

**Tampa Palms Open Space  
& Transportation  
Community Development District**

**June 5, 2018**

**Workshop**

# **Tampa Palms Open Space and Transportation Community Development District**

## **Board of Supervisors**

Jeffrey D. Smith, Chairman (Area 6)  
Daryl W. Rucker, Vice Chairman (Area 6)  
Evelyn Romano, Assistant Secretary (Area 7)  
Brad van Rooyen, Assistant Secretary (Area 7)  
Lura Leigh Willhite, Assistant Secretary (Area 3)

Mark Vega, District Manager  
Scott Steady, District Counsel  
Tonja Stewart, District Engineer  
Chet Benson, Field Manager

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## **TPOST CDD Workshop Agenda**

**June 5, 2018 – 5:30 p.m.**

At the Enclave Event Room  
18001 Richmond Place, Tampa, FL

- 1. Open Workshop**
- 2. Item for Discussion**
  - A. Area 3 – Outdoor Lighting Agreement**
  - B. Area 6 – Monument Renovations**
- 3. Close Workshop**

**District Office:**  
2654 Cypress Ridge Blvd., Suite 101  
Wesley Chapel, Florida 33544

**Meeting Location:**  
ENCLAVE Event Room  
18001 Richmond Place  
Tampa FL. 33647

## **Second Order of Business**

**2A.**



Contract No:	8205
Work Request No:	2096792
Billing Customer of Record:	TAMPA PALMS OPEN SPACE AND TRANSPORTATION CDD
Billing Address:	6209 ENGLISH HOLLOW TAMPA, FL 33647-0000
Tax ID#:	65-0565630
Business Partner No:	1101131229

**TAMPA ELECTRIC COMPANY  
BRIGHT CHOICES Outdoor Lighting Agreement**

Pursuant to the terms and conditions set forth in this outdoor lighting agreement (the "Agreement"), Tampa Electric Company (the "Company") agrees to provide and TAMPA PALMS OPEN SPACE AND TRANSPORTATION CDD (the "Customer") agrees to accept and pay for the outdoor lighting services specified below.

**1. Scope of Work**

The Company shall furnish, install, operate and maintain, the following lighting equipment (all of which, together with accessories, attachments, replacement parts, additions and repairs, shall be referred to herein as "Equipment"):

- 17 - 2126422 Utility PT III - 3K 76 Watts LED Black
- 17 - 2005654 Tenon - DB Aluminum 16 Ft Black

at the following location STAFFORD PLACE AT TAMPA PALMS PHASE 2 TAMPA, FL 33647-0000 ("Installation Site"), subject to the availability of such Equipment for the term of this Agreement.

**2. System Design and Approval**

If applicable, based on written lighting system design specifications approved by the Customer and/or the Equipment selected by the Customer, the Company shall prepare and provide the Customer with a copy of the final design and/or sketch at least five (5) business days prior to the commencement of installation of the Equipment at the Installation Site. If the Company is unable to provide all of the Equipment selected by the Customer or the Company is unable to install the selected Equipment in reasonable proximity to the locations identified in the approved design specifications for the initial installation of the Equipment, the Company shall note any material deviations from the approved design specifications or Equipment selections in the final design sketch and if applicable, written notification of any adjustments affecting monthly charges. **If the final design sketch has been provided to the Customer, as required immediately above, and the Customer has not advised the Company of specific changes to be made to the final design sketch prior to the commencement of work at the Installation Site, then the Customer will be deemed to have consented to the configuration and installation of Equipment pursuant to the final design sketch.** The final design sketch will conform, to the extent practicable, to the Customer's preferences or preferred design.

**The Equipment shall be repaired or replaced with** the closest available light and/or light pole and associated rate(s) should parts or Equipment become unavailable.

Customer Initial \_\_\_\_\_ Date: \_\_\_\_\_

**THE COMPANY MAKES NO WARRANTY, EITHER EXPRESSED OR IMPLIED, INCLUDING AN IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE** of either the Equipment or the lighting design plan pursuant to which the Equipment is installed.

