

DEPT-6
TPP



Sarah Woods
Martin County Attorney
Martin County Florida
2401 SE Monterey Road
Stuart, FL 34996

Dear Sarah:

Please accept this letter as FPL's request for a new 5-year Tangible Personal Property Tax Grant for our Central Distribution Facility in Indiantown.

For tax year 2019, beginning on Jan. 1, 2019, we request an abatement of 55 percent of the millage rate levied by the Board of County commissioners as the taxing authority for the County as well as the millage rate levied by Parks & Rec as the taxing authority for the MSTU. For the millage rate levied by Fire/Rescue UNINCORP MSTU (Fire/Rescue MSTU), we request 50 percent.

For tax years 2020 through 2023, beginning on January 1 of each year, we request an abatement of 60 percent of the millage rate levied by the Board of County commissioners as the taxing authority for the County as well as the millage rate levied by Parks & Rec as the taxing authority for the MSTU. For the millage rate levied by Fire/Rescue UNINCORP MSTU (Fire/Rescue MSTU), we request 50 percent for the tax years 2020 through 2023.

We appreciate the county's continued willingness to partner with Florida Power and Light Company.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy", followed by a large, stylized flourish or second signature.

Amy Brunjes
Regional Manager
Corporate External Affairs

BCC MEETING DATE: November 20, 2018
AGENDA ITEM: DEPT-6

**MARTIN COUNTY, FLORIDA
SUPPLEMENTAL MEMORANDUM**

TO: Honorable Members of the Board of County Commissioners
DATE: November 19, 2018

FROM: Taryn G. Kryzda
County Administrator

SUBJECT: TANGIBLE PERSONAL PROPERTY GRANT PROGRAM

Florida Power & Light (FPL) is proposing a revision to the Tangible Personal Property (TPP) Grant Agreement. The revised agreement includes the Fire Rescue Municipal Services Taxing Unit (MSTU) ad valorem to be included as part of the rebate at fifty-percent (50%).

The County Attorney has reviewed the document to be legally sufficient. Staff is providing the document for the Board of County Commissioners (Board) for their approval.

/tgk
Attachment

**MARTIN COUNTY TANGIBLE PERSONAL PROPERTY
GRANT PROGRAM AGREEMENT**

This AGREEMENT made and entered this ____ day of _____, 2018, between MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision of the State of Florida, (the "County"), and FLORIDA POWER & LIGHT COMPANY (the "Company"), a Florida corporation.

WITNESSETH:

WHEREAS, the County established the Martin County Tangible Personal Property Grant Program (TPPG) and adopted guidelines thereto on February 17, 2015 by adoption of Resolution No. 15-2.5 and was amended by Resolution No. 15-6.8 and Resolution 18-9.5 to address various material factual changes affecting the TPPG; and

WHEREAS, pursuant to TPPG Guidelines, the Company has submitted a request to the County for a grant from the Martin County Tangible Personal Property Grant Program (TPPG), attached hereto and incorporated herein as Exhibit "A," as a Business Operation that is located or existing within the boundaries of the Village of Indiantown, an incorporated area in Martin County, Florida; and having a significant amount of existing and new tangible property investment, as hereinafter defined; and

WHEREAS, the Company's request has been reviewed by County Administrator and determined to comply with its TPPG Guidelines; and

WHEREAS, the County and the Company desire to set forth their understanding and agreement as to the requirements of the TPPG and the obligations of the parties regarding the TPPG.

NOW, THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows.

Section A. Martin County Tangible Personal Property Grant Program Agreement

1. Definitions.

For purpose of this Agreement, the following terms shall have the following definitions:

a. "Tangible Personal Property (TPP)" means all tangible personal property required to be reported on Florida Department of Revenue form DR-405 for the tax years beginning January 1, 2019 through December 31, 2023 in accordance with all State laws, rules and regulations. Such TPP shall be further identified in the Martin County Property Appraiser's parcel identification number 1000-6002-7823.

b. "Facility" means the Company's business operation located within the Village of Indiantown on which tangible personal property is located. The Facility is more particularly depicted in Exhibit "B" which is attached hereto and incorporated herein.

c. County Millage means the millage rate levied by the Board of County commissioners as the taxing authority for the County as well as the millage rate levied by Parks & Rec as the taxing authority for the MSTU and the millage rate levied by Fire Rescue UNINCORP MSTU (Fire/Rescue MSTU) as the taxing authority for the MSTU as individually set forth in the Florida Department of Revenue Form DR-22 entitled Certification of Final Taxable Value each fiscal year. The term excludes any millage levied by the School District, Village of Indiantown, independent taxing districts and Martin County MSTUs other than the Parks & Rec MSTU and the Fire Rescue MSTU described above.

