

This instrument prepared by:
Laura L. Russo, Esq.
Laura L. Russo, Esq., LLC
2655 Le Jeune Road, Suite PH-1F
Coral Gables, Florida 33134

INDEMNITY AGREEMENT

THIS AGREEMENT is made this _____ day of September, 2016, by GABLES ESTATES CLUB, INC., (hereafter "Gables Estates") and the City of Coral Gables (hereinafter the "City");

RECITALS

- A. Gables Estates has asked the City to facilitate and assist in converting certain FPL overhead electric distribution facilities located on Casuarina Concourse from Old Cutler Road to the 700 block of Casuarina Concourse to underground facilities.
- B. Gables Estates has further requested that the City allow certain of the underground facilities to be placed in the Casuarina Concourse Rights of Ways.
- C. The City has agreed to assist Gables Estates by entering into a City/County Right of Way Agreement for Underground Conversion and a separate Underground Facilities Conversion Agreement with FPL (copies of which are attached hereto as Exhibit "A" & "B").
- D. Gables Estates has agreed to pay for the cost of this conversion project, and will pay FPL directly.

- E. Gables Estates acknowledges and understands that this Indemnity Agreement is a material inducement for City's Agreement to execute and perform on Gables Estates' behalf under the Right of Way Agreements and to permit FPL to convert the overhead electric distribution facilities located along Casuarina Concourse to underground facilities, including transformers, switch cabinets and other appurtenant facilities.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged by the parties, the parties hereby agree as follows:

1. The City agrees to execute the Right of Way Agreement for Underground Conversion and the Underground Facilities Conversion Agreement (copies attached hereto and made a part hereof as Exhibits "A" and "B", respectfully).
2. Gables Estates agrees to pay the City or FPL directly for the cost of the underground conversion project.
3. In the event the City or an agency with control over the City's Right of Way, for any reason whatsoever, requires FPL to relocate or rearrange in whole or in part any underground facilities (as they are to exist after this conversion project) from or within the City's Right of Way, Gables Estates shall pay to the City or FPL the costs of any such relocation, adjustment or rearrangement, now or in the future.
4. Gables Estates also agrees to pay the City or FPL for all costs to locate, expose, protect or support the underground facilities whether underground or above ground in the event of future construction or excavation in close proximity to underground facilities when required by the City or an agency having control over the City's Right of Way.

5. Gables Estates agrees to cooperate and discuss with and provide information and documents to the City and FPL within 5 business days of written receipt of request.
6. Gables Estates shall protect, defend, indemnify and hold harmless the City and its officers, directors, commissioners, agents, employees, servants, consultants, representatives and successors from and against any and all claims, demands, actions, suits, losses, costs (including without limitation, attorney's fees through trial and appeal) damages, fines, penalties, expenses, liabilities, judgments, proceedings (enforcement or otherwise) or injuries arising from, directly or indirectly to this Agreement, or the Underground Conversion Right of Way and Conversion Agreements.
7. Attorneys' Fees. Upon a breach of this Agreement by Gables Estates or the City, either party shall be entitled to exercise any and all remedies provided, in law or in equity, including but not limited to, specific performance and injunctive relief without the necessity of proving that no adequate remedy at law exists. The prevailing party in any such litigation shall, in addition to such other relief as may be awarded, be entitled to recover reasonable attorneys' fees, expenses, and costs of investigation.
8. Successive Actions. Separate and successive actions may be brought under this Agreement to enforce any provision at any time and from time to time. No action under this Agreement shall preclude any subsequent action, and Gables Estates waives and covenants not to assert any defense in the nature of splitting of causes of action or merger of judgments.
9. Partial Invalidity. If any provision of this Agreement shall be determined to be unenforceable in any circumstances by a court of competent jurisdiction, then the balance of this Agreement shall be enforceable, and the subject provision shall be enforceable to the extent permitted.

10. Interest on Unpaid Amounts. All amounts required to be paid or reimbursed to the City under this Agreement shall bear interest from the date of expenditure by the City until paid. The interest rate shall be the maximum rate then permitted for the parties to contract for under the laws of the State of Florida.

11. Waiver of Jury Trial. GABLES ESTATES HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS AGREEMENT OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION HEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY GABLES ESTATES, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE.

12. Governing Law. This Agreement and the rights and obligations of the parties under this Agreement shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of Florida without regard to conflict of laws principles.

13. Notices. All notices, consents, approvals, elections, and other communications (collectively "Notices") under this Agreement shall be in writing and shall be deemed to have been duly given if mailed by United States registered or certified mail, with return receipt requested, postage prepaid, or by United States Express Mail or reputable overnight courier service to the parties at the addresses set forth below (or at such other addresses as shall be given in writing by any party to the others pursuant to this Section) and shall be deemed complete upon receipt or refusal to accept delivery as indicated in the return receipt or in the receipt of such Express Mail or courier service:

If to Gables Estates: Gables Estates Club, Inc.
7550 SW 57th Avenue, Suite 2041
South Miami, Florida 33143
Attn: Rene Guerra, President

With Copy to: Laura L. Russo, Esq.
Laura L. Russo, Esq., LLC
2655 LeJeune Road, Suite PH 1-F
Coral Gables, Florida 33134

If to the City: City Manager
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134

With Copy to: Craig E. Leen
City Attorney
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134

In Witness Whereof, Gables Estates and the City of Coral Gables have executed this Indemnity Agreement as of the date above.

Gables Estates Club, Inc., a Florida Not for Profit Corporation

By: _____

Rene Guerra, President

City of Coral Gables, a municipal
corporation

By: _____

Catherine Swanson-Rivenbark
Its City Manager

Authorized by Resolution No.: _____ Coral Gables City Commission
Meeting September 23, 2016.

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

Craig E. Leen, City Attorney