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(Sponsored by Administration)

WHEREAS, the provision of such electric service requires substantial investments of capital and other resources in order to construct, maintain, and operate facilities essential to the provision of such service in addition to costly administrative functions, and the Village does not desire to undertake to provide such services at this time; and,

WHEREAS, there is currently in effect a franchise agreement between Miami-Dade County ("County") and FPL, the terms of which are set forth in County Ordinance 89-81, passed and adopted on July 25, 1989, which grants a thirty (30) year non-exclusive electric franchise to FPL to utilize public rights of way throughout the unincorporated and incorporated areas of the County, in return for FPL paying the County certain franchise fees, among other things as expressly provided herein ("Current Franchise Agreement"); and,

Page 1 of 15
Additions shown by underlining and deletions shown by overstriking

40 **WHEREAS**, FPL and the Village desire to enter into a new franchise
41 agreement ("New Franchise Agreement") providing for the payment of fees to
42 the Village in exchange for the nonexclusive right and privilege of supplying
43 electricity and other services within the Village free of competition from the
44 Village, pursuant to certain terms and conditions; and,

45
46 **WHEREAS**, Section 4.3 of the Village Charter provides that where the
47 Village Council grants, renews or extends a franchise, an Ordinance must be
48 adopted; and,

49
50 **WHEREAS**, the Village Council deems it to be in the public interest to
51 enter into this New Franchise Agreement addressing certain rights and
52 responsibilities of the Parties as they relate to the use of the public rights-of-
53 way within the Village's jurisdiction.

54
55 **NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL**
56 **OF THE VILLAGE OF PALMETTO BAY, FLORIDA AS FOLLOWS:**¹

57 **Section 1. Incorporation of Recitals.** The above-stated recitals are
58 true and correct and are incorporated herein by this reference.

59
60 **Section 2. Grant of Electric Utility Franchise; Term of Franchise.**
61 There is hereby granted to Florida Power & Light Company, its successors
62 and assigns (hereinafter called "FPL"), for the period of thirty (30) years from
63 the effective date hereof, the nonexclusive right, privilege and franchise
64 (hereinafter called "Franchise") to construct, operate and maintain in, under,
65 upon, along, over and across the present and future roads, streets, alleys,
66 bridges, easements, rights-of-way and other public places (hereinafter called
67 "Public Rights-Of-Way") throughout all of the incorporated areas, as such
68 incorporated areas may be constituted from time to time, of the Village of
69 Palmetto Bay, Florida, and its governmental successors by operation of law,
70 if any, (hereinafter called the "Village"), in accordance with FPL's customary
71 practices, and practices prescribed herein, with respect to construction and
72 maintenance, electric light and power facilities, including, without limitation,
73 conduits, underground conduits, poles, wires, transmission and distribution
74 lines, and all other facilities installed in conjunction with or ancillary to all of
75 FPL's operations (herein called "Facilities"), for the purpose of supplying
76 electricity and other related services to the Village and its successors, the
77 inhabitants thereof, and persons beyond the limits thereof.

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with double strikethrough and double underline.

78
79 **Section 3. Facilities Requirements.**

- 80 a) FPL's Facilities shall be installed, constructed, erected, located
81 or relocated so as to not unreasonably interfere with the
82 convenient, safe, continuous use or the maintenance,
83 improvement, extension or expansion of any public "road" as
84 defined under the Florida Transportation Code, nor
85 unreasonably interfere with traffic over the Public Rights-Of-
86 Way, nor unreasonably interfere with reasonable egress from
87 and ingress to abutting property.
- 88 b) To minimize conflicts with the standards set forth in subsection
89 (a) above, the location, relocation, installation, construction, or
90 erection of all facilities shall be made as representatives of the
91 Village may prescribe in accordance with the Village's
92 reasonable rules and regulations with reference to the placing
93 and maintaining in, under, upon, along, over and across said
94 Public Rights-Of-Way; provided, however, that such rules or
95 regulations (i) shall be for a valid municipal purpose; (ii) shall
96 not prohibit the exercise of FPL's right to use said Public Rights-
97 Of-Way for reasons other than unreasonable interference with
98 traffic or transit; (iii) shall not unreasonably interfere with FPL's
99 ability to furnish reasonably sufficient, adequate and efficient
100 electric service to all of its customers; and (iv) shall not require
101 the relocation of any of FPL's Facilities installed before or after
102 the effective date hereof in Public Rights-Of-Way unless or until
103 widening or otherwise changing the configuration of the paved
104 portion of any public right-of-way used by motor vehicles
105 causes such installed Facilities to unreasonably interfere with
106 the convenient, safe, or continuous use, or the maintenance,
107 improvement, extension, or expansion of any such public
108 "road," or unless such relocation is required by state or federal
109 law.
- 110 c) Such rules and regulations shall recognize that FPL's above-
111 grade Facilities installed after the effective date hereof should
112 be installed near the outer boundaries of the Public Right-Of-
113 Way to the extent possible.
- 114 d) When any portion of a Public Right-Of-Way is excavated,
115 damaged, or impaired by FPL (or any of FPL's agents,
116 contractors, or subcontractors) because of the installation,
117 inspection, or repair of any of FPL's Facilities, the portion of the

