintain the Reclaimed Water Project located on ECR Property in accordance with the ECR Authority ((i), (ii), (iii), (iv) and (v) hereinafter collectively referred to as the "County Services").

(b) In accordance with the terms and conditions specified in this Agreement, FPL shall be responsible for those activities necessary to construct and commission the Reclaimed Water Project including all necessary upgrades and expansions at the ECR Wastewater Facility (specifically including a filtration, disinfection and pumping facility at the ECR Wastewater Facility), the Pipeline and the WCEC On-Site RWP Facilities (hereinafter collectively referred to as the "FPL Services"). FPL's construction of the Reclaimed Water Project shall be subject to the following terms:

(i) FPL shall select the contractor(s) utilized for the construction of the Reclaimed Water Project through a competitive selection process, in accordance with minimum qualifications and selection criteria, following public notice and advertisement for such services by requests for qualifications, with a deadline for responses. Any such advertisement shall be advertised in at least one newspaper of general circulation in Palm Beach County. Any solicitation forms used by FPL shall be provided to the County prior to being sent to prospective respondents for the limited purpose of ensuring that the solicitation forms comply with the provisions in this Agreement regarding preferences to local businesses and SBE Project Goals. FPL's minimum qualifications and its selection criteria shall be established at the sole discretion of FPL; provided, however, that FPL's selection criteria shall (a) provide a preference for SBE's and local businesses, as set forth in this Agreement, and (b) grant the highest consideration to those respondents demonstrating experience in the construction of Reclaimed Water facilities and pipelines. The County may select a representative to review and provide input as to the responses to the request for qualifications, and attend or participate by telephone in FPL's selection committee meeting (but said individual shall not have a vote). Notwithstanding the foregoing, FPL shall have exclusive discretion in the selection of the contractor(s) utilized for the construction of the Reclaimed Water Project.

(ii) Any contracts entered into between FPL and contractors utilized for the construction of the Reclaimed Water Project located on ECR Property shall meet the requirements for construction contracts set forth in the ECR-WPB-County Interlocal, including, but not limited to, those provisions for insurance, bonding, and indemnification of the County, WPB, and ECR.

(iii) Any contracts entered into between FPL and contractors utilized for the construction of the Reclaimed Water Project not located on ECR Property shall include the following:

1. A provision that all insurance policies required under said contracts name the County as an additional insured.

2. A provision that any payment, performance, or other bonds required under the contract name the County as a co-obligee on the bonds.

3. A requirement for the contractor(s) to indemnify and hold the County, its agents, employees, officers, and Board of County Commissioners harmless from and against any and all claims, liabilities, expenses, losses, costs, damages, fines, penalties and causes of action of every kind and character that are due to any act or omission of said contractor(s) or its agents, employees, subcontractors, invitees, or licensees arising out of, or related to, the construction of the Reclaimed Water Project not located on ECR Property.

(iv) FPL is encouraged to seek Small Business Enterprises for participation in contracting opportunities for the construction of the Reclaimed Water Project. FPL agrees to undertake reasonable, good-faith efforts to work with its construction contractors to identify contracting opportunities during the construction of the Reclaimed Water Project with the intention of providing SBEs with an opportunity to provide goods and services for a minimum of fifteen percent (15%) of the RWP construction costs ("**SBE Project Goal**"). Consistent with the foregoing:

1. FPL agrees to include in each of its contracts with the contractors for construction of the Reclaimed Water Project an acknowledgement that the contractor shall comply with the provisions of Section 6.1(b)(iv)(3).

2. FPL shall grant preference to those contractors meeting or exceeding the SBE Project Goal with respect to each respective contract. Each bidder may obtain such preference as follows: (i) the bidder is an SBE, or (ii) through a joint venture or other form of contractual arrangement with an SBE, whereby credit toward the SBE Project Goal shall be based on the percentage of participation in the work, risk, and profit by the SBE.

3. The contracts for those contractors committing to provide opportunities to SBEs shall:

A. Require completion of County's SBE Form Schedule 1 (List of Proposed SBE/M/WBE Subcontractors) and Schedule 2 (Letter of Intent to Perform as a SBE or M/WBE Subcontractor);

B. Prohibit the contractor from making any agreements with the SBE in which the SBE promises not to provide subcontractor's quotations to other proposers or potential proposers;

C. Only permit contractors to replace an SBE who is unwilling, unable to perform or determined, in the reasonable discretion of the contractor, not to be performing in a commercially reasonable manner the services or tasks assigned to such SBE. Substitutions must be made with another SBE for such substituting entity to be counted towards the SBE Project Goal. Notice of substitution of SBEs must be submitted to the County's Office of Small Business Assistance (hereinafter "**OSBA**");

D. Require that all relevant records and information necessary to document compliance with such party's SBE commitment be maintained through the term of the party's engagement and for a period of five (5) years thereafter.

4. FPL understands that it is the responsibility of FPL, the County and the OSBA to monitor compliance with the SBE Project Goal. In that regard, FPL agrees to furnish reports on the progress of the SBE Project Goal on a monthly basis to the OSBA. FPL further agrees to provide the OSBA with a copy of FPL's contract with any SBE contractor or any other related documentation upon reasonable request. FPL shall maintain any records related to compliance with the SBE Project Goal for a period of five (5) years from the completion date of the Reclaimed Water Project.

5. Notwithstanding any provision of this Agreement to the contrary, FPL shall not be considered in default of this Agreement for failure to attain the SBE Project Goal.

(v) Businesses located in, or owned in substantial part by, persons residing in Palm Beach County shall be given preference in the award of contracts in connection with the construction of the Reclaimed Water Project.

6.2 Project Schedule, Oversight Committee

(a) To meet the Service Initiation Date, the County and FPL shall: (i) implement the Project Control Requirements, (ii) work diligently to achieve the construction milestones set forth in Exhibit G (the "Milestone Schedule"), and (iii) avoid any delays in meeting such Milestone Schedule. No later than the tenth day of each month prior to the Service Initiation Date, or within five (5) days of FPL's request, the County shall deliver to FPL a monthly progress report (in compliance with the requirements of Section 7.0 of Exhibit D), describing its activity related to the County Services and its compliance with the Project Control Requirements and the Milestone Schedule, including the time projected to complete any applicable outstanding RWP milestone. The monthly progress report shall include a list of all letters, notices, applications, approvals, authorizations and filings referring or relating to RWP Required Approvals, and shall provide any such documents as may be reasonably requested by FPL. In addition, the County shall advise FPL as soon as reasonably practicable of any problems or issues of which the County is aware that could materially impact its ability to meet the Milestone Schedule. Notwithstanding anything to the contrary herein and to the extent possible, the County shall, if directed by FPL and at FPL's cost and expense, accelerate activity related to the County Services consistent with FPL's scheduling requirements to maintain or accelerate the Milestone Schedule.

(b) Oversight for the development, construction, operation and maintenance of the Reclaimed Water Project shall be provided by a committee (the "Oversight Committee") comprised of five (5) members. Each Party shall have the right to appoint two members to the Oversight Committee, with the fifth member being the WCEC plant general manager. Each Party may, at any time, change its member of the Oversight Committee or appoint an alternate during its member's absence. Appointments shall be effected by written notice to the other Party. The Oversight Committee shall be the final authority on, and shall render all decisions material to, the development, construction, operation and maintenance of the Reclaimed Water Project; provided, however, that the authority of the Oversight Committee as to the development,

construction, operation and maintenance of the Reclaimed Water Project located on ECR Property shall not exceed the authority of the County as set forth in the ECR Authority. The duties of the Oversight Committee shall include: (i) approval of, and variations to, the Budget; (ii) approval of, and variations to, the engineering, scope and design of the Reclaimed Water Project; (iii) acceleration of the Milestone Schedule; (iv) the selection (or removal) of the Project Manager; and (v) approval of the Bond Documents and distribution of Bond Proceeds. All such decisions made by the Oversight Committee shall be decided pursuant to the voting majority and consistent with: (i) the RWP Required Approvals, (ii) DEP rules and regulations, (iii) good engineering practices, and (iv) the health and safety of the public or County, FPL, WPB, or ECR employees, contractors, or agents; provided, decisions made by the Oversight Committee related to the Reclaimed Water Project located on ECR Property shall also be consistent with the ECR Authority. Notwithstanding the foregoing, if the County in good faith believes that a specific course of action is required to protect the health and safety of the public or County, WPB, FPL, or ECR employees, contractors, or agents, the County shall have the ability to invoke the dispute resolution procedures set forth in Section 16.13. The Oversight Committee shall meet regularly (which meetings may include telephonic meetings, and the minutes of which shall be recorded in writing) to discuss, among other items: (i) the schedule and progress of the Reclaimed Water Project; (ii) the operation of the Reclaimed Water Project, (iii) schedule and coordination of future activities; (iv) the selection of subcontractors, vendors and consultants (consistent with the terms herein); and (v) the Budget.

