



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.8.

12/8/2020

Subject:

Approval of License Agreement with Florida Power & Light and Brevard County for Monitoring Wells at the Port St. John Wastewater Treatment Plant

Fiscal Impact:

2019: \$5,000; 2020: \$5,000; 2021: \$5,300; 2022: \$5,300; 2023: \$5,600; 2024: \$5,600; 2026: \$5,900; 2027: \$6,100; 2028: \$6,100 for a ten-year total of \$55,800.

Dept/Office:

Utility Services Department

Requested Action:

It is requested that the Board consider approval of a License Agreement between Florida Power & Light (FPL) and Brevard County for Monitoring Wells at the Port St. John Wastewater Treatment Plant.

Summary Explanation and Background:

Brevard County Utility Services Department operates the Port St John Wastewater Treatment Plant (WWTP) located within the Florida Power & Light (FPL) corridor. In 1989, Brevard County signed into a 5-year license agreement with FPL to provide land to install two monitoring wells required per the Florida Department of Environmental Protection. Since then, license agreement renewals between FPL and Brevard County have occurred every 5 years, per Board approval. This Department has requested with FPL to make this renewal period for 10 years with an option to terminate if the wells are no longer needed.

This agreement has been reviewed and approved by the County Attorney's Office and Risk Management.

Clerk to the Board Instructions:

Contact Rose Lyons at rose.lyons@brevardfl.gov <<mailto:rose.lyons@brevardfl.gov>> when agreement is executed and attested and we will pick up.

BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS

CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: Florida Power & Light		2. Amount: \$55,800	
3. Fund/Account #: 4150/365190		4. Department Name: Utility Services	
5. Contract Description: License Agreement for Monitoring wells at Port St. John WWTP			
6. Contract Monitor: Rose Lyons		8. Contract Type:	
7. Dept/Office Director: Edward Fontanin		LEASE/RENTALS	
9. Type of Procurement: Other			

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	☒	☐	
Purchasing	☐	☐	
Risk Management	☐	☐	
County Attorney	☐	☐	

SECTION III - REVIEW AND APPROVAL TO EXECUTE

APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	☒	☐	Fontanin, Edward Digitally signed by Fontanin, Edward Date: 2020.11.09 12:38:03 -05'00'
Purchasing	☐	☐	
Risk Management	☒	☐	<i>[Signature]</i> 11-18-2020
County Attorney	☒	☐	<i>[Signature]</i> 11/18/2020

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	☐
Department	☐
Program	☐
Contact Name	☐
Cost Center, Fund, and G/L Account	☐
Vendor Information (SAP Vendor #)	☐
Contract Status, Title, Type, and Amount	☐
Storage Location (SAP)	☐
Contract Approval Date, Effective Date, and Expiration Date	☐
Contract Absolute End Date (No Additional Renewals/Extensions)	☐
Material Group	☐
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	☐
"Right To Audit" Clause Included in Contract	☐
Monitored Items: Uploaded to database (Insurance, Bonds, etc.)	☐



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

December 9, 2020

M E M O R A N D U M

TO: Edward Fontanin, Utility Services Director

RE: Item F.8. Approval of License Agreement with Florida Power & Light (FPL) for Monitoring Wells at the Port St. John Wastewater Treatment Plant

The Board of County Commissioners, in regular session on December 8, 2020, approved the License Agreement with FPL for monitoring wells at the Port St. John Wastewater Treatment Plant. Enclosed is the executed Agreement.

Upon execution by FPL, please return the fully-executed Agreement to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

for Donna Scott
Kimberly Powell, Deputy Clerk

/ds

Encl. (1)

cc: Contracts Administration
Finance
Budget

LICENSE AGREEMENT
(FPL License # 0003-ND-1994)

THIS LICENSE AGREEMENT ("License") is made this 8 day of Dec., 2020 ("Effective Date") by and between Florida Power & Light Company, a Florida corporation ("Licensor"), whose mailing address is 700 Universe Blvd., B2A/JB, Juno Beach, Florida 33408-0420, and Brevard County, Florida ("Licensee"), a political subdivision of the State of Florida, whose mailing address is 2725 Judge Fran Jamieson Way, Building B, Viera, FL 32940.