Public Right-Of-Way so excavated, damaged, or impaired shall, within a reasonable time after such excavation, damage, or impairment, be restored by FPL at its expense to a condition at least equal to its original condition before such damage.

- e) The Village shall not be liable to FPL for any cost or expense in connection with any relocation of FPL's Facilities required under this New Franchise Agreement, except, however, FPL shall be entitled to reimbursement of its costs from others.
- f) FPL shall comply with the Village's valid code and permit requirements and regulations, including those relating to rights-of-way. Except as expressly provided, nothing herein shall limit or alter the Village's existing rights with respect to the use or management of its rights-of-way. Any changes in law on utility easements shall not affect this New Franchise Agreement.

Section 4. Indemnification of the Village. The acceptance of this New Franchise Agreement shall be deemed an agreement on the part of FPL to the following: (a) that FPL will defend, indemnify and save the Village harmless from any and all damages, claims, liability, losses and causes of action of any kind or nature arising out of an error, omission, or negligent act of FPL, its contractors or any of their agents, representatives, employees, or assigns, or anyone else acting by or through them, and arising out of or concerning the construction, operation or maintenance of its Facilities hereunder; and (b) that FPL will pay all damages, claims, liabilities and losses of any kind or nature whatsoever, in connection therewith, including the Village's attorney's fees and costs in the defense of any action in law or equity brought against the Village, including appellate fees and costs and fees and costs incurred to recover attorney's fees and costs from FPL, arising from the error, omission, or negligent act of FPL, its contractors or any of their agents, representatives, employees, or assigns, or anyone else acting by or through them, and arising out of or concerning the construction, operation or maintenance of its Facilities hereunder.

Section 5. Rates, Rules and Regulations of FPL. All rates and rules and regulations established by FPL from time to time shall be subject to such regulation as may be provided by law.

Section 6. Franchise Fee; Calculation; Payment.

- a) Notwithstanding any other provision in this New Franchise Agreement, as a consideration for this Franchise, FPL shall pay

159 to the Village, commencing ninety (90) days after the effective
160 date hereof, and each month thereafter for the remainder of the
161 term of this Franchise, an amount which is equal to 3.5%, when
162 added to the amount of all ad valorem property taxes and non-ad
163 valorem tax assessments on property, licenses, excises, fees,
164 charges and other impositions of any kind whatsoever levied or
165 imposed by the Village against FPL's property, business or
166 operations and those of its electric service subsidiaries during
167 FPL's monthly billing period ending sixty (60) days prior to each
168 such payment, will equal six (6.0%) percent, after the effective
169 date per Section 17, of FPL's billed revenues (less actual write-
170 offs) from the sale of electrical energy to residential, commercial
171 and industrial customers (as such customers are defined by
172 FPL's tariff) within the Village's boundaries for the monthly billing
173 period ending sixty (60) days prior to each such payment, and in
174 no event shall payments for the rights and privileges granted
175 herein exceed 6.0 percent of such revenues for any monthly
176 billing period of FPL (except as expressly provided in this New
177 Franchise Agreement). For purposes of this section, the term
178 "write-offs" refers to uncollectable billed revenues from the sale of
179 electrical energy to residential, commercial, and industrial
180 customers within the Village's boundaries.