**3. Change Orders**

**The Equipment shall be configured and installed pursuant to the final design sketch.** Any change order requested by the Customer after consenting to the final design sketch shall be carried out at the Customer's expense.

**4. Damages During Construction**

The Customer shall be responsible for all costs incurred to repair or replace any Equipment which is damaged by the Customer, its agents, employees, representatives or third parties other than the Company during construction of Customer's facilities including but not limited to costs incurred to repair or relocate Equipment to proper depths in response to a lowering of the grade of the soil above any conduit serving the Equipment.

**5. Customer Information and Preparation**

**The Customer shall locate and advise the Company, through the provision of an accurate map and other necessary written descriptions, of the exact location of all underground facilities including, but not limited to: sewage pipes, septic tanks, wells, swimming pools, sprinkler systems, conduits, cables, valves, lines, fuel storage tanks, and storm drainage systems ("Underground Facilities") at the Installation Site at least two (2) days prior to the commencement of any work by the Company at the Installation Site.** Any and all cost or liability for damage to Underground Facilities by the Company that were not properly identified by the Customer, as described under this Paragraph, shall be paid by the Customer. Except for those claims, losses and damages arising out of Company's sole negligence, the Customer agrees to defend, at its own expense, and indemnify the Company for any and all claims, losses and damages, including attorney's fees and costs, which arise or are alleged to have arisen out of furnishing, design, installation, operation, maintenance or removal of the Equipment. The phrase "property damage" includes, but is not limited to, damage to the property of the Customer, the Company, or any third parties. For purposes of this indemnification, and the exculpation of liability provided in Paragraph 11 of this Agreement, the "Company" shall be defined as Tampa Electric Company, its parent, Emera, Inc., and all subsidiaries and affiliates thereof, and each of their respective officers, directors, affiliates, insurers, representatives, agents, servants, employees, contractors, or parent, sister, of successor corporations.

**6. Location of Equipment**

If applicable, the Customer shall stake the locations of Equipment on roadways and commercial property prior to the installation of the Equipment by the Company. To assist the Customer with the staking process, the Company shall provide the Customer with an approved design sketch that reflects the Equipment locations approved by the Customer.

**7. Non-Standard Service Charges**

The Customer shall pay all costs associated with any additional Company facilities and services that are not considered standard for providing lighting service including, but not limited to: installation of distribution transformers, relays, protective shields, bird deterrent devices, light trespass shields, any devices required by local regulations to control the level or duration of illumination including any associated planning and engineering costs, removal and replacement of pavement required to install underground lighting cable, and directional boring. Charges will

also be assessed for light rotations and light pole relocations. The Company will bill the Customer the actual cost of such non-standard facilities and services as incurred.

**8. Customer Contribution in Aid of Construction**

The Company shall pay for all normal Equipment installation costs, with the exception of the following: \$0.00 for the Contribution in Aid of Construction(CIAC). If applicable, a final invoice or partial refund shall be issued to the Customer based upon deviations of actual costs in relation to the estimated customer contribution. CIAC payment to satisfy actual costs are non-refundable.

**9. Monthly Payment**

During the term of this Agreement, the Customer shall pay the Company monthly for the lighting services provided pursuant to Rate Schedule LS-1 as the rate schedule, which is on file with the Florida Public Service Commission, may be amended from time to time. All bills shall be due when rendered.

The current monthly base charges for facilities installed under this agreement are \$628.66. Fuel and other adjustment clause charges and (where applicable) franchise fees and taxes per month under current tax rates pursuant to the Rate Schedule shall be \$114.41. The total monthly charge shall be \$743.07 per month.

**If Applicable**, Customer agrees to deposit with the Company, the additional cash sum of \$1480.00, which is equivalent to approximately two (2) months service under this Agreement, or upon acceptance if the Company so agrees, provide a surety bond or an irrevocable letter of credit from a bank, in favor of the Company in the same amount. The Company will annually credit the Customer's bill with an interest amount, at the rate currently approved by the Florida Public Service Commission, for cash deposits received. The currently authorized interest rate is 2%.