WITNESSETH

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

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

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

TERMS, CONDITIONS, AND PROVISIONS

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein by this reference.
2. **Use.** Licensor hereby grants to Licensee and Licensee hereby accepts from Licensor, a non-exclusive license to occupy and use the Licensed Premises solely for the purposes of operating and maintaining two (2) fenced water monitoring wells, but not for any other purpose whatsoever, upon the terms and conditions set forth in this License. Licensee shall obtain at its sole cost and expense, all applicable federal, state, and local permits required in connection with Licensee's allowed use of the Licensed Premises and provide copies of each such permit to Licensor.
3. **Term.** This License is for a term of ten (10) years commencing retroactively on the 1st day of May, 2019 and ending on the 30th day of April, 2029 ("Term"), unless earlier terminated as provided by this License, or otherwise extended by mutual written agreement of Licensor and Licensee.
4. **License Fee.** During the Term, Licensee shall pay Licensor the sum set forth below plus any applicable sales tax ("License Fee"), in lawful currency of the United States of America in the form of a regular bank check, cashier's check or money order. The first year's License Fee shall be due upon the Effective Date of this License; and thereafter, the License Fee shall be due on or before the first (1st) day of each and every May during the Term. Installment payments shall be mailed to the following address and shall correspond to the following "Rent Due / Payment Amount" schedule:

FPL
General Mail Facility
Miami, Florida 33188-0001

<u>Rent Due</u>	<u>/</u>	<u>Payment Amount</u>
May 1 st , 2019		\$5,000
May 1 st , 2020		\$5,000
May 1 st , 2021		\$5,300
May 1 st , 2022		\$5,300
May 1 st , 2023		\$5,600
May 1 st , 2024		\$5,600
May 1 st , 2025		\$5,900
May 1 st , 2026		\$5,900
May 1 st , 2027		\$6,100

May 1st, 2028

\$6,100

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

6. **Conditions and Restrictions on Use.**

(a) Licensee shall, at its sole cost and expense, comply with all laws, rules, and regulations of all governmental authorities having jurisdiction over the Licensed Premises or use of the Licensed Premises. Licensee shall employ agricultural and other land management practices standard in the county and/or counties in which the Licensed Premises is located according to the purpose for which this License is granted and for the protection of the Licensed Premises. Licensee shall not designate or use the Licensed Premises to satisfy or comply with any minimum required parking code. Licensee shall not within the Licensed Premises, construct or erect any permanent or temporary building, structure, fixture, fence, shelter, attachment or improvement without the prior written consent of Licensor. All work to be performed by Licensee upon the Licensed Premises shall be in accordance with detailed plans and specifications to be prepared by Licensee and submitted to Licensor for Licensor's prior written approval thereof. Licensee shall not commence any work on the Licensed Premises unless and until such plans and specifications have been approved in writing by Licensor. Licensee shall pay directly on its own behalf for all costs and expenses associated with the construction and maintenance of all improvements and facilities that it constructs, operates and maintains upon the Licensed Premises. All fences, gates, lighting systems and irrigation systems installed by Licensee shall be electrically grounded according to Licensor's specifications. Licensee shall not cause or allow any waste of the Licensed Premises and shall not remove soil, import soil or alter the existing surface elevation of the Licensed Premises without first obtaining Licensor's prior written consent, which Licensor may grant or withhold in its sole discretion. Licensee shall pay for all utility and other services furnished to or for Licensee upon the Licensed Premises. Licensee shall remove trash, rodents, insects and vermin from the Licensed Premises as necessary.

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

(c) Licensee shall not install any improvements within twenty-five (25) feet of Licensor Facilities, unless Licensee first obtains prior written approval from Licensor. Licensee shall not cause or allow anything to exceed fourteen (14) feet in height above the surface of the Licensed Premises, nor allow any equipment capable of extending greater than fourteen (14) feet above the surface of the Licensed Premises to be brought upon the Licensed Premises, except that this provision shall not apply to equipment and items brought onto the Licensed Premises by Licensor or Licensor's employees, agents, and contractors. Licensee shall utilize effective dust control measures to prevent contamination of high-voltage circuit insulators. In each and every location where an electrical circuit exists above the ground surface of the Licensed Premises, Licensee shall not allow to be planted or rooted in the ground within less than fifty (50) lateral feet of such circuit, any type of vegetation that is capable of growing to a height of fourteen (14) feet or more above the ground surface. Licensee may, anywhere upon the Licensed Premises, grow any type of vegetation that is planted and rooted in a pot or container where the volume capacity of the pot or container does not exceed twenty-five (25) gallons and where no part of the pot or container exists