181 **b)** The Village understands and agrees that such revenues as
182 described in the preceding paragraph are limited to the precise
183 revenues described therein, and that such revenues do not
184 include by way of example and not limitation: (a) revenues from
185 the sale of electrical energy for Public Street and Highway
186 Lighting (service for lighting public ways and areas); (b)
187 revenues from Other Sales to Public Authorities (service with
188 eligibility restricted to governmental entities); (c) revenues from
189 Sales to Railroads and Railways (service supplied for
190 propulsion of electric transit vehicles); (d) revenues from Sales
191 for Resale (service to other utilities for resale purposes) so long
192 as not done as a circumvention hereof; (e) Late Payment
193 Charges; (f) Field Collection Charges; (g) other service
194 charges.

195 **c) Increased Benefits Clause.** If during the term of this New
196 Franchise Agreement, FPL enters into a franchise agreement
197 with any other municipality located in Miami-Dade County or
198 Broward, County Florida, or with Miami-Dade County itself or

199 with Broward County itself, each such municipality or county
200 referred to herein as an "Other Governmental Entity," the terms
201 of which provide for the payment of franchise fees by FPL at a
202 rate greater than six (6.0%) percent of FPL's residential,
203 commercial and industrial revenues (as such customers are
204 defined by FPL's tariff), under the same terms and conditions
205 as specified in Section 6(a) hereof, FPL, upon written request of
206 the Village, shall negotiate and enter into a new franchise
207 agreement with the Village in which the percentage to be used
208 in calculating monthly payments under Section 6(a) hereof shall
209 be no greater than that percentage which FPL has agreed to
210 use as a basis for the calculation of payments to any such
211 Other Governmental Entity, provided, however, that if the
212 franchise with such Other Governmental Entity contains
213 additional benefits given to FPL in exchange for the increased
214 franchise rate, which such additional benefits are not contained
215 in this New Franchise Agreement, such new franchise
216 agreement shall include those additional or reasonably
217 equivalent benefits to FPL. Subject to all limitations, terms and
218 conditions specified in the preceding sentence, the Village shall
219 have the sole discretion to determine the percentage to be used
220 in calculating monthly payments, and FPL shall have the sole
221 discretion to determine those benefits to which it would be
222 entitled, under any such new franchise agreement.

- 223 d) The 3.5% fee charged herein shall terminate on December 21,
224 2022 and no fees shall be charged thereafter on the sale of
225 electrical energy delivered after December 31, 2022.
226

227 **Section 7. Non-Competition by Village.** As a further consideration,
228 during the term of this franchise or any extension thereof, the Village agrees:
229 (a) not to engage in the distribution and/or sale, in competition with FPL, of
230 electric capacity and/or electric energy to any ultimate consumer of electric
231 utility service (herein called a "retail customer") or to any electrical distribution
232 system established solely to serve any retail customer presently served by
233 FPL within the Village's limits; and (b) not to participate in any proceeding or
234 contractual arrangement, the purpose or terms of which would be to obligate
235 FPL to transmit and/or distribute, electric capacity and/or electric energy from
236 any third party(ies) to any other retail customer's facility(ies). Nothing
237 specified herein shall prohibit the Village from engaging with other utilities or
238 persons in wholesale transactions which are subject to the provisions of the

Federal Power Act, as may be amended from time to time. The Village may, if permitted by law, (i) generate electric capacity and/or energy at any facility owned or leased by the Village for storage or utilization at that facility or other Village-owned or leased facilities as chosen by the Village, and (ii) use renewable energy sources to generate electric capacity and/or energy for use in demonstration projects or at Village facilities, including but not limited to, Village Hall, and (iii) sell electric capacity and/or energy to FPL or other wholesale purchasers in compliance with applicable tariffs, and/or federal or state laws, rules and regulations controlling such transactions. The term "retail customer," for purposes of this section shall not include the Village itself. Nothing herein shall prohibit the Village, if permitted by law, (i) from purchasing electric capacity and/or electric energy from any other person, or (ii) from seeking to have FPL transmit and/or distribute to any facility(ies) of the Village electric capacity and/or electric energy purchased by the Village from any other person; provided, however, that before the Village elects to purchase electric capacity and/or electric energy from any other person, the Village shall notify FPL. Such notice shall include a summary of the specific rates, terms and conditions which have been offered by the other person and identify the Village's facilities to be served under the offer. FPL shall thereafter have ninety (90) days to evaluate the offer and, if FPL offers rates, terms and conditions which are equal to or better than those offered by the other person, the Village shall be obligated to continue to purchase from FPL electric capacity and/or electric energy to serve the previously identified facilities of the Village for a term no shorter than that offered by the other person. If FPL does not agree to rates, terms and conditions which are equal to or better than the other person's offer, all of the remaining terms and conditions of this Franchise shall remain in effect.

