

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

The parties to this settlement agreement (“Agreement”), Pinellas County (“Pinellas County”); American Empire Builders, Inc. (“Contractor”), a Florida corporation; and Duke Energy Florida, LLC (“Duke Energy”), a Florida limited liability company, collectively the Parties, hereby agree as follows:

WHEREAS, Pinellas County hired Contractor to complete bridge construction on Crosswinds Drive known as Pinellas County project number 000702A (“Project”);

WHEREAS, Pinellas County requested that Duke Energy relocate some of its facilities and also de-energize some of its equipment as part of the Project pursuant to a Utility Work Schedule dated October 28, 2019 (“UWS”);

WHEREAS, Pinellas County and Contractor now claim that Duke Energy’s relocation and de-energization efforts caused delay on the Project;

WHEREAS, Contractor has submitted a claim for damages related to the delay to Duke Energy (“Claim”);

WHEREAS, Duke Energy denies the Claim;

WHEREAS, Pinellas County has demanded that Duke Energy pay the Claim.

NOW THEREFORE, the Parties wish to resolve any and all disputes between and among them related to this Claim as follows:

1. Payment. In consideration of the terms of this agreement, Duke Energy hereby agrees to pay Contractor Fifty-Four Thousand Seven Hundred Ninety-Five Dollars and 25 Cents (\$54,795.25) within thirty (30) days of the effective date of this Agreement via check mailed to American Empire Builders, Inc., 13775 SW 145th Ct., Unit B, Miami, Florida 33186. Payment shall be made when American Empire Builders, Inc. receives the check.

2. Effective Date. The effective date of this Agreement is the date the last of the Parties signs the Agreement.

3. Release and Covenant not to Sue by Duke Energy. Duke Energy, in exchange for the resolution of the Claim, for itself, its members, predecessors, employees, successors in interest and assigns, does hereby completely and fully release and discharge Contractor and its predecessors, successors, assigns, parents, affiliates and subsidiaries and each of their current and former officers, directors, members, managers, employees, agents and each of them as well as Pinellas County of and from any obligation, liability or responsibility, whether known or unknown, foreseen or unforeseen, which Duke Energy has or may previously have had or

which may hereafter accrue in their favor, arising out of or on account of the Claim. Duke Energy further agrees and covenants never to bring any action directly or indirectly on account of work performed by Contractor and Pinellas County concerning the Claim.

4. Release by Pinellas County. Pinellas County, in exchange for the resolution of the Claim and the payment referenced above, for itself, its members, predecessors, employees, successors in interest and assigns, does hereby completely and fully release and discharge Duke Energy and its predecessors, successors, assigns, parents, affiliates and subsidiaries and each of their current and former officers, directors, members, managers, employees, agents and each of them as well as Contractor of and from any obligation, liability or responsibility, whether known or unknown, foreseen or unforeseen, which Pinellas County has or may previously have had or which may hereafter accrue in their favor, arising out of or on account of the Claim and/or the UWS. Pinellas County further agrees and covenants never to bring any action directly or indirectly on account of work performed by Duke Energy or Contractor concerning the Claim.

5. Release by Contractor. Contractor, in exchange for the resolution of the Claim and the payment referenced above, for itself, its members, predecessors, employees, successors in interest and assigns, does hereby completely and fully release and discharge Duke Energy and its predecessors, successors, assigns, parents, affiliates and subsidiaries and each of their current and former officers, directors, members, managers, employees, agents and each of them as well as Pinellas County of and from any obligation, liability or responsibility, whether known or unknown, foreseen or unforeseen, which Contractor has or may previously have had or which may hereafter accrue in their favor, arising out of or on account of the Claim. Contractor further agrees and covenants never to bring any action directly or indirectly on account of work performed by Duke Energy and Pinellas County concerning the Claim.

6. No Admission of Liability. The Parties acknowledge that the consideration set forth above is in full satisfaction of the Claim. The Parties agree that none of the Parties admit any liability, fault or responsibility for the damages and claims being made.

7. Not to be Used as Evidence in Any Legal Proceeding. The Parties agree that