below the surface of the ground that touches the pot or container. Vegetation planted and rooted in a pot or container shall not be allowed at any time to exceed a height of fourteen (14) feet above the ground surface of the Licensed Premises. Licensor shall have the right, but no form of obligation, to inspect the Licensed Premises to determine if Licensee is in compliance with all terms, conditions and provisions of this License.

7. Environmental.

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

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

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

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

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

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

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

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

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

(e) Subject to the limits as set forth in Section 768.28, Florida Statutes, if Licensee, or its employees, contractors, subcontractors or anyone else working at the direction of Licensee causes Environmental Conditions on the Licensed Premises, or causes contamination that originates on the Licensed Premises, Licensee, on its own behalf and on behalf of its shareholders, officers, directors, employees, servants, agents, and affiliates, shall and hereby does forever hold harmless, indemnify, and release Licensors, and its shareholders, officers, directors, employees, servants, agents and affiliates (collectively, "Licensors Entities") of and from all claims, demands, costs, loss of services, compensation, actions or investigations on account of or in any way growing out of the Environmental Conditions, and from any and all known and unknown, foreseen and unforeseen damages, and the consequences thereof, resulting from the Environmental Conditions, including but not limited to, restoration of the Licensed Premises to the condition it existing prior to the occurrence of the Environmental Conditions.

8. **Right to Cure.** Licensors, at its sole discretion, may remove or cause to be removed by it or by its employees, agents, contractors, subcontractors, licensees, and invitees, any and all objects, materials, debris, or structures that could create a condition hazardous to persons or property or interfere with Licensors's use of the Licensed Premises or with Licensors Facilities. All costs incurred and/or expended by Licensors pursuant to this section which are caused by Licensee, its employees, agents, contractors, subcontractors, licensees, and invitees, are and shall be the sole obligation of Licensee, who shall reimburse Licensors immediately upon demand. If any of Licensee's activities or Licensee's use of the Licensed Premises results in an interruption of electric utility service, then Licensee shall reimburse Licensors for all costs related to each such interruption, including, but not limited to Licensors's lost revenue and costs to restore electric utility service.

9. **Termination.** Licensors may terminate this License at any time and for any reason or no reason upon giving Licensee at least ninety (90) days prior written notice of such termination and in such case, Licensors shall refund to Licensee, any advance License Fee paid by Licensee to Licensors for the period of time, if any, that Licensee is unable to use the Licensed Premises due to Licensors's early termination of the Term. Licensee may terminate this License at any time and for any reason or no reason by giving Licensors at least ninety (90) days prior written notice of such termination; however, in such case, Licensee shall not be entitled to a refund of any advance License Fee paid as a result of Licensee's early termination of this License. Licensors may immediately terminate this License at any time if Licensors, in its sole discretion, determines that Licensee and/or its employees, agents, contractors, subcontractors, licensees, or invitees have violated and/or failed to comply with any term, condition or provision of this License, and in such event, any advance License Fee and/or other payments paid by Licensee to Licensors or due and payable to Licensors hereunder shall be retained by Licensors as liquidated damages, it being understood and agreed that the damages incurred by Licensors if Licensee fails to perform hereunder may not be ascertained with mathematical precision as of the Effective Date. This License shall terminate automatically upon the death or dissolution of the Licensee or if Licensee shall become insolvent or bankrupt.

10. **Surrender.** Upon expiration or earlier termination of this License, Licensee shall vacate and leave the Licensed Premises in as good a condition as existed prior to the Effective Date. No later than five (5) calendar days following the date upon which this License expires or terminates, Licensee shall remove all personal property

and improvements placed upon the Licensed Premises by Licensee and shall repair and restore and save Licensors harmless from all damage caused by such removal. If any or all such personal property and improvements placed upon the Licensed Premises by Licensee is not so removed by Licensee within the above prescribed five (5) day time period, then Licensors shall have the right, but not the obligation, to take possession of and appropriate unto itself, without any payment or offset thereof, any personal property and improvements placed upon the Licensed Premises by Licensee or any other entity acting on behalf of Licensee. Licensors shall have the right, but not the obligation, to effect removal of such personal property, improvements and items at Licensee's sole cost and expense, the amount of which Licensee agrees to reimburse to Licensors immediately upon Licensors's demand.