6.3 Prior to the Service Initiation Date (or as otherwise determined by FPL), the County and FPL shall hold weekly design, engineering, and procurement review meetings and the County shall submit to FPL all: (i) design, engineering, procurement and bid qualification plans and (ii) permit applications, land and easement acquisition plans for review and approval. FPL shall have ten (10) Business Days to review any submittals from the County and to provide comments or approval. The County shall award all contracts for the purchase of equipment or services consistent with bid qualifications and specifications approved by FPL and in accordance with the County's procurement and competitive bidding practices. Any amendment or change order to such contracts, or deviation from the FPL-approved qualifications or specifications, must be approved, in advance and in writing, by FPL. Further, the County shall periodically, and upon reasonable request by FPL, advise FPL of the County's planned community and public relations activities related to the Reclaimed Water Project.

6.4 Subject to the terms hereof, the County and FPL shall have the right to have any portion of the work necessary for the completion of the County Services or the FPL Services related to the Reclaimed Water Project (the "**Work**") to be performed by qualified subcontractors, vendors and consultants (including FPL or the County) pursuant to written subcontracts or written purchase orders. Except as otherwise expressly provided for herein, the County shall be solely responsible for managing and supervising all such subcontractors, vendors and consultants engaged by the County ("**County Subcontractor(s)**") and FPL shall be solely responsible for managing and supervising all such subcontractors, vendors and consultants engaged by FPL ("**FPL Subcontractor(s)**"); provided, the County and FPL shall require that all Work performed, and all equipment provided by such County and FPL Subcontractor are received, inspected and otherwise furnished in accordance with this Agreement. FPL shall not, nor shall the County, have any obligation or liability to any County Subcontractor or FPL Subcontractor, respectively. No subcontractor or vendor is intended to be or shall be deemed a third-party beneficiary of this

Agreement. With the exception of those County Subcontractors required to be selected under a competitive selection process, FPL shall have the right to approve, in advance in writing, each County Subcontractor in accordance with the terms hereof; provided, FPL acknowledges that it has approved those County Subcontractors (and the related consulting agreements) set forth on Exhibit C. If FPL fails to object to any proposed County Subcontractor within three (3) days of its receipt of notice from the County, the County may retain such County Subcontractor for the portion of the Work proposed. If FPL objects in writing within such three (3) day period, the County shall not retain such proposed County Subcontractor.

6.5 Each Party shall promptly make available to the other Party copies of:

(a) All agreements with providers of County Services or FPL Services (including design, engineering and procurement) for the Reclaimed Water Project and all amendments thereto, including any contracts related to such services (the "Project Contracts"); and

(b) Any reports, studies, or assessments done for the County or FPL by an independent engineer or other consultants; and

(c) Any and all reports, studies, assessments or documents related to the Bonds (the "Bond Documents").

6.6 The County grants to FPL non-exclusive, irrevocable and perpetual access rights across the Pipeline right-of-way and the Reclaimed Water Project not located at the ECR Wastewater Facility for the purpose of ingress and egress to and from to facilitate FPL's completion of any FPL Service related to the Reclaimed Water Project. In addition, the County will: (i) assign FPL the temporary construction easement granted to County by the ECR in the ECR-WPB-County Interlocal for construction of Reclaimed Water Project located on ECR Property; and, (ii) upon FPL's reasonable request, provide FPL with access to, and accompany FPL on, the ECR Wastewater Facility in order that FPL may verify the County's compliance with the Milestone Schedule and the operating and maintenance parameters set forth herein. The rights set forth in the previous two sentences shall hereinafter be referred to as the "Licenses." FPL may transfer such Licenses to any of its subcontractors, vendors and consultants engaged in providing such FPL Services; provided, in connection with exercising any such access rights under the Licenses, FPL shall ensure that such access (whether by FPL or its subcontractors, vendors and consultants) shall not materially interfere with any party's use of the ECR Wastewater Facility or the operation of any equipment that is located at the ECR Wastewater Facility and shall comply with all safety procedures and policies of the ECR with regards to the ECR Wastewater Facility; provided, further that any subcontractor, vendor or consultant that FPL transfers such Licenses to is in compliance with the contract requirements set forth in Section 6.1(b). FPL shall also have the right at any time during the Term (and consistent with the Licenses) to inspect the Reclaimed Water Project and to inspect or audit the Project Contracts and the County's books and records in order to verify the County's compliance with the Milestone Schedule, the operating parameters set forth herein and to permit FPL to determine whether:

(a) the County has obtained and maintained all RWP Required Approvals, and that such RWP Required Approvals do not contain requirements that might restrict the Reclaimed

Water Project's ability to provide the Reclaimed Water as provided for in this Agreement;

(b) the County has obtained and maintained all permits, easements and land acquisitions necessary for the construction, commissioning, operation and maintenance of the Reclaimed Water Project;

(c) all Project Contracts and Bond Documents have been entered into and become effective on a timely basis and the County is not in default thereunder; and

(d) the County is operating the Reclaimed Water Project not located on ECR Property and is causing WPB to operate the expanded ECR Wastewater Facility in accordance with this Agreement, the RWP Required Approvals, any specifications required by an original equipment manufacturer, the plans and specifications approved by FPL and as otherwise set forth herein.

In the event FPL reasonably believes that the County's completion of any County Service related to a RWP milestone will not be completed by the date required in the Milestone Schedule or that the County's operation of the Reclaimed Water Project does not comply with the delivery, quantity and quality terms and objectives set forth herein (a "Deficiency"), FPL shall notify the County of such Deficiency in writing. As soon as possible, but in any event not later than five (5) days of receipt of FPL's notice, the County shall either dispute, in good faith and in reasonable detail, the correctness of any Deficiency, or provide to FPL a written plan (the "Plan") detailing the activities or sequence of events the County will implement to: (i) assure completion of a County Service by the applicable RWP milestone date required therefore, (ii) assure that Reclaimed Water Project operations will satisfy the terms herein (including supplying FPL with Potable Water in a manner consistent with Section 9.3), or (iii) remedy any other Deficiency. The County shall promptly proceed to prosecute such Plan, which Plan shall be subject to FPL's reasonable review and approval, said approval not to be unreasonably withheld or delayed. Approval by FPL of such Plan shall not: (i) be deemed in any way to have relieved the County of its obligations under this Agreement, or (ii) limit the rights of FPL under the Agreement; provided, the reasonable and documented costs incurred by the County in effecting an approved Plan will be deemed a County RWP Cost, or, if said costs are incurred following the Service Initiation Date, said costs shall be reimbursed to the County from the R&R Fund or charged to FPL as part of the Operating Fee, as determined appropriate by the Operating Committee.

6.7 The County shall, or shall cause WPB or a third-party operator to, be responsible for operating and maintaining the Reclaimed Water Project in accordance with this Agreement, the RWP Required Approvals, any specifications required by an original equipment manufacturer and the plans and specifications approved by FPL. Notwithstanding the foregoing, the County is solely responsible for the economic and technical feasibility, operational capability and reliability of the Reclaimed Water Project.