Section 8. Competitive Disadvantage; FPL's Rights. If the Village grants a right, privilege or franchise to any other person to construct, operate or maintain electric light and power facilities within any part of the Village's boundaries in which FPL may lawfully serve or compete on terms and conditions which FPL reasonably determines are more favorable than the terms and conditions contained herein, FPL may at any time thereafter terminate this Franchise if such terms and conditions are not remedied within the time period provided hereafter. FPL shall give the Village at least one hundred eighty (180) days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for FPL herein, advise the Village of such terms and conditions that it considers more favorable and the objective basis or bases of the claimed competitive

disadvantage. The Village shall then have ninety (90) days in which to correct or otherwise remedy the terms and conditions complained of by FPL, and the Village and FPL agree to negotiate in good faith toward a mutually acceptable resolution of FPL's claims during this 90-day period. If FPL reasonably determines that such terms or conditions are not remedied by the Village within said time period, and if no mutually acceptable resolution is reached by FPL and the Village through negotiation, FPL may terminate this Franchise agreement by delivering written notice to the Village's Clerk, Village's Manager, and Village's Attorney, and termination shall be effective ninety (90) days from the date of delivery of such notice. Nothing contained herein shall be construed as constraining the Village's rights to legally challenge at any time FPL's determination leading to termination under this Section.

Section 9. Legislative or Regulatory Action. If as a consequence of any legislative, regulatory or other action by the United States of America or the State of Florida (or any department, agency, authority, instrumentality or political subdivision of either of them) any person is permitted to provide electric service within the Village's boundaries to a customer then being served by FPL, or to any new applicant for electric service within any part of the Village's boundaries in which FPL may lawfully serve, and FPL reasonably determines that its obligations hereunder, or otherwise resulting from this Franchise in respect to rates and service, place it at a material competitive disadvantage with respect to such other person, FPL may, at any time after the taking of such action, terminate this Franchise if such competitive disadvantage is not remedied as provided hereafter. Such competitive disadvantage can be remedied by either of the following methods: (i) if the Village either cannot legally, or does not, charge a franchise fee to other electricity supplier(s), then the Village can remedy the disadvantage by reducing FPL's franchise fee rate to zero; or (ii) if the Village is able to charge, and does charge, such other electricity supplier(s) a franchise fee at a rate less than the 6.0% rate calculated as provided in Section 6 of this Agreement, then the Village can remedy the disadvantage by reducing FPL's franchise fee rate to the same rate, with the same applicability and calculation methodology, as applies to such other electricity supplier(s). If the Village does not implement either of the foregoing solutions, FPL may terminate the Agreement, in accordance with the following process: FPL shall give the Village at least one hundred eighty (180) days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for FPL herein, advise the

Village of the consequences of such action which resulted in the competitive disadvantage and the objective basis or bases of the claimed competitive disadvantage, and the Village and FPL agree to negotiate in good faith toward a mutually acceptable resolution of FPL's claimed disadvantage during this 180-day period. If such competitive disadvantage is, in the reasonable determination of FPL, not remedied by the Village within said time period, and if no mutually acceptable resolution of the matter is reached through negotiation, FPL may terminate this franchise agreement by delivering written notice to the Village's Clerk and termination shall take effect ninety (90) days from the date of delivery of such notice. Nothing contained herein shall be construed as constraining the Village's rights to legally challenge at any time FPL's determination of competitive disadvantage leading to termination under this section.

Section 10. FPL's Failure to Comply. Failure on the part of FPL to comply in any material respect with any of the provisions of this Franchise shall be grounds for forfeiture, but no such forfeiture shall take effect if the reasonableness or propriety thereof is protested by FPL until there is final determination (after the expiration or exhaustion of all rights of appeal) by a court of competent jurisdiction within Miami-Dade County, Florida that FPL has failed to comply in a material respect with any of the provisions of this Franchise, and FPL shall have six (6) months after such final determination to make good the default before a forfeiture shall result with the right of the Village at its discretion to grant such additional time to FPL for compliance as necessities in the case require.