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

12. **Indemnity.** Licensee shall exercise its privileges herein at its sole risk and subject to the limits as set forth in Section 768.28, Florida Statutes, agrees to indemnify and save harmless Licensors and Licensors Entities, from all liability, loss, cost, and expense, including attorneys' fees, which may be sustained by Licensors Entities, to any person, natural or artificial, by reason of the death of or injury to any person or damage to any property, whether or not due to or caused by the negligence of Licensors Entities, arising from or in connection with the use of the Licensed Premises by Licensee, and its employees, agents, contractors, subcontractors, licensees, and invitees. Licensee agrees to defend, at its sole cost and expense, but at no cost and expense to Licensors Entities, any and all suits or actions instituted against Licensors Entities for the imposition of such liability, loss, cost, and expense arising from the use of the Licensed Premises by Licensee and its employees, agents, contractors, subcontractors, licensees, and invitees.

13. **Insurance.** At all times, during the Term, Licensee shall have and maintain, at Licensee's sole cost and expense, with insurer(s) rated "A-, VII" or higher by A.M. Best's Key Rating Guide, (i) Commercial General Liability insurance with minimum limits of \$1,000,000.00 for bodily injury or death of a person(s) and property damage per occurrence. The limits may be evidenced with a combination of primary and excess/umbrella insurance and (ii) Workers' Compensation insurance coverage as mandated by the applicable laws of the State of Florida. Said policies shall be endorsed to insure against obligations assumed by Licensee in the indemnity herein, and to be primary and non-contributory to any coverage maintained by Licensors. Each party releases and waives and will require its insurer release and waive all rights of subrogation against the other for any damage to or loss of property owned by the waiving party. The certificate of insurance shall name Licensors as certificate holder. An ACORD or similar certificate of insurance shall be furnished to Licensors evidencing that said policy of insurance is in force and will not be canceled or non-renewed so as to affect the interests of the other until thirty (30) days prior written notice has been furnished to Licensors. Upon request, copies of said policy will be furnished to Licensors. Licensee understands and agrees that the use of any Site which is the subject of this Agreement is expressly contingent upon acceptance and compliance with the provisions contained herein.

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

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

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

17. **Attorneys' Fees.** In the event of any litigation arising between the parties under this License, each party shall bear its own costs including attorneys' fees and paralegals' fees and court costs at all trial and appellate levels. This paragraph shall survive expiration or termination of this License coextensively with other surviving provisions of this License.

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

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

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

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

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

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

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

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

[Signatures on Next Page]

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

Witnesses for Licensor:

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

Attest:

Clerk: 
SCOTT ELLIS, CLERK

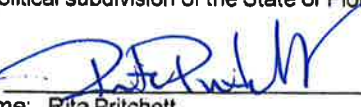
Licensor:

Florida Power & Light Company,
a Florida corporation

By: _____
Name: Dean J. Girard
Title: Senior Director of Corporate Real Estate

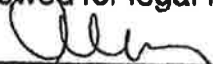
Licensee:

Brevard County,
A political subdivision of the State of Florida

By: 
Name: Rita Pritchett
Title: Chair

As approved by the Board on: 12/08/20

Reviewed for legal form and content:

 11/18/2020

(Assistant) County Attorney

LEGAL DESCRIPTION

PORT ST JOHN WATER TREATMENT FACILITY LICENSE AGREEMENT PARCEL

PARENT PARCEL ID#: 23-35-13-01-A-3
PURPOSE: LICENSE AGREEMENT

EXHIBIT "A"

SHEET 1 OF 2

NOT VALID WITHOUT SHEET 2 OF 2

THIS IS NOT A SURVEY
SEE SURVEYORS NOTE #1

LEGAL DESCRIPTION: PORT ST. JOHN WASTEWATER TREATMENT FACILITY LICENSE AGREEMENT PARCEL (BY SURVEYOR):