6.8 Budget

(a) Attached hereto at Exhibit (H) is a detailed budget, approved by the Parties, of the estimated costs to design, permit, engineer, procure, construct, commission, finance, operate and

maintain the Reclaimed Water Project (the "**Budget**"). The Parties acknowledge that the Budget is subject to change. It is the intention of the Parties that FPL, consistent with the terms herein, will be responsible for the full costs to design, permit, engineer, procure, construct, commission and finance the Reclaimed Water Project, both prior to and after the issuance of the Bonds. The Budget includes all projected direct and indirect costs and expenses (including Labor Costs) relating to the Reclaimed Water Project to be incurred by the County (the "**County RWP Costs**") and FPL (the "**FPL RWP Costs**"), including projected costs under the Project Contracts and projected costs to be incurred by the County and FPL for third party supplied items. Subject to the limitations contained in this Agreement, FPL shall pay directly or reimburse the County (as appropriate) for any of the actual County RWP Costs and expenses incurred by the County and set forth in the cost categories as detailed in the Budget; provided, FPL's obligation to pay directly or reimburse the County for such County RWP Costs shall terminate upon that date on which the County issues (or causes to be issued) the Bonds as contemplated in Section 6.9. FPL shall make County RWP Cost payments to the County within forty-seven (47) days after receipt of an original invoice; provided, the County's right to receive any County RWP Cost payment hereunder is conditioned upon its submitting to FPL, no more often than once per month, an original invoice (documenting County RWP Costs incurred in detail reasonably acceptable to FPL) and evidence of achievement of all milestones required to be achieved prior to such payment.

(b) In the event there is a change or changes in any Applicable Laws or interpretations thereof, enacted or adopted after execution of this Agreement that increases the construction, operation or maintenance of the Reclaimed Water Project (a "**Change in Law**"), the County shall, by written notice to FPL, request a change to the Budget due to a Change In Law, provided that such Change In Law has a demonstrable cost increase to the County and/or has an impact that will actually affect the County's ability to provide the County Services. If FPL agrees that the Change in Law will increase the costs of, or the County's ability to provide, the County Services, then the Parties shall revise the Budget accordingly. If in such event the Parties are unable to agree on a mutually acceptable revised Budget, then the dispute shall be resolved in accordance with Section 16.13.

6.9 Bonds, Service Account

(a) In accordance with the terms and conditions specified in this Agreement, the County shall issue the Bonds, or shall cause the Bonds to be issued, promptly following receipt of the Final Notice. FPL will cooperate reasonably with the County with regards to issuing the Bonds and permit the County to assign this Agreement on a collateral basis to the appropriate financial institution (the "**Institution**") for the purpose of obtaining the Bonds; provided, FPL shall have the right to attend all meetings related to, and to approve, in advance and in writing, each Bond Document. Upon the request of the Institution, FPL shall execute a consent to collateral assignment or other documents customarily required in connection with a financing, such consent or other documents in a form reasonably satisfactory to FPL. The County shall size the Bonds appropriately to provide financing for one hundred percent (100%) of the costs and expenses related to permitting, designing, engineering, financing, procurement, construction and commissioning of the Reclaimed Water Project including, for the avoidance of doubt, the funds and the cost of such funds related to any County or FPL RWP Costs payments advanced by FPL (the "**Required Funding**"). The County shall also include an appropriate increased authorization of the Bonds, as determined by mutual agreement of the Parties, in contemplation of any cost overruns experienced in the

development of the Reclaimed Water Project. If the proceeds of the Bonds (the "Bond Proceeds") are not equal to the Required Funding, the County and FPL shall determine (on a cost-based, reasonable basis) whether the County should issue such authorized but unissued Bonds in an amount necessary to satisfy the Required Funding related to the Reclaimed Water Project. If FPL determines, in its sole discretion, that the Bond issuance would be enhanced by a monoline insurance product, the County and FPL shall use best efforts to procure such a product supporting the Reclaimed Water Project from a financial institution mutually agreed to by the Parties, the cost of such product shall, at FPL's option, become part of the Required Funding for the Reclaimed Water Project and included in the Bond Proceeds.

(b) The County shall deposit and maintain the Bond Proceeds in an interest bearing, segregated account (the "Bond Account") and shall utilize the Bond Proceeds solely to fund, or reimburse FPL for, the permitting, design, engineering, financing, procurement, construction and commissioning of the Reclaimed Water Project. Upon receipt by the County of the Bond Proceeds, FPL's obligation to pay directly or reimburse the County for County RWP Costs and to pay directly all FPL RWP Costs shall terminate and the Bond Proceeds will be utilized to: (i) promptly reimburse FPL for all County RWP Costs and FPL RWP costs paid directly or reimbursed to the County by FPL related to costs incurred prior to the Bond issuance date, and (ii) pay all County RWP Costs and FPL RWP Costs incurred by the Parties on and after the Bond issuance date.

(c) On a date prior to the issuance of the Bonds, FPL shall establish and maintain a separate account (the "Service Account") in the name of Florida Power & Light Company, the purpose of which is to establish a source of funding from which FPL shall be permitted to draw to fund the FPL Services provided by FPL Subcontractors consistent with this Agreement. The Service Account will be funded at the beginning of each month by the County solely with proceeds from the Bond Account and in an amount necessary to pay for those FPL Services provided by FPL Subcontractors during the prior month as documented by FPL Subcontractor invoices submitted to the County by FPL. Following receipt of the FPL Subcontractor invoices by County, County shall have fifteen (15) days to fund the Service Account. FPL shall not assign, hypothecate, pledge, grant a security interest in or otherwise encumber the Service Account or any monies in the Service Account. No monies shall be distributed or otherwise transferred from the Services Account to any affiliates of FPL.

(d) FPL Labor Costs incurred in the construction and commissioning of the Reclaimed Water Project shall be collected and accumulated by FPL in separate FPL internal accounts. Within sixty (60) days after the Project Completion Date, FPL will prepare and deliver to the County an adjustment statement which shall reflect the actual FPL Labor Costs and expenses incurred by FPL related to the FPL Services and the Reclaimed Water Project. Within thirty (30) days following the delivery of the adjustment statement to the County, the County shall pay to FPL the amount reflected in the adjustment statement, provided there are sufficient Bond Proceeds remaining in the Bond Account to cover the FPL Labor Costs. If, after the Project Completion Date, and after the reimbursement of all County RWP Costs and FPL RWP Costs, including the FPL Labor Costs, there are Bond Proceeds or accumulated interest remaining in the Bond Account, FPL shall be entitled to direct the County to use the excess Bond Proceeds or accumulated interest as a credit against the Monthly Capital Fee or Monthly Carrying Fee. FPL agrees to furnish the County with such documents and other records as may

be reasonably requested in order to confirm FPL's Labor Cost statement.

6.10 Bill of Sale, FPL Easement

(a) Within ten (10) days of the Project Completion Date and consistent with any Bond requirements, FPL shall deliver, or cause to be delivered, to the County a fully executed document, in a form reasonably acceptable to the Parties, which transfers all ownership rights of the Reclaimed Water Project to the County or other party as the County may reasonably elect (the "Bill of Sale").

(b) Within ten (10) days after the Project Completion Date, or prior to the Service Initiation Date, whichever occurs earlier, FPL shall deliver, or cause to be delivered, to the County a fully executed utility easement, in a form reasonably acceptable to the Parties, providing County the right to enter upon FPL property at any time and upon reasonable prior notice to FPL to operate and maintain the WCEC On-Site RWP Facilities. The County shall, and shall cause its employees and County Subcontractors, to at all times comply with all safety procedures and policies of FPL with regards to the West County Energy Center.

7. Water Supply

7.1 Commencing January 1, 2011 (the "Service Initiation Date"), the County shall make available to FPL at the Delivery Point, during any calendar day during the Term, eighteen (18) MGD of Reclaimed Water to meet the water requirements for WCEC Units 1 and 2 (the "Base Service").

7.2 Commencing on the Service Initiation Date, the County shall make available to FPL at the Delivery Point, during any calendar day during the Term, nine (9) MGD of Reclaimed Water to meet the water requirements for WCEC Unit 3 (the "Supplemental Service").