Section 11. Village's Failure to Comply. Failure on the part of the Village to comply in material respect with any of the provisions of this ordinance, including, but not limited to: (a) denying FPL use of Public Rights-Of-Way for reasons other than as set forth in Section 3 of this New Franchise Agreement; (b) imposing conditions for use of Public Rights-Of-Way contrary to Federal or Florida law or the express terms and conditions of this Franchise; (c) unreasonable delay in issuing FPL a use permit, if any, to construct its Facilities in Public Rights-Of-Way, shall constitute breach of this Franchise. FPL shall notify the Village of any such breach in writing sent by United States Certified Mail, return receipt requested, or via a nationally recognized overnight courier service, and the Village shall then remedy such breach within ninety (90) days and if it is not a breach that can be remedied within ninety (90) days, then as soon as practicable. Should the breach not be timely remedied, FPL shall be entitled to seek a remedy available under

law or equity from a court of competent jurisdiction, including the remedy of obtaining judicial relief that permits the withholding of franchise fees. The Parties recognize and agree that nothing in this New Franchise Agreement constitutes or shall be deemed to constitute a waiver of either party's delegated sovereign right of condemnation and that either party, in its sole discretion, may exercise such right.

Section 12. Audit and Inspection. The Village may, at its expense, upon reasonable notice and within ninety (90) days after each anniversary date of this Franchise, examine FPL's records relating to the calculation of the franchise payment for the year preceding such anniversary date. Such examination shall be during normal business hours at FPL's office where such records are maintained. Records not prepared by FPL in the ordinary course of business or as required herein may be provided at the Village's expense and as the Village and FPL may agree in writing. Information identifying FPL's customers by name or their electric consumption shall not be taken from FPL's premises. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Village, shall be reported to FPL. The Village's examination of the records of FPL in accordance with this Section shall not be conducted by any third party employed or retained by the Village whose fee, in whole or part, for conducting such audit is contingent on findings of the audit. At the Village's request no more than once annually, FPL will provide to the Village an electronic version of a billing list of all FPL customer addresses within the incorporated areas of the Village. The Village will respect FPL's confidential documents. The Village will be given access to confidential documents while on FPL premises, but shall not remove those confidential documents from FPL premises unless expressly authorized to do so by FPL. Information relative to this audit and likely to be deemed confidential by FPL includes, but is not limited to, nonpublic customer or customer account information, nonpublic policies and procedures, and any other nonpublic information that gives FPL an opportunity to gain an advantage over its competitors.

Section 13. Severability. The provisions of this ordinance are interdependent upon one another, and if any of the provisions of this ordinance are found or adjudged to be invalid, illegal, void or of no effect by a court of competent jurisdiction (after the expiration of all rights of appeal), such finding or adjudication shall not affect the validity of the remaining provisions for a period of ninety (90) days, during which, the Parties will negotiate in good faith to amend this New Franchise Agreement so as to restore to the maximum extent permissible, the original economic bargain

embodied in this ordinance. If an agreement to amend the ordinance is not reached at the end of such ninety (90) day period, this entire ordinance shall become null and void and of no further force or effect.

Section 14. The Village acknowledges it is fully informed concerning the existing franchise granted by Miami-Dade County, Florida, to FPL, and accepted by FPL as set out in Ordinance No. 60-16 adopted on May 3, 1960, and subsequently renewed and accepted by FPL as set out in Ordinance No. 89-81 adopted on September 5, 1989 by the Board of County Commissioners of Miami-Dade County, Florida, and as adopted by the Village on July 3, 2007 in an interlocal agreement with Miami-Dade County ("Existing Agreement"). The Village agrees to indemnify and hold FPL harmless against any and all liability, loss, cost, damage and expense incurred by FPL in respect to any claim asserted by Miami-Dade County against FPL arising out of the franchise set out in the above referenced ordinances for the recovery of any sums of money paid by FPL to Village under the terms of this New Franchise Agreement. FPL acknowledges and the Village hereby relies on then Dade County Resolution No. R-709-78 adopted on June 20, 1978 in the granting of this Franchise.

Section 15. Definitions.

PERSON - means an individual, a partnership, a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint venture, a governmental authority or any other entity of whatever nature.

ELECTRICAL ENERGY – means any form of electrical energy regardless of the source, be it from nuclear, fossil fuel, solar, wind, or by any means that may be developed now and into the future.