A PARCEL OF LAND BEING A PORTION OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 673, PAGE 390 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND LYING WITHIN SECTION 13, TOWNSHIP 23 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2637, PAGE 270; THENCE SOUTH 00° 34' 48" EAST ALONG THE WEST LINE OF THE AFORESAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2637, PAGE 270 FOR A DISTANCE OF 407.81 FEET TO THE SOUTHWEST CORNER OF THE AFORESAID DESCRIBED LANDS; THENCE NORTH 89° 41' 01" EAST ALONG THE SOUTH LINE OF THE AFORESAID DESCRIBED LANDS FOR A DISTANCE OF 300.00 FEET; THENCE SOUTH 00° 34' 48" EAST FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE PLAT BOUNDARY LINE OF PORT ST JOHN UNIT 8 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 23, PAGE 70; THENCE SOUTH 89° 41' 01" WEST ALONG SAID EASTERLY EXTENSION LINE AND ALONG SAID PLAT BOUNDARY LINE FOR A DISTANCE OF 350.00 FEET; THENCE NORTH 00° 34' 48" WEST ALONG SAID PLAT BOUNDARY LINE FOR A DISTANCE OF 457.81 FEET; THENCE DEPARTING SAID PLAT BOUNDARY LINE, RUN NORTH 89° 41' 01" EAST A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.87 ACRES (37,890 SQUARE FEET), MORE OR LESS.

ALL DEED, MAP AND PLAT REFERENCES AS SHOWN HEREON. A TITLE OPINION OR REPORT WAS NOT PROVIDED TO THE SURVEYOR. RIGHTS OF WAY AND EASEMENTS SHOWN ON APPLICABLE RECORD PLATS OR INCLUDED IN THE ABOVE REFERENCE MATERIAL ARE INDICATED HEREON. NO OPINION OF TITLE, OWNERSHIP OR UNWRITTEN RIGHTS IS EXPRESSED OR IMPLIED. ALL PUBLIC RECORDS REFERENCED HEREIN ARE PER THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

SURVEYOR'S NOTES:

1. THIS SKETCH IS NOT A SURVEY BUT ONLY A GRAPHIC DEPICTION OF THE LEGAL DESCRIPTION SHOWN HEREIN.
2. BEARINGS SHOWN HEREON ARE SPECIFICALLY BASED ON THE WEST LINE OF THOSE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2637, PAGE 270, AS BEING SOUTH 00° 34' 48" EAST AS DETERMINED BY THEIR COORDINATE VALUES PER SAID FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE 0901.

ABBREVIATIONS:

COR = CORNER
N/F = NOW OR FORMERLY
ORB = OFFICIAL RECORDS BOOK
PB = PLAT BOOK
PG = PAGE

POB = POINT OF BEGINNING
R/W = RIGHT OF WAY
SQ FT = SQUARE FEET
TP = TAX PARCEL
WTF = WATER TREATMENT FACILITY



PREPARED FOR:

BREVARD COUNTY UTILITY SERVICES DEPARTMENT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

MICHAEL J. SWEENEY, PSM 4870
PROFESSIONAL SURVEYOR & MAPPER
NOT VALID UNLESS SIGNED AND SEALED

PREPARED BY: BREVARD COUNTY PUBLIC WORKS SURVEYING AND MAPPING DIVISION
ADDRESS: 2725 JUDGE FRAN JAMIESON WAY, SUITE A220, VERA, FLORIDA 32940
PHONE: (321) 633-2080