7.3 Notwithstanding any other provision of this Agreement, the total amount of Reclaimed Water that the County shall be required to make available to FPL at the Delivery Point shall not exceed: (i) twenty-two (22) MGD annual average daily flow calculated based on a five (5) year rolling average and determined on the annual anniversary date of the Service Initiation Date; and (ii) twenty-seven (27) MGD peak usage on any day during the term of this Agreement.

7.4 Commencing on the Service Initiation Date and continuing thereafter throughout the Term, the County shall make Reclaimed Water available to the Delivery Point on a continuous basis and in the quantities set forth in Sections 7.1, 7.2 and 7.3.

7.5 Prior to the Service Initiation Date, the County shall install a fully functioning meter (the "Meter") at the Delivery Point. The Meter will be maintained by the County consistent with American Water Works Association standards. County agrees to have an annual inspection and report prepared regarding the condition and accuracy of the Meter. A copy of the annual report on such inspection shall be furnished to FPL. FPL shall have the right to make its own inspection of the Meter, or to have an independent company inspect the metering equipment at any time; provided, however, no such inspection shall be made unless FPL shall first give County written notice of the date and time of its intent to have the inspection made, nor shall any such inspection be made prior to twenty-four (24) hours, excluding Saturdays, Sundays, and holidays, subsequent to

the receipt of said notice by County. All costs and expenses of FPL's interim inspection shall be borne by FPL. If the Meter is found not to be in good working order, the County shall reimburse FPL the cost incurred as a result of the interim inspection. Normal maintenance of the Meter shall be performed by County as an expense of water distribution.

7.6 Consistent with the provisions of Section 10, the County shall retain control of all volumes of Reclaimed Water that are not required to be delivered to FPL in accordance with this Agreement or that are required to be delivered to FPL pursuant to this Agreement but which are not (or cannot be) accepted by FPL in accordance with this Agreement.

8. Compensation, Payment and Billing

8.1 FPL shall pay to the County an Operating Fee for the Reclaimed Water delivered hereunder, consisting of the following components:

(a) Commencing on the date the Bonds first begin to accrue, a capital fee in an amount calculated in accordance with the provisions of Exhibit H (the "Capital Fee") the proceeds of which shall be used exclusively by the County to: (i) service the principal on the Bonds, and (ii) to collect and establish a ten percent (10%) debt service coverage fund for coverage of the Bond principal (the "Coverage Fund"); provided, on that date thirty (30) days following the end of each year during the Term the County shall refund to FPL fifty percent (50%) of the Coverage Fund ~~as adjusted for any extraordinary maintenance during the previous year~~. FPL's Capital Fee shall be calculated based on the amount of Bond Proceeds used for the design, engineering, procurement, permitting, monoline insurance, construction and renewal and replacement of the Reclaimed Water Project. The Capital Fee shall be paid consistent with the Bond repayment schedule over the term of the Agreement until such time as the Bonds are retired.

(b) Commencing on the date the Bonds first begin to accrue, a carrying fee in an amount calculated in accordance with the provisions of Exhibit H (the "Carrying Fee") the proceeds of which shall be used by the County to service the interest on the Bonds. FPL's Carrying Fee shall be calculated based on the amount of the Bond Proceeds used by the County for the design, engineering, procurement, permitting, monoline insurance, construction, and renewal and replacement of the Reclaimed Water Project, in accordance with Exhibit H. The Carrying Fee shall be paid consistent with the Bond repayment schedule over the term of the Agreement until such time as the Bonds are retired. In the event there are third party customers utilizing the Reclaimed Water Project, then FPL shall be reimbursed semi annually by the County for a portion of the Carrying Fee related to such third party use of the Pipeline. Such reimbursement shall be calculated on a pro rata, metered flow basis in accordance with the allocation set forth in Exhibit H.

(c) Commencing on the Service Initiation Date and for the term of this Agreement, an annual renewal and replacement fee in an amount based on the Bond Proceeds used for the design, engineering, procurement, permitting, and construction of the Reclaimed Water Project and calculated in accordance with the provisions of Exhibit H (the "R&R Fee"). Such proceeds shall be used exclusively by the County to provide for a one and one quarter percent (1.25%) renewal and replacement fund (the "R&R Fund") for the benefit of the Reclaimed Water Project. The R&R Fund shall be interest bearing, managed by the Oversight Committee, accounted for separately by the County and be dedicated solely to the Reclaimed Water Project. In the event

there are third party customers utilizing the Reclaimed Water Project, then FPL shall be reimbursed annually by the County for a portion of the R&R Fee related to such third party use of the Pipeline. Such reimbursement shall be calculated on a pro rata, metered flow basis in accordance with the allocation set forth in Exhibit H. Any proceeds remaining in the R&R Fund at the end of the initial Term shall be applied to the renewal and replacement of the Reclaimed Water Project during any extension period (as such is provided for in Section 3), or, if there is no such extension, such proceeds shall be distributed promptly to FPL. The R&R Fee shall be paid over the term of the Agreement and any extensions thereto.

(d) Commencing on the Service Initiation Date, a monthly base fee designed to recover certain fixed and non-variable costs incurred by the County related to the operation and maintenance of the Reclaimed Water Project and in amounts calculated in accordance with the cost categories set forth in the Budget and with the provisions of Exhibit H (the "**Monthly Base Fee**"). FPL shall be required to pay a minimum Monthly Base Fee calculated based on an annual average daily flow of twenty-two (22) MGD of Reclaimed Water; provided, that in the event the Reclaimed Water Project is not available to tender such volume of Reclaimed Water at the Delivery Point during each such calendar day, the Monthly Base Fee will be reduced pro-rata for each day the Reclaimed Water is unavailable. In the event there are third party customers utilizing the Reclaimed Water Project, then FPL shall be reimbursed monthly by the County for a portion of the Monthly Base Fee, such reimbursement calculated on a pro rata, metered flow basis in accordance with the allocation set forth in Exhibit H.

(e) Commencing on the Service Initiation Date, a monthly commodity fee designed to recover certain variable costs incurred by the County related to the operation and maintenance of the Reclaimed Water Project and in amounts calculated in accordance with the cost categories set forth in the Budget and with the provisions of Exhibit H (the "**Monthly Commodity Fee**"). FPL shall be required to pay the Monthly Commodity Fee based on the actual metered flow delivered to the WCEC during the month and actual variable costs incurred in the delivery of such flow. In the event there are third party customers utilizing the Reclaimed Water Project, then FPL shall be reimbursed monthly by the County for a portion of the Monthly Commodity Fee, such reimbursement calculated on a pro rata, metered flow basis in accordance with the allocation set forth in Exhibit H.

(f) Commencing on the Service Initiation Date, a monthly fee of ten percent (10%) of the Monthly Base Fee and Monthly Commodity Fee shall be calculated and paid to the Village of Royal Palm Beach (the "**RPB Service Area Fee**") in accordance with the Palm Beach County/Village of Royal Palm Beach Amended Potable Water, Reclaimed Water and Wastewater Utilities Franchise and Service Area Agreement dated August 24, 2004 (County Resolution No. R2004-1802), as amended by the Amendment to Palm Beach County/Village of Royal Palm Beach Amended Potable Water, Reclaimed Water and Wastewater Utilities Franchise and Service Area Agreement dated February 28, 2006 (County Resolution No. R2006-0411.)

8.2 As soon as practicable after the end of each month, the County will render to FPL an invoice for the payment obligations, if any, incurred hereunder during the preceding month (the "**Obligation Month**"). An invoice can only be adjusted or amended after it was originally rendered within the time frames set forth below. If an invoice is not rendered within twenty-four (24) months after the close of the Obligation Month, the right to any payment for that Obligation Month under

this Agreement is waived. FPL will make all payments due to the County within forty-seven (47) days from the date the bill is rendered by County. Interest shall accrue daily on any amount that is unpaid by the due date at the lesser of (i) the per annum rate of interest equal to the most recent annual Federal Funds Effective Rate as reported by the Federal Reserve, plus two percent (2%) or (ii) the maximum rate permitted by applicable law (the "Interest Rate").