**The monthly charges specified in this agreement are tied to the tariff charges currently on file with the Florida Public Service Commission and may change during the term of this Agreement in accordance with filed changes to the relevant tariffs.**

**10. Term**

This Agreement shall be effective on the later of the dates indicated on the signature block ("Effective Date") and shall remain in force for a primary term of ten (10) year(s) (the "Primary Term") beginning on the date one or more of the Equipment is installed and, if applicable, at least one light is energized and ready for use and shall continue thereafter for successive one year terms (each, a "Renewal Term") until terminated by either party upon providing the other party with ninety (90) days prior written notice of termination.

**11. Limitation on Damages**

The Company will furnish electricity to operate the Equipment for dusk to dawn service or less, depending on the controlling device, each calendar year. The Company will use reasonable diligence at all times to provide continuous operation during the term. The Company shall not be liable to the Customer for any damages arising from causes beyond its control or from the negligence of the Company including, but not limited to, complete or partial failure or interruption of service, shut down for repairs or adjustments, delay in providing or restoring service, or for failure to warn of any interruption of service or lighting.

**12. Outage Notification**

Customer Initial \_\_\_\_\_ Date: \_\_\_\_\_

The Customer shall be responsible for monitoring the function of the Equipment and for notifying the Company of all Equipment outages.

**13. Tree Trimming**

Failure of the Customer to maintain adequate clearance (e.g. trees and vegetation) around the Equipment may cause illumination obstruction and/or a delay in requested repairs or required maintenance.

**14. Termination, Removal**

The Customer shall have the right to terminate this Agreement without any liability or obligation to the Company during the three (3) business day period following the Effective Date (“Initial Termination Period”), provided that written notice of such termination is received by the Company no later than the close of business on the third business day following the Effective Date. In addition, the Customer may terminate this Agreement during the period that commences at the close of the Initial Termination Period and ends at 5:00 p.m. on the business day immediately preceding the date on which installation of the Equipment at the Installation Site is scheduled to commence (“Final Termination Period”), provided that written notice of such termination is received by the Company no later than 5:00 p.m. on the business day immediately preceding the date on which installation of the Equipment commences and, provided further, that the Customer reimburses the Company for any costs incurred by the Company up to the time of the termination by the Customer. These costs include, but are not limited to, shipping and storeroom handling cost for items purchased pursuant to or in contemplation of the Agreement, restocking fees on returned purchases, the cost of purchased Equipment that cannot be returned, or in the Company’s sole judgment, reasonably absorbed in current inventory, and engineering time. The Customer may not terminate this Agreement once installation of the Equipment has commenced.

The company may, at its option and on five (5) days written notice to Customer, terminate this agreement in the event that:

- (a) the Customer fails to pay the Company for any of the services provided herein;
- (b) the Customer violates the terms of this agreement;
- (c) a petition for adjudication of bankruptcy or for reorganization or rearrangement is filed by Customer pursuant to any federal or state bankruptcy law or similar federal or state law; or
- (d) a trustee or receiver is appointed to take possession of the Installation Site (or if Customer is a tenant at the Installation Site, tenant’s interest in the Installation Site) and possession is not restored to Tenant within thirty (30) days.

If such termination occurs prior to the expiration of the Primary Term, the Customer agrees to pay the Company, as liquidated damages, an amount equal to the net present value of the monthly rate for each service taken, less all applicable fuel and other adjustment clause charges, and (where applicable) franchise fees and taxes, for each month of the unexpired Primary Term.

**15. Easements**

The Property Owner covenants that it owns or controls the Installation Site and is authorized to grant the Company an easement to permit performance of the Agreement. The Customer and the Property Owner of the Installation Site, if other than the Customer (individually, the “Grantor” collectively, the “Grantors”), hereby grant the Company a **Non-exclusive Easement** for ingress and egress over and under the Installation Site and for installation, inspection, operation, maintenance, repair, replacement, and removal of the Equipment. The Non-exclusive Easement shall terminate upon the Company’s removal of the Equipment. The Equipment shall

Customer Initial \_\_\_\_\_ Date: \_\_\_\_\_



remain the Company's personal property, notwithstanding the manner or mode of its attachment to the Installation Site and shall not be deemed fixtures. Any claim(s) that the Company has or may hereafter have with respect to the Equipment shall be superior to any lien, right or claim of any nature that any Grantor or anyone claiming through Grantor now has or may hereafter have with respect to the Equipment by law, agreement or otherwise.