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2. Grant Amount and Payment.

a. **Grant Amount:** The TPPG program Grant Amount for each tax year during the terms of this Agreement shall be determined by multiplying the tangible personal property tax paid to the County by Company for parcel identification number 1000-6002-7823 by the percentage indicated below for the corresponding year). The amount of the tax paid to the County shall be determined based on the portion of the Company's total taxes paid associated with the "County Millage" as more particularly defined in Section 1.c. above.

(1) For tax year 2019 beginning on January 1, 2019: Fifty-five percent (55%); except for 50% on Fire Rescue MSTU.

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(2) For tax years 2020 through 2023, beginning on January 1 of each year: Sixty percent (60%); except for 50% on Fire Rescue MSTU.

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b. **Payment:** If the Company has fulfilled its obligations regarding its tangible personal property as set for herein, the County will remit the grant amount as calculated in paragraph (a) above following Company's full payment of the tax bill levied against Company's tangible personal property more particularly identified in Section 1a. herein and receipt by County of its portion of such taxes from the Tax Collector. Such payment shall be made by the County to the Company within sixty (60) days of receipt by County of such taxes each year from the Tax Collector.

3. Requirements for Payment.

a. **TPP Requirements:** The Company cannot guarantee a minimum TPP value for the Facility due to ever changing business strategies making a definitive forecast difficult and complex, and because an Act of God (hurricane, tornado, tsunami, etc.) may require the Company to decrease inventory to restore electricity to its customers, the Company will continue in good faith to identify additional slow moving and high value tangible personal property at other Company locations to relocate to its Indiantown Facility.

b. The Company and County recognize the County's Tangible Personal Property Grant program is limited to millage levied by the County and under this Agreement is limited to the "County Millage" defined in Section 1.c. above. During the Term of this Agreement, if there

is a change in Florida law or taxing authority which restricts or reduces the County Millage, and therefore impacts the County's ability to comply with this Agreement, the County and Company agree to negotiate in good faith, an adjustment to the Grant Amount so that the Grant Amount remains consistent with the benefits provided the Company at the time of execution of this Agreement. Notwithstanding paragraph 6.f., an amendment proposed under this paragraph will become effective and relate back to the first of January for any year in which the County substantially reduces the County Millage.

4. Term.

The term of this Agreement shall be effective from January 1, 2019 to December 31, 2023.

5. Notices.

Any notices required or permitted under this Agreement shall be given in writing, and shall be deemed to be received upon receipt or refusal after mailing of the same in the United States Mail by certified mail, postage fully pre-paid or by overnight courier (refusal shall mean return of certified mail or overnight courier package not accepted by the addressee):

If to the Company, to:

With a copy to:

Florida Power & Light Company
700 Universe Boulevard ISC/JB
Juno Beach, FL 33408

Florida Power & Light Company
700 Universe Boulevard PSX/JB
Juno Beach, FL 33408

Attention: Ronald Reagan
Vice President, Integrated Supply Chain

Attention: Tom Flowers
Director, Property & Sales Tax

If to the COUNTY, to:

With a copy to:

County Administrator
County Administrative Center
2401 S.E. Monterey Road
Stuart, FL 34996

County Attorney
County Administrative Center
2401 S.E. Monterey Road
Stuart, FL 34996

6. Miscellaneous.

a. **This Agreement is neither a general obligation of the COUNTY, nor is it backed by the full faith and credit of the COUNTY.**

b. **Forum; Venue.** This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Martin County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy hereunder shall preclude any other or further exercise thereof.

c. No Discrimination Certification. The Applicant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation and in accordance with all applicable federal and state laws and regulations.

d. Attorney's Fees. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the parties expressly agree that each party will bear its own attorney's fees incurred in connection with this Agreement.

The parties expressly and specifically hereby waive the right to a jury trial as to any issue in any way connected with this Agreement.

e. Assignment. The Applicant shall not assign this Agreement to any other persons or firm without first obtaining County's written approval.

f. Amendment. This agreement may be amended only by written agreement of the parties. A party requesting amendment of the Agreement must propose such amendment in writing to the other party prior to the proposed effective date of the amendment.

g. h. This Agreement incorporates and includes all prior and contemporaneous negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior contemporaneous representatives or agreements, whether oral or written.

i. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent be held invalid or unenforceable for the remainder of this agreement, then the Application of such term or provision to person or circumstances other than those as to which it is held invalid or unenforceable shall not be affected, and every other term and provision of this agreement shall be deemed valid and enforceable to the extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

CAROLYN TIMMANN, CLERK
OF THE CIRCUIT COURT AND
COMPTROLLER

EDWARD V. CIAMPI, CHAIRMAN

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

SARAH W. WOODS
COUNTY ATTORNEY

FLORIDA POWER & LIGHT COMPANY

WITNESS

By: Ronald Reagan, VP, Integrated Supply Chain

WITNESS

By: Tom Flowers, Director, Property & Sales Tax