8.3 A Party may adjust any invoice for an Obligation Month to correct any arithmetic or computational error or to include additional charges or claims within twelve (12) months after the close of such Obligation Month. FPL may, in good faith, dispute the correctness of any invoice or of any adjustment to any invoice previously rendered to it by providing Notice to the County within the later of (i) twelve (12) months of the date of receipt of such invoice or adjusted invoice, or (ii) twenty-four (24) months after the close of the Obligation Month. Failure to provide such Notice within the time frames set forth in the preceding sentence waives the dispute with respect to such invoice. A Party disputing all or any part of an invoice or an adjustment to an invoice previously rendered to it may pay only the undisputed portion of the invoice when due, *provided*, such Party provides Notice to the other Party of the basis for and amount of the disputed portion of the invoice that has not been paid. The disputed portion of the invoice must be paid within two (2) Business Days of resolution of the dispute, along with interest accrued at the Interest Rate from and including the original due date of the invoice to but excluding the date the disputed portion of the invoice is paid in full. Inadvertent overpayments shall be returned upon request or deducted by the County.

9. Water Quality, Restrictions

9.1 All Reclaimed Water provided by the County to FPL at the Delivery Point must satisfy the specific water quality requirements set forth in Rule 62-610, Part III, F.A.C. (as in effect from time to time during the Term). Notwithstanding any amendments, supplements, replacements, repeals or other modifications that may hereafter occur or take effect at any time during the Term with respect to any terms or provisions of Rule 62-610, Part III, F.A.C., all Reclaimed Water provided by the County to FPL at the Delivery Point must (a) satisfy the requirements of Chapter 62-528, F.A.C., for injection of non-hazardous wastewater in a Class I UIC well, and (b) meet the specific water quality requirements set forth in Exhibit I (the "Quality Requirements").

9.2 The County shall carry out continuous monitoring and periodic testing with respect to the quality of: (a) all Reclaimed Water that has been treated and produced by the Reclaimed Water Project, and (b) all water provided by the County to FPL at the Delivery Point, in accordance with the specific water quality requirements set forth in Rule 62-610, F.A.C., and the terms of this Agreement. Such monitoring and periodic testing will be carried out by the County in accordance with the following requirements:

(a) The County shall monitor and analyze separately the quality of the Reclaimed Water on a monthly basis for constituents using the methods identified in Exhibit I. Such testing shall be performed on grab samples collected at the ECR Wastewater Facility after the Reclaimed Water has been treated to meet the Quality Requirements.

(b) The County shall monitor conductivity, ammonia and phosphates on a continuous basis.

The results of all testing and continuous monitoring activities shall be transmitted by the County to FPL on a real-time basis, and the County shall provide FPL with the results of all grab samples on a monthly basis. Further, the County shall promptly notify FPL in the event that the Reclaimed Water does not satisfy the Quality Requirements and upon any deterioration in the quality of the Reclaimed Water treated and produced at the Reclaimed Water Project.

9.3 If, due to a failure by the County to comply with the terms and conditions of this Agreement, any of the Quality Requirements are not satisfied or the Base Service or Supplemental Service to FPL is interrupted (in whole or in part) the County shall promptly: (a) notify FPL and, upon FPL's direction, cease delivering the Reclaimed Water to its holding tank and divert the Reclaimed Water to the ECR Wastewater Facility's UIC wells, and (b) implement (or cause to be implemented) corrective measures to ensure that the Reclaimed Water satisfies the requisite Quality Requirements. During the Term and throughout the pendency of any such Reclaimed Water delivery interruption (an "**Interruption**") the County shall provide FPL, at no charge, three point two (3.2) MGD of Potable Water from the County's Potable Water System. In the event an Interruption is caused due to a condition other than a failure of the County to satisfy the Quality Requirements, or if the failure of the County is caused by a Force Majeure, the County shall provide such Potable Water to FPL at the County's bulk rate for Potable Water.

9.4 In the event the SFWMD (or another duly authorized governmental authority) declares a water shortage (a "**Declaration**"), the County shall restrict or curtail service to FPL only as provided for pursuant to SFWMD Rule 40E-21, Water Shortage Plan, Florida Administrative Code (or other applicable law existing as of the time of such Declaration). The Parties acknowledge that, as currently written, Sections 40E-21.521 and 40E-21.531, F.A.C., require that during Phase I Moderate Water Shortage restrictions and Phase II Severe Water Shortage Restrictions, power production use shall only be reduced voluntarily. Therefore, the County, during Phase I and Phase II SFWMD water shortage restrictions, and based upon the current provisions of Sections 40E-21.521 and 40E-21.531, F.A.C., shall not alter the amount of its water supply to WCEC. For Phase III water restrictions and beyond, the County shall proceed as directed by SFWMD and applicable law. The Parties agree that these provisions are subject to amendment and that both the County and FPL will comply with all applicable provisions in effect at the time of the declaration of the water shortage.

10. Other Uses of the Pipeline

10.1 Upon the prior written consent of FPL (such consent not unreasonably withheld or delayed) the County may utilize the Pipeline to deliver quantities of Reclaimed Water in excess of FPL's Reclaimed Water requirements to third-party water customers; provided: (a) such third-party deliveries shall not affect FPL's service under this Agreement, and (b) the County shall limit additional third-party customers, or interrupt and curtail such third-party customers, to maintain FPL's level of service consistent with the terms of this Agreement. The level of service provided to third-party customers shall be interruptible, in that the County may curtail such service at any time, in order to meet the Reclaimed Water requirements of FPL ("**Interruptible Service**").

10.2 In the event that the County utilizes the Reclaimed Water Project to deliver Reclaimed Water to third-party customers, FPL shall be reimbursed monthly by the County for a portion of the R&R Fee collected for renewal and replacement of the Pipeline, the Monthly Base

Fee and the Monthly Commodity Fee, such reimbursement calculated on a pro rata, metered flow basis in accordance with the allocation set forth in Exhibit H.

11. Force Majeure

Except as otherwise provided in this Agreement, each Party shall be excused, pursuant to the procedures set forth in this Section 11, from performance to the extent its nonperformance is caused by Force Majeure.

(a) In the event of any delay or nonperformance resulting from Force Majeure, the Party suffering an occurrence of Force Majeure shall notify the other of the nature, cause, date of commencement thereof and the anticipated extent of such delay, and shall indicate whether any date(s) for performance may be affected thereby. Such notice shall be given to the other Party as soon as practicable but in no event later than three (3) Business Days after the claiming Party's awareness of the Force Majeure and shall provide such substantiating documentation as may be required to verify such event or circumstances and its effects within ten (10) days of such notice. The Party claiming Force Majeure shall endeavor in good faith to notify the other Party earlier than three (3) Business Days but shall not be in breach of this Contract for any failure to provide such notice any sooner than three (3) Business Days, and shall notify the other Party of the status of its efforts in such form and with such frequency as the other Party reasonably may request under the circumstances (but not less than weekly). When the Party claiming Force Majeure is able to resume performance of its obligations under this Contract, such claiming Party shall give the other Party prompt notice to such effect.

(b) The suspension of performance shall be of no greater scope and of no greater duration than the cure for the Force Majeure requires.

(c) Any Party suffering an occurrence of Force Majeure shall use commercially reasonable efforts to remedy the cause(s) preventing its performance of this Contract as promptly as possible.