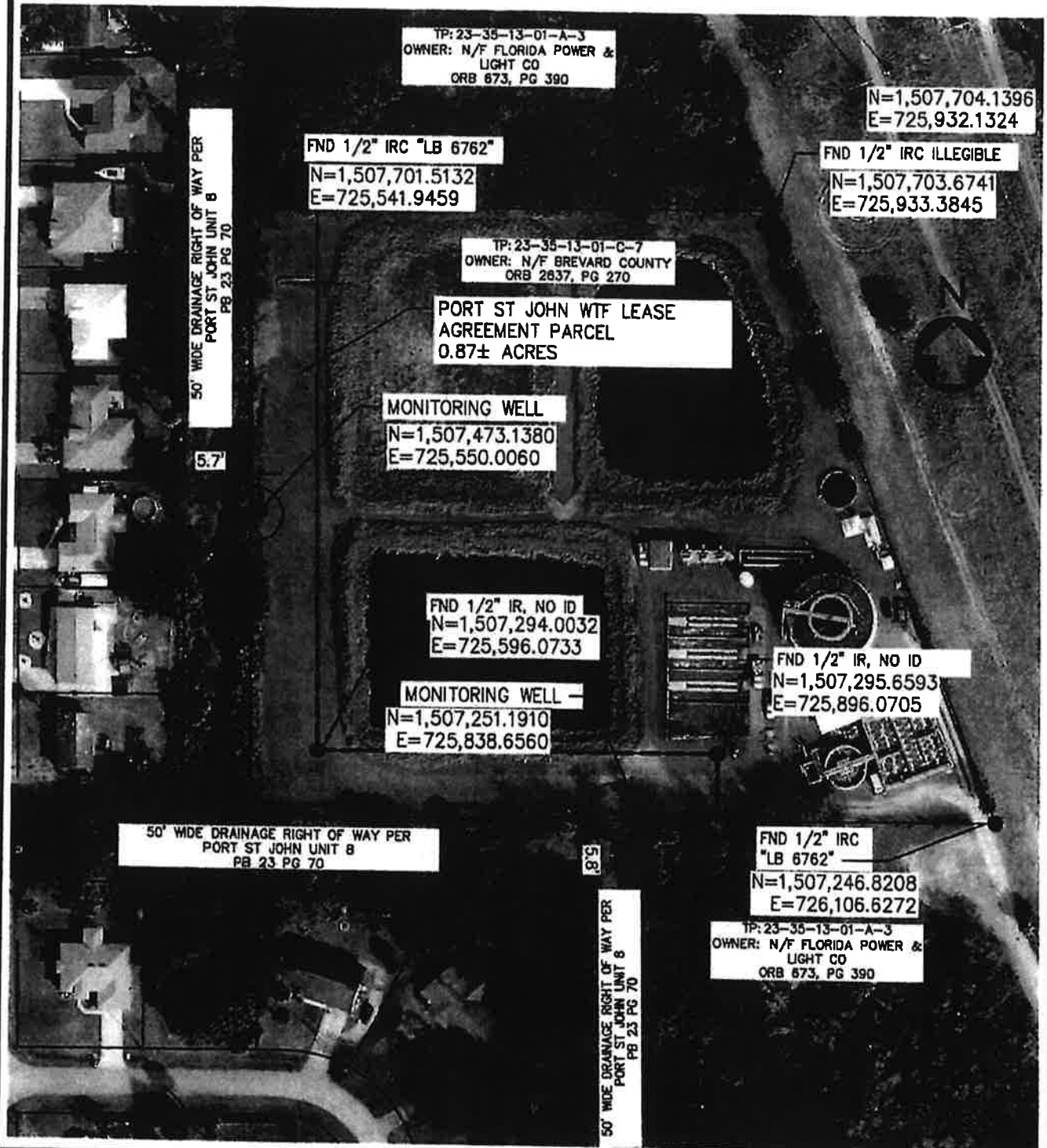


DRAWN BY: R HENNING	CHECKED BY: M SWEENEY	PROJECT NO. 20-09-091	SECTION 13
DATE: 10/06/2020	SHEET: 1 OF 2	REVISIONS	TOWNSHIP 23 SOUTH
		DATE	RANGE 35 EAST
		10/19/2020	
		DESCRIPTION	
		CHANGE LEASE TO	
		LICENSE AGREEMENT	

MONITORING WELLS LOCATION

PORT ST JOHN WATER TREATMENT FACILITY LICENSE AGREEMENT PARCEL

SHEET 1 OF 1



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SCALE:

1" = 80'

PROJECT NO.:

20-09-091

SECTION 13

TOWNSHIP 23 SOUTH
RANGE 35 EAST

SKETCH OF DESCRIPTION

PORT ST JOHN WATER TREATMENT FACILITY LICENSE AGREEMENT PARCEL

PARENT PARCEL ID#: 23-35-13-01-A-03

PURPOSE: LICENSE AGREEMENT

EXHIBIT "A"

