



## Town of Miami Lakes Memorandum

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**To:** Honorable Mayor & Councilmembers

**From:** Edward Pidermann, Town Manager

**Subject:** FPL Franchise Fee – Ordinance 2<sup>nd</sup> Reading

**Date:** August 27, 2019

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### **Recommendation:**

It is recommended that the Town adopt its own Franchise Agreement with Florida Power and Light (FPL) for a period of 30 years. Pursuant to our Charter, this agreement requires the creation of an Ordinance. The effective date of this Ordinance shall be June 1, 2020. The Town is expected to receive approximately \$2.3 million in the first year of this agreement, at the proposed rate of six percent (6.0%).

### **Background:**

On May 25, 1990, Miami-Dade County ("County") executed a 30-year electrical franchise agreement with FPL ("County – FPL Agreement"). Municipalities that incorporated after the effective date of the County-FPL Agreement were prohibited from executing independent franchise agreements with FPL during the County-FPL Agreement 30-year time-span. The Town of Miami Lakes was incorporated on December 5, 2000, and therefore is currently covered under the County - FPL Agreement. The County, through an interlocal agreement with the Town of Miami Lakes, has shared the revenues collected from FPL users located within the Town. Under the County-FPL Agreement, and all other FPL franchise agreements entered into with Miami-Dade County municipalities, local governments are allowed to collect up to 6% surcharge on utility fees.

Based on information provided by FPL, the County is currently collecting 6.0%, subject to off-sets. Based on information provided by FPL, municipalities governed by independent franchise agreements with FPL are collecting between 5.29% and 6.0%[1]. As such, the Town is currently one, if not the lowest, franchisee. Currently, the County's agreement allows FPL to off-set property taxes paid from the 6% franchise fee charged. Effectively, this off-set reduces the net-amount received by the Town to 2.47%. Of significance, municipalities with independent franchise agreements do not have this off-setting cost. Over the past few years, staff-initiated negotiations have transpired to create our own, Town of Miami Lakes franchise agreement with FPL. Under this agreement the Town grants FPL the nonexclusive right, privilege and franchise (hereinafter called "franchise") to construct, operate and maintain in, under, upon, along, over and across the present and future roads, streets, alleys, bridges, easements, rights-of-way and other public places (hereinafter called "public rights-

of-way") within the Town. Furthermore, the Town agrees not to engage in the distribution and/or sale, in competition with FPL, of electric capacity and/or electric energy to any retail customer or to any electrical distribution system established solely to serve any retail customer presently served by FPL within the Town's limits; and (b) not to participate in any proceeding or contractual arrangement which would be to obligate FPL to transmit and/or distribute, electric capacity and/or electric energy from any third party(ies) to any other retail customer's facility. Nothing in this agreement prohibits the Town from generating electric capacity and/or energy at any facility owned or leased by the Town for storage or utilization at that facility or use renewable energy sources to generate electric capacity or sell electrical capacity to FPL. This agreement provides for the same 6% of FPL's billed revenues (less actual write-offs) from the sale of electrical energy to residential, commercial and industrial customers within the Town. However, by eliminating the off-set provision, the Town is expected to receive over \$1.2 million in additional revenues per year as soon as the agreement goes into effect. The average residence in Miami Lakes (consuming 1000 kWh per month) will experience an average increase of \$3.19 in their monthly electrical bill.

Additionally, the agreement provides for a monthly payment rather than an annual payment, which will make it easier to track our revenues and the Town's ability to periodically request a list of FPL customers within Town boundaries to ensure the Town is collecting the full franchise fee. This additional revenue will provide the Town the financial resources to address three major community concerns and strategic plan priorities, specifically our current and future roadway and infrastructure improvement projects. Second, the Town's tree management program which is aimed at addressing tree pruning, replanting of trees, removal/replacement of dead, hazardous and nuisance trees, implementing our beautification master plan, and update of our tree inventory. Finally, the Town will address the placement of additional street lights, sidewalk grinding, repair and ADA accessibility. Overall, the additional revenue will boost the Town's ability to address its ongoing infrastructure maintenance concerns throughout the Town's footprint. [1] 25 out of 26 municipalities have agreements between 5.9% and 6.0%, Miami Beach agreement is 5.29%.

#### **Attachments:**

Ordinance 2<sup>nd</sup> Reading, FPL Franchise Fee

MDC List of Municipalities