12. Default and Termination

12.1 Each of the following shall constitute an "Event of Default" by the County:

(a) The County abandons the (i) development, permitting, acquisition of easements and lands, financing or the operation and maintenance of the Reclaimed Water Project not located at the ECR Wastewater Facility, or (ii) development, permitting, or financing of the Reclaimed Water Project located at the ECR Wastewater Facility;

(b) The County fails to provide County Services in a manner that achieves the Milestone Schedule by the corresponding milestone date and has failed to cure such failure within thirty (30) days of such milestone date; provided, it shall not be considered a default of the County if the failure to achieve the Milestone Schedule is caused by a failure on the part of FPL or FPL Subcontractors in the performance of the FPL Services;

(c) As a result of a failure to provide or procure the necessary County Services, the County fails to achieve the Service Initiation Date; provided, it shall not be

considered a default of the County if the failure to achieve the Service Initiation Date is caused by a failure on the part of FPL or FPL Subcontractors in the performance of the FPL Services;

(d) The County's failure to deliver a Plan that is reasonably acceptable to FPL as set forth in Section 6.6 or the material failure of the County to cause the prosecution of the Plan accepted by FPL and such failure continues for [thirty (30) days] after notice from FPL;

(e) The County is in material default under any of the Bond Documents; provided, the County shall not be deemed to be in default if the County's default under the Bond Documents is caused by a failure by FPL to make a Monthly Capital Cost Fee payment or a Monthly Carrying Fee payment and such failure was not caused by a default by the County.

(f) If, during any month following the Service Initiation Date, the County fails, for [seven (7) calendar days] during any one month, to make available to FPL the quantities of Reclaimed Water necessary to satisfy FPL's Base Service and Supplemental Service requirements and such failure is not excused by reason of Force Majeure.

(g) The County sells Reclaimed Water from the Reclaimed Water Project to a third party other than as expressly provided in Section 10;

(h) If (i) a receiver or liquidator or trustee of the County or of a substantial part of the assets of the County is appointed by order of a court of competent jurisdiction, and such receiver or liquidator or trustee is not discharged within a period of sixty (60) calendar days; (ii) by decree of such a court, the County is adjudicated bankrupt or insolvent or a substantial part of the assets of the County are sequestered, and such decree continues undischarged and unstayed for a period of sixty (60) calendar days after the entry thereof; (iii) a petition to declare bankruptcy or to reorganize a party pursuant to any of the provisions of the Federal bankruptcy laws, as they now exist or may hereafter be amended, or pursuant to any other similar state statute applicable to the County, as now or hereafter in effect, is filed against the County and is not dismissed within sixty (60) calendar days after such filing; (iv) the County files a voluntary petition to declare bankruptcy or to reorganize pursuant to any bankruptcy law or insolvency law, or consents to the filing of any bankruptcy or reorganization petition against it under any similar law; or (v) without limitation of the generality of the foregoing, the County files a petition or answer or consent seeking relief or assistance in seeking relief in a proceeding under any of the provisions of the Federal bankruptcy laws, as they now exist or may hereafter be amended, or pursuant to any other similar state statute applicable to the County, as now or hereafter in effect, or the County files an answer admitting the material allegations of a petition filed against it in such a proceeding; or

(i) To the extent any event or events of Force Majeure excuse the County from performing any of its material obligations hereunder for a period exceeding sixty (60) days (the "Force Majeure Aggregate Allowance").

(j) The County is in default of any material provision of this Contract (including water quality provisions) not specifically mentioned in this Section 12.1 and the County has failed to cure such default within ten (10) days after notice of such default from FPL to the County; provided, that so long as such default of the County is not a failure to pay money,

(i) if it is not feasible to correct such default within ten (10) days after FPL has delivered notice of such default to the County, but it remains feasible to correct within thirty (30) days, and (ii) if within ten (10) days after said notice from FPL, the County provides FPL notice of its intention to cure such default and evidence that it remains feasible to correct such default within thirty (30) days after such notice from FPL, it shall not constitute an Event of Default hereunder until the earliest feasible date within such thirty (30) day period when a cure could be effected so long as (i) corrective action by the County is instituted within ten (10) days following the notice from FPL, (ii) such corrective action is diligently pursued, (iii) the County provides FPL bi-weekly written reports as to the nature and progress of such corrective action, and (iv) such cure is effected within thirty (30) days of the notice from FPL.

12.2 Each of the following shall constitute an Event of Default by FPL:

(a) FPL fails to make a payment due to the County that is not subject to a good-faith dispute within forty-seven (47) days after notice from the County that such payment is due under this Agreement; or

(b) If (i) a receiver or liquidator or trustee of FPL or of a substantial part of the assets of FPL is appointed by order of a court of competent jurisdiction, and such receiver or liquidator or trustee is not discharged within a period of sixty (60) calendar days; (ii) by decree of such a court, FPL is adjudicated bankrupt or insolvent or a substantial part of the assets of FPL are sequestered, and such decree continues undischarged and unstayed for a period of sixty (60) calendar days after the entry thereof; (iii) a petition to declare bankruptcy or to reorganize a party pursuant to any of the provisions of the Federal bankruptcy laws, as they now exist or may hereafter be amended, or pursuant to any other similar state statute applicable to FPL, as now or hereafter in effect, is filed against FPL and is not dismissed within sixty (60) calendar days after such filing; (iv) FPL files a voluntary petition to declare bankruptcy or to reorganize pursuant to any bankruptcy law or insolvency law, or consents to the filing of any bankruptcy or reorganization petition against it under any similar law; or (v) without limitation of the generality of the foregoing, FPL files a petition or answer or consent seeking relief or assisting in seeking relief in a proceeding under any of the provisions of the Federal bankruptcy laws, as they now exist or may hereafter be amended, or pursuant to any other similar state statute applicable to FPL, as now or hereafter in effect, or FPL files an answer admitting the material allegations of a petition filed against it in such a proceeding.

(c) To the extent any event or events of Force Majeure excuse FPL from performing any of its material obligations hereunder for a period exceeding sixty (60) days (the "Force Majeure Aggregate Allowance").

(d) FPL is in default of any material provision of this Contract not specifically mentioned in this Section 12.2 and FPL has failed to cure such default within ten (10) days after notice of such default from the County to FPL; provided, that so long as such default of FPL is not a failure to pay money, (i) if it is not feasible to correct such default within ten (10) days after the County has delivered notice of such default to FPL, but it remains feasible to correct within thirty (30) days, and (ii) if within ten (10) days after said notice from the County, FPL provides the County notice of its intention to cure such default and evidence that it remains feasible to correct such default within thirty (30) days after such notice from the County,

it shall not constitute an Event of Default hereunder until the earliest feasible date within such thirty (30) day period when a cure could be effected so long as (i) corrective action by FPL is instituted within ten days following the notice from the County, (ii) such corrective action is diligently pursued, (iii) FPL provides the County bi-weekly written reports as to the nature and progress of such corrective action, and (iv) such cure is effected within thirty (30) days of the notice from the County.

12.3 Upon the occurrence of any Event of Default:

- (a) If FPL is the non-defaulting Party, FPL may, at its option:
 - (i) terminate this Agreement by written notice to the County;
 - (ii) apply to any court of competent jurisdiction for the appointment of a receiver to take charge of, manage, preserve, protect, complete the development and construction of, and operate the Reclaimed Water Project, to make all necessary and needed repairs to the Reclaimed Water Project, and to pay all taxes and assessments against the Reclaimed Water Project and insurance premiums for insurance thereof, it being hereby agreed that, upon occurrence of an Event of Default, (i) FPL shall be entitled to such appointment; (ii) upon application by FPL, the court may forthwith appoint such receiver with the usual powers and duties thereof; (iii) the County consents, and the County shall not object to such appointment; and (iv) appointment of a receiver under this Section 12.4(a) shall not in and of itself terminate this Agreement;
 - (iii) In the event of a County Event of Default pursuant to Sections 12.1 (d), (f), (i) or (j) relating to the Reclaimed Water Project on ECR Property, FPL may, by providing prior written notice to the County and WPB, request that the County cause WPB to employ one of the contractors set forth on Exhibit J (a "Deficiency Contractor") to effect repair [renewal] to, and restore operations of, the Reclaimed Water Project on ECR Property consistent with the terms of this Agreement and at FPL's expense (a "Step In"). The County shall, and shall cause WPB to: (i) within twenty-four (24) hours of receipt of the Step In notice, engage the Deficiency Contractor, (ii) cooperate in good faith with FPL and the Deficiency Contractor to effect the Step In, and (iii) grant the Deficiency Contractor access rights to the Reclaimed Water Project on ECR Property for the purpose of ingress and egress to and from to facilitate the Deficiency Contractor's repair and operation of the Reclaimed Water Project on ECR Property. FPL shall cause the Deficiency Contractor to comply with all safety procedures and policies of the County, ECR, and WPB with regards to the Reclaimed Water Project on ECR Property and FPL shall, or shall cause the Deficiency Contractor to, defend,