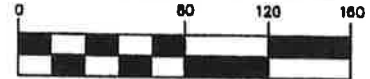
SHEET 2 OF 2

NOT VALID WITHOUT SHEET 1 OF 2

THIS IS NOT A SURVEY

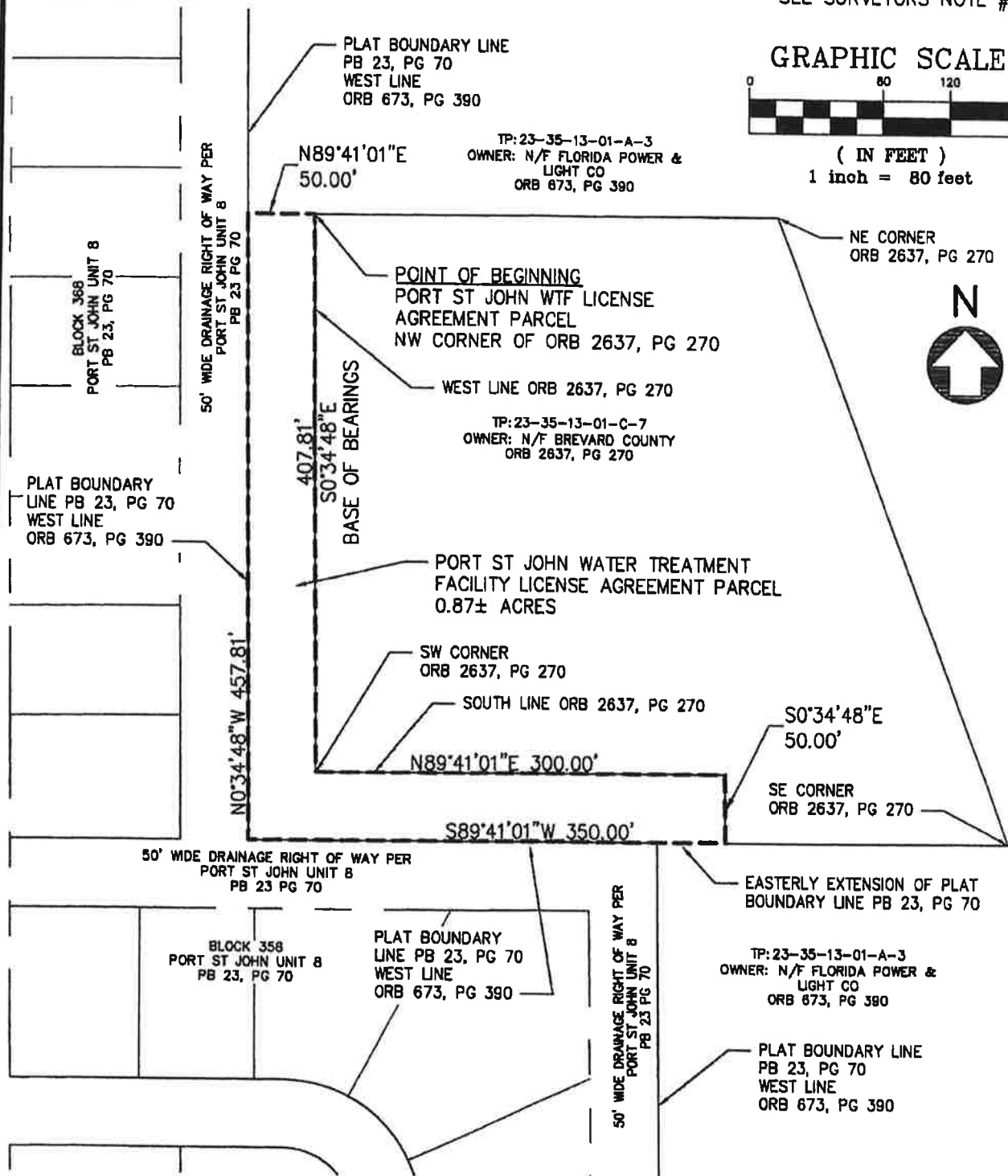
SEE SURVEYORS NOTE #1

GRAPHIC SCALE



(IN FEET)

1 inch = 80 feet



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SECTION 13

TOWNSHIP 23 SOUTH
RANGE 35 EAST