

DRAFT KEY SETTLEMENT TERMS AS SUBMITTED BY GREC

The settlement sought is amendments to the Power Purchase Agreement, in exchange for dismissal of GREC's counterclaims.

1. A new Section 21.1.1 Limited Waiver is created as follows:

For 66 months from the effective date of this amendment, Purchaser waives any right to consent to any assignment (both directly or indirectly through a change of control) by Seller of its rights and obligations under the PPA, pursuant to Section 21.1 of the PPA, to the extent such assignment is to a "Qualified Transferee."

A "Qualified Transferee" means

(I) a person or entity that, at the time of the assignment:

(A) has five years of power generation operation experience (directly or through third party contractors) in North America; and

(B) has five years of power generation ownership experience in North America; and

(C) (i) if rated, has a long term credit rating of not less than BBB-/Baa3 (S&P/Moody's); or (ii) if it is not rated, has a net worth (total assets minus total liabilities or total committed but uncalled equity capital) of at least \$400,000,000; or

(II) an affiliate or subsidiary of a person or entity described in clause (I) above.

2. A new Section 27.3.2 Waiver of Right of First Offer is created as follows:

For 66 months from the effective date of this Amendment, Purchaser agrees that any rights it has under Section 27.3 of the PPA, referred to as the "Right of First Offer" ("ROFO") provision, are deemed to be fully satisfied and/or waived and Seller may enter into a sale of the Facility, directly or indirectly through a change of control of Seller, without providing Purchaser with a ROFO during such 66 month period.

3. A new Section 24.1.1 Dispute Resolution Notice is created as follows:

Purchaser agrees to notify Seller of any alleged claim or breach under the PPA within 45 days of Purchaser's discovery of such facts which Purchaser deems constitute a claim, breach or default under the PPA by Seller. For purposes of this Section, discovery of facts means that the Purchaser's General Manager for Utilities and/or any employee of Purchaser that reports directly to the General Manager for Utilities has actual factual knowledge of a claim under the PPA and

has consulted with the Office of the City Attorney. Purchaser's failure to provide such notification will constitute a full waiver of any such alleged claim, breach or default.

4. A new **Section 27.3.1 Arbitration Holding** is created as follows:

For purposes of Section 27.3 of the PPA, Purchaser shall have no right of first offer on the sales or transfers of minority interests in the Facility to unrelated buyers.

5. **Section 21.1, Assignment by Seller** is amended to read as follows:

This Agreement shall not be assigned by Seller to any Person without the prior written consent of Purchaser, which shall not be unreasonably withheld or delayed; *provided* that Seller may collaterally assign its interest hereunder to a Lender. In the event of the assignment of this Agreement by Seller to a Lender, Seller shall remain fully responsible according to this Agreement for all of its obligations and liabilities hereunder. No such assignment shall alter or impair the rights of any surety. Purchaser agrees to provide such legal opinions and consents as may be reasonably requested by Seller and Lender in connection with such financing. Purchaser agrees to cooperate affirmatively with Seller's efforts to effect any tax equity transaction, financing, or sale of the Facility. Seller's agrees to provide and/or make any and all necessary factual representations as may be reasonably requested by Seller to effect any above-described transaction, including without limitation, customary estoppel certificates.

6. A new **Section 30, FERC and Related Proceedings** is created as follows:

In any proceeding before, and in any filing, pleading, report, motion, or other submission made to the Federal Energy Regulatory Commission (the "FERC"), or any state utility commission (each, a "State Commission," including but not limited to the Florida Public Service Commission), or any national or regional electric reliability entity established or recognized by the FERC pursuant to Part II of the Federal Power Act, as amended, and the regulations of the FERC thereunder (the "FPA"), Purchaser shall not make, either directly or indirectly or by any means whatsoever, any claim or assertion that the electrical output of the Facility is not fully committed to Purchaser for purchase for the entire duration of the PPA. Whenever requested by Seller in writing in the form set forth in the PPA for notices, Purchaser shall deliver to Seller a "letter of concurrence" (as that term is used in FERC Order No. 697 at paragraph 187) prepared in the form and including the content reasonably requested by Seller, and stating without qualification that all of the electrical output of the Facility is fully committed to Purchaser for purchase for the entire duration of the PPA, and Seller shall be authorized to publish the said "letter of concurrence" and to file the "letter of concurrence" with any governmental authority, including but not limited to the FERC. Purchaser shall neither submit nor cause the submission of any protest, motion, or complaint to the FERC or a State Commission under any of Sections 203, 204, 205 and 206 of the FPA that is adverse to Seller or names Seller as a respondent. For the avoidance of doubt, Purchaser shall not intervene in nor protest nor file any motion in any proceeding before the FERC that is filed by Seller (whether alone or with any other party) under any of Sections 203, 204, 205 or 206 of the FPA. Nothing in this section shall prevent

Purchaser from complying with the terms of any subpoena or compulsory process, provided that the provisions of the PPA with respect to compulsory process shall fully bind Purchaser in all such respects.

7. Section 24.2, Arbitration Procedure is amended as follows:

Any controversy, dispute or claim between Seller and Purchaser arising out of or relating to this Agreement, or the breach thereof, shall be settled finally and conclusively by arbitration according to the Rules of the American Arbitration Association then in effect, unless the parties mutually otherwise agree. If the parties fail to agree on an arbitrator within the thirty (30) days following the date of a written notice by one party to the other calling for arbitration, the parties shall promptly designate an arbitrator from a list of persons from the National Roster of Arbitrators and Mediators following said Rules and that arbitrator shall select an arbitrator from the National Roster of Arbitrators and Mediators who shall adjudicate the issue. The costs and expenses of arbitration shall be paid as awarded by the arbitrators; otherwise costs and expenses shall be equally shared. Seller and Purchaser shall each abide by and perform any required actions according to any resulting arbitration award. The arbitration award, when issued, shall be final and shall be enforceable in any court of competent jurisdiction. ~~The location for the arbitration shall be Alachua County, Florida.~~ The location for the arbitration shall be in a mutually agreeable venue; or in the event the parties cannot reach agreement, the location shall be determined by the arbitrator.