indemnify and hold harmless the County, ECR, and WPB from and against any and all claims, loss, damage, expense, costs, fines, penalties, liability and causes of action of every kind and character that are due to any act or omission of the Deficiency Contractor or its agents, employees, subcontractors, invitees, or licensees arising out of, or related to, the Step In provisions. Upon completion by the Deficiency Contractor of any repair and the restoration of operations of the Reclaimed Water Project on ECR Property, the Deficiency Contractor shall vacate, and WPB shall resume operations of, the Reclaimed Water Project on ECR Property. In the event of a Step In, FPL's reasonable and documented costs and expenses incurred pursuant to the Step In by the Deficiency Contractor shall be deducted solely from the Monthly Base Fee and the Monthly Commodity Fee until such costs and expenses have been reimbursed in full to FPL. Notwithstanding the foregoing, the rights of FPL in effecting such Step In related to the Reclaimed Water Project located on ECR Property shall not exceed the ECR Authority. Such Step In will be without prejudice to the other remedies FPL may have under this Agreement,

- (iv) In the event of a County Event of Default pursuant to Sections 12.1 (d), (f), (i) or (j) relating to the Reclaimed Water Project not on ECR Property, FPL may, by providing prior written notice to the County effect repair to, and restore operations of, the Reclaimed Water Project not on ECR Property consistent with the terms of this Agreement and at FPL's expense. Upon receipt of a Step In notice the County shall: (i) cooperate in good faith with FPL to effect the Step In, and (iii) grant FPL any additional access rights to the Reclaimed Water Project not on ECR Property for the purpose of ingress and egress to and from to facilitate FPL's repair and operation of the Reclaimed Water Project not on ECR Property. In the event of a Step In, FPL's reasonable and documented costs and expenses incurred pursuant to the Step In by FPL shall be deducted solely from the Monthly Base Fee and the Monthly Commodity Fee until such costs and expenses have been reimbursed in full to FPL. Such Step In will be without prejudice to the other remedies FPL may have under this Agreement, and
- (iv) exercise any other right or remedy available to FPL under generally applicable law, under this Agreement or in equity.
- (b) If the County is the non-defaulting Party, the County may, at its option:
 - (i) if the FPL default is related solely to the payment of money, terminate this Agreement without penalty or further obligation by written notice to FPL; and

- (ii) exercise any other right or remedy available to the County under generally applicable law, under this Agreement or in equity.

12.5 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 this Agreement. 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.

12.6 No termination under this Section 12 (or otherwise under this Agreement) shall affect the liability of either Party for obligations arising prior to such termination or for damages, if any, resulting from breach of this Agreement. Notwithstanding anything to the contrary contained herein, FPL's obligation to pay to the County the Capital Fee (as related solely to service the principle on the Bonds) and the Carrying Fee shall survive termination of this Agreement for any reason, including termination by FPL pursuant to Section 12.3(a)(i); provided, in the event such termination is pursuant to Section 12.3(a)(i), the County shall immediately assign, transfer and set over to FPL all of the County's rights, obligations and interests in the Reclaimed Water Project assets not located on ECR Property in a manner satisfactory to FPL in all respects.

13. Indemnification, Limits

13.1 FPL and the County shall each be responsible for its own facilities, for protection of its own systems, and for ensuring adequate safeguards for FPL and County customers, and the personnel and equipment of the County and FPL. To the extent permitted by law, and subject to the limitations set forth in Section 768.28, Florida Statutes, the County shall indemnify, defend and hold FPL harmless, and FPL shall indemnify, defend and hold the County harmless, from any and all claims, demands, costs or expenses, for loss, damage or injury to persons or property caused by, arising out of, or resulting from: (a) any act or omission by the respective Party or that Party's contractors, agents, servants and employees in connection with the development, construction or operation of that Party's facilities or systems, or the operation thereof in connection with the other Party's facilities or systems, (b) any defect in, failure of, or fault related to, a Party's facilities or systems, or (c) the negligence of the respective Party or negligence of that Party's contractors, agents, servants or employees. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by either Party to indemnify the other Party for such other Party's negligent, willful, or intentional acts or omissions.

13.2 TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER THE COUNTY NOR FPL, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS, SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS,

SUBSIDIARIES OR AFFILIATES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, UNDER ANY INDEMNITY PROVISION OR ANY OTHER THEORY OF RECOVERY. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY, AND SUCH DIRECT DAMAGES SHALL BE THE SOLE AND EXCLUSIVE MEASURE OF DAMAGES AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED; PROVIDED, HOWEVER, THAT THIS SENTENCE SHALL NOT APPLY TO LIMIT THE LIABILITY OF A PARTY WHOSE ACTIONS GIVING RISE TO SUCH LIABILITY CONSTITUTE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE PROVISIONS OF THIS SECTION 13.2 SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS CONTRACT. NOTHING CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WAIVER OF A PARTY'S RIGHT TO SEEK INJUNCTIVE RELIEF.

14. Representations and Warranties

14.1 The County hereby represents and warrants as follows:

(a) The County is a political subdivision of the State of Florida duly organized, validly existing and in good standing under the laws of the State of Florida and is qualified in each other jurisdiction where the failure to so qualify would have a material adverse effect upon the business or financial condition of the County; and the County has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this Agreement.

(b) The execution, delivery, and performance of its obligations under this Agreement by the County have been duly authorized by all necessary County action, and do not and will not:

(i) Require any consent or approval of the County's Board of County Commissioners, other than that which has been obtained and is in full force and effect;

(ii) Violate any provision of Applicable Law or violate any provision in any ~~constitutive documents~~ of the County, the violation of which could have a material adverse effect on the ability of the County to perform its obligations under this Agreement;

(iii) Result in a breach or constitute a default under the County's ~~constitutive documents~~ or under any agreement relating to the management or affairs of the County or any indenture or loan or credit agreement, or any other agreement, lease, or instrument

to which the County is a party or by which the County or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of the County to perform its obligations under this Agreement; or

(iv) Result in, or require the creation or imposition of, any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature upon or with respect to any of the assets or properties of the County now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of the County to perform its obligation under this Agreement.

(c) This Agreement is a valid and binding obligation of the County, enforceable against the County in accordance with its terms (except as such enforcement may be limited by bankruptcy, insolvency, or similar laws affecting the rights of creditors, or by general principles of equity).

(d) The execution, delivery and performance of this Agreement will not conflict with or constitute a breach or default under any agreement of any kind to which the County is a party or any judgment, order, statute or regulation that is applicable to the County or the ECR Wastewater Facility.

(e) All approvals, authorizations, consents, or other action required by any Governmental Authority to authorize the County's execution, delivery, and performance under this Agreement have been duly obtained and are in full force and effect, except for those approvals described in Section 4.

14.2 FPL hereby represents and warrants the following:

(a) FPL is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida and is qualified in each other jurisdiction where the failure to so qualify would have a material adverse effect upon the business or financial condition of FPL; and FPL has all requisite power and authority to conduct its business, to own its properties, and to execute, delivery, and perform its obligations under this Agreement.

(b) The execution, delivery, and performance of its obligations under this Agreement by FPL have been duly authorized by all necessary corporate action, and do not and will not:

(i) Require any consent or approval of FPL's Board of Directors, or shareholders, other than that which has been obtained and is in full force and effect;

(ii) Violate any provision of Applicable Law or violate any provision in any corporate documents of FPL, the violation of which could have a material adverse effect on the ability of FPL to perform its obligations under this Agreement;

(iii) Result in a breach or constitute a default under FPL's corporate charter or bylaws, or under any agreement relating to the management or affairs of FPL or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which FPL is a party or by which FPL or its properties or assets may be bound or affected, the breach or

default of which could reasonably be expected to have a material adverse effect on the ability of FPL to perform its obligations under this Agreement; or

(iv) Result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this Agreement) upon or with respect to any of the assets or properties of FPL now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of FPL to perform its obligation under this Agreement.