In the event that this agreement is terminated pursuant to Paragraph 14 or expires pursuant to Paragraph 10, each of the Grantors expressly grants the Company or its assigns or agents the continued right of entry at any reasonable time to remove the Equipment, or any part hereof, from the Installation Site. The Grantors, individually or collectively, shall make no claim whatsoever to the Equipment or any interest or right therein.

**16. Physical Attachments**

In no event shall the Customer, or any other Grantor, place upon or attach to the Equipment, except with the Company's prior written consent and as set forth in applicable Tampa Electric guidelines, any sign or device of any nature, or place, install or permit to exist, anything, including trees or shrubbery, which would interfere with the Equipment or tend to create a dangerous condition. The Company is hereby granted the right to remove, without liability, anything placed, installed, or existing in violation of this paragraph.

Should such application to attach be made by a party other than the Customer, the initiating party shall obtain additional written approval from the Customer to attach to the specific Equipment as identified by the pole tag number. Such approval of the Customer must be provided to the Company before final approval is granted for physical attachment.

**17. Insurance**

Customer, at his sole cost and expense, shall maintain insurance, in amounts and under policy forms satisfactory to Company at all times during the life of this Agreement. Failure to provide insurance in accordance with this Section shall constitute a material breach of this Agreement.

**18. Amendments**

During the term of this Agreement, Company and Customer may amend or enter into additional addenda to the Agreement ("Addenda") upon the mutual written agreement of both parties in the form of Addendum "A" hereto.

**19. Light Trespass**

Customer acknowledges and agrees that the Customer is solely responsible for specifying the general location of the Equipment and the direction and orientation of the illumination provided thereby. The Company will not be required to install or continue to operate the Equipment at any location where the service may be or has become objectionable to others. If removal of any Equipment is the only practicable resolution of the objection, such removal will be deemed a termination prior to the expiration of the Primary Term as provided in Paragraph 15 and Customer promptly shall pay the Company the liquidated damages specified therein for the percentage or portion of the Equipment that must be removed.

**20. Assignments**

This Agreement shall inure to the benefit of, and be binding upon, the respective heirs, legal representatives, successors and assigns of the parties hereto. This Agreement may be assigned by the Customer only with the Company's prior written consent. In the event of an Assignment, the assignee may be substituted herein for the Customer and/or other Grantor with respect to all Customer rights and obligations, but the initial Customer shall not be released

Customer Initial \_\_\_\_\_ Date: \_\_\_\_\_

from the obligations of this Agreement except by a separate writing from the Company in the Company's sole discretion.

**21. General**

No delay or failure by the Customer or the Company to exercise any right under this Agreement shall constitute a waiver of that or any other right, unless otherwise expressly provided herein.

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

**IN WITNESS WHEREOF**, the parties, each of whom represents and warrants that he or she is duly authorized to execute this Agreement, have caused this instrument to be executed in due form of law.

Customer: TAMPA PALMS OPEN SPACE AND TRANSPORTATION CDD

By/Title: CHAIRMAN

Name (print): JEFFREY SMITH

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Phone #: (813)991-1116

Tampa Electric Company Representative:

By/Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Department: \_\_\_\_\_

Date: \_\_\_\_\_

Property Owner: NEW TAMPA, INC

By/Title: DIRECTOR

Name (print): WARREN KINSLER

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Phone #: \_\_\_\_\_

Tampa Electric Company Manager:

By/Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Department: Lighting Department

Date: \_\_\_\_\_

Work Request No. 2096792

Customer Initial \_\_\_\_\_ Date: \_\_\_\_\_