Section 16. Repeal. All ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 17. Effective Date. As a condition precedent to the taking effect of this Ordinance, FPL shall file its acceptance hereof with the Village's Clerk within thirty (30) days of adoption of this Ordinance. The effective date of this Ordinance shall be when the Current Agreement terminates by the

438 expiration of time or on the effective date of a new franchise agreement
439 between Miami-Dade County and FPL, whichever occurs first.

441 **Section 18. Pre-Suit Dispute Resolution.** The Parties to this
442 Franchise agree that it is in each of their respective best interests to avoid
443 costly litigation as a means of resolving disputes which may arise hereunder.
444 Accordingly, the Parties agree that they will meet at the senior management
445 level in an attempt to resolve any disputes within thirty (30) days of
446 notification of the dispute.

447
448 **Section 19. Governing Laws.** This New Franchise Agreement shall
449 be governed and construed by the applicable laws of the Federal
450 Government, State of Florida, Miami-Dade County, and the Codes and
451 Ordinances of the Village.

452
453 **Section 20. Venue.** In the event that any legal proceeding is brought to
454 enforce the terms of this New Franchise Agreement, it shall be brought by
455 either party hereto in Miami-Dade County, Florida, or, if a federal claim, in the
456 U.S. District Court in and for the Southern District of Florida, Miami Division.

457
458 **Section 21. Entire Agreement.** This New Franchise Agreement is
459 intended to constitute the sole and entire agreement between the Village and
460 FPL with respect to the subject matter hereof and correctly sets forth the
461 rights, duties, and obligations of each of the other as of its date. Any prior
462 agreements, promises, negotiations, or representations not expressly set
463 forth in this Agreement are of no force or effect, and this agreement
464 supersedes all prior drafts and verbal or written agreements, commitments,
465 or understandings, which shall not be used to vary or contradict the
466 expressed terms herein. Both parties have been represented by counsel of
467 their choosing with regard to this New Franchise Agreement.

468
469 **Section 22. Modification.** It is further understood that no modification,
470 amendment or alteration in the terms or conditions contained herein shall be
471 effective unless contained in a written document executed with the same
472 formality and of equal dignity herewith, and approved by the Village Council.

473
474 **Section 23. Notice.** Except in exigent circumstances, and except as
475 may otherwise be specifically provided for in this Franchise, all notices by
476 either party shall be made by United States Certified Mail, return receipt
477 requested, or via a nationally recognized overnight courier service. Any

notice given by facsimile or email is deemed to be supplementary, and does not alone constitute notice hereunder. All notices shall be addressed as follows:

To the Village:

Village Manager
Village Hall
9705 E Hibiscus St
Palmetto Bay, FL 33157

To FPL:

Vice President,
External Affairs
700 Universe Boulevard
Juno Beach, FL 33408

Copy to:

Village Attorney
Lehtinen Schultz, PLLC
1111 Brickell Ave.
Suite 2200
Miami, FL 33131

Copy to:

General Counsel
700 Universe Boulevard
Juno Beach, FL 33408

Any changes to the above shall be in writing and provided to the other party as soon as practicable.

Section 24. Compliance with Federal, State and Local Laws. The Village and FPL agree to comply with and observe all applicable Federal, State and valid and non-preempted local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

Section 25. Nondiscrimination. FPL represents and warrants to the Village that FPL does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with FPL's performance under this Franchise on account of race, color, sex, religion, age, handicap, marital status or national origin. FPL further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Franchise.

Section 26. Approval of Agreement. Execution of this Ordinance by the Village Mayor, the Village Attorney, and the Village Clerk shall constitute evidence of the New Franchise Agreement's approval after public hearing by the Village Council.

Section 27. Attorney's Fees and Costs. In the event either the Village or FPL must initiate litigation to enforce this New Franchise Agreement, the prevailing party shall be entitled to an award of all reasonable attorney's fees and costs, at all levels of litigation, including trials and appeals, including but not limited to fees for litigating entitlement to and amount of attorney's fees.

Section 28. This Ordinance shall take effect upon enactment.

PASSED and ENACTED on Second Reading this 17th day of June 2019.

FIRST READING: January 7, 2019

SECOND READING: June 17, 2019

ATTEST:

Missy Arocha
Village Clerk

Karyn Cunningham
Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE
AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA
ONLY:

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

558	Council Member Patrick Fiore	YES
559		
560	Council Member David Singer	NO
561		
562	Council Member Marsha Matson	YES
563		
564	Vice-Mayor John DuBois	NO
565		
566	Mayor Karyn Cunningham	YES