(c) This Agreement is a valid and binding obligation of FPL, enforceable against FPL in accordance with its terms (except as such enforcement may be limited by bankruptcy, insolvency, or similar laws affecting the rights of creditors or by general principles of equity).

(d) The execution, delivery, and performance of this Agreement will not conflict with or constitute a breach or default under any agreement of any kind to which FPL is a party or any judgment, order, statute or regulation that is applicable to FPL.

(e) Except for those approvals described in Section 4, all approvals required by any Governmental Authority to authorize FPL's execution, delivery, and performance under this Agreement have been duly obtained and are in full force and effect.

15. Notice

15.1 All notices required under this Agreement shall be in writing unless expressly specified otherwise herein, and shall be delivered in person, by certified mail or by a nationally recognized overnight courier, return receipt requested, or by facsimile transmission with confirmation by voice or automatic answer-back service, as specified below:

To County:						
	Fax					
	Telephone					
To: FPL						
	Fax					
	Telephone					

15.2 Notices shall be effective upon receipt; provided, that in the event a Party fails to notify the other of the correct person and address for notices pursuant to Section 15.3 below, any

notice to that Party shall be deemed effective on the third day following the date such notice is sent to the person and address last provided by such Party.

15.3 Either Party may, at any time, by notice designate any different person(s) or different address(es) or phone number(s) for receipt of notices and correspondence.

16. Miscellaneous

16.1 **Assignment or Sale, Etc.**: Neither Party may: (i) assign any of its rights or obligations under this Agreement, or (ii) sell, lease, assign, transfer or otherwise dispose of all or a portion of the Reclaimed Water Project without the prior written consent of the other Party; provided, that without the prior consent of FPL, the County may assign its rights and interests under this Agreement to the Institution as collateral security, or create a security interest in favor of the Institution over its rights and interests in this Agreement. Any attempt by a Party to make any assignment, sale, lease, transfer or other disposition described in this Section 16.1 in violation of this Section 16.1 shall be void ab initio and shall not be effective.

16.2 **Amendments**: This Agreement shall not be amended or modified, and no waiver of any provision hereof shall be effective, unless set forth in a written instrument authorized and executed by the Parties. This Agreement, as it may be amended from time to time, shall be binding upon, and inure to the benefit of, the Parties' respective successors-in-interest and permitted assigns.

16.3 **Survival**: The obligations, rights, and remedies of the Parties hereunder, which by their nature survive the termination of this Agreement, shall survive such termination and inure to the benefit of the Parties.

16.4 **No Waiver**: Any waiver by either Party of its rights with respect to a default (including Events of Default) under this Agreement, or with respect to any other matters arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default (including Events of Default) or other matter. The failure of either Party to enforce strict performance by the other Party of any of the provisions of this Agreement or to exercise any rights under this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provisions or rights in that or any other instance.

16.5 **Service Agreement**: This Agreement is intended to strictly provide services that are not subject to Florida sales/use tax and is not intended and shall not be construed, interpreted or applied to create a lease, license or similar arrangement for the use, possession, custody or control of property.

16.6 **Review, Approval, Etc. by FPL/County**: The Parties explicitly acknowledge and agree that FPL's reviews, agreement, comment, approvals, disapprovals and authorizations pursuant to this Agreement are administrative in nature and do not relieve the County of its obligations for the design, engineering, procurement, financing, operation, or maintenance of the Reclaimed Water Project not included at the ECR Wastewater Facility or the design, engineering, procurement and financing of the Reclaimed Water Project located at the ECR Wastewater Facility, including environmental licensing and compliance with environmental

requirements or other Applicable Laws or Governmental Approvals, or impose any such obligations on FPL, and that FPL's technical review and inspections of the Reclaimed Water Project, or of drawings, plans, or other technical data, and resulting requests, if any, shall not be construed as endorsing the design thereof or as any warranty as to the safety, durability or reliability of the Reclaimed Water Project or the ECR Wastewater Facility or relieve the County of any of its obligations, duties or responsibilities hereunder.

The Parties explicitly acknowledge and agree that the County's reviews, agreement, comment, approvals, disapprovals and authorizations pursuant to this Agreement are administrative in nature and do not relieve FPL of its obligations for the construction and commissioning of the Reclaimed Water Project, including environmental licensing and compliance with environmental requirements or other Applicable Laws or Governmental Approvals, or impose any such obligations on County, and that County's technical review and inspections of the Reclaimed Water Project shall not relieve FPL of any of its obligations, duties or responsibilities hereunder.

16.7 Construction of Agreement: The Parties expressly agree that no provision of this Agreement should be construed against or interpreted to the disadvantage of any Party by any court or other governmental or judicial authority by reason of such Party having been deemed to have structured or dictated such provision.

16.8 Complete Agreement: This Agreement is intended as the complete and exclusive statement of the agreement between the Parties. Parol or extrinsic evidence shall not be used to vary or contradict the express terms of this Agreement and recourse may not be had to alleged prior drafts, negotiations, prior dealings, usage of trade, course of dealing or course of performance to explain or supplement the express terms of this Agreement.

16.9 Counterparts: This Agreement may be executed and delivered in counterparts, and may be delivered by facsimile transmission.

16.10 Severability: In the event that any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement or the application of the provisions hereof to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

16.11 Good Faith: The Parties agree to act in accordance with the principles of good faith and fair dealing in the performance of this Agreement.

16.12 No Partnership: Nothing contained in this Agreement shall be construed to create an association, trust, partnership or joint venture between the County and FPL or an agency relationship between the County and FPL. Each Party shall be individually and severally liable for its own obligations under this Agreement.

16.13 Disputes: In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a "**Dispute**"), the Oversight Committee shall attempt in the first instance to resolve such Dispute through friendly consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be

referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within ten (10) Business Days after such referral to the senior management of the Parties, then either Party may pursue all of its remedies available hereunder. The Parties agree to attempt to resolve all Disputes promptly, equitably and in a good faith manner.

16.14 Governing Law; Submission To Jurisdiction:

(a) THIS AGREEMENT AND THE RIGHTS AND THE OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED UNDER, AND IN ACCORDANCE WITH, THE LAWS OF THE STATE OF FLORIDA.

(b) ANY LITIGATION BETWEEN THE PARTIES SHALL BE CONDUCTED IN THE COURTS OF THE STATE OF FLORIDA IN THE CIRCUIT COURT FOR PALM BEACH COUNTY, FLORIDA, OR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA AND THE PARTIES HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS. THE PARTIES IRREVOCABLY WAIVE ANY OBJECTION THAT ANY OF THEM MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY SUCH ACTION OR PROCEEDING IN SUCH RESPECTIVE JURISDICTIONS, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE BASED ON THE GROUNDS OF FORUM NON CONVENIENS AND ANY OBJECTION BASED ON THE GROUNDS OF LACK OF IN PERSONAM JURISDICTION.

(c) IN ANY LITIGATION ARISING FROM OR RELATED TO THE AGREEMENT, THE PARTIES HERETO EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE AGREEMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY TO THE AGREEMENT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE COUNTY AND FPL TO ENTER INTO THIS AGREEMENT.

* * *

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, County and FPL have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY, BY ITS
BOARD OF COUNTY
COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Addie L. Greene, Chairperson

(SEAL)

APPROVED AS TO FORM AND TO
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND
CONDITIONS

By: _____
County Attorney

By: _____
Director of Water Utilities

FLORIDA POWER & LIGHT COMPANY

By: _____
Eric Silagy
Vice-President
Title

Signed in the presence of:

Witness

Date: _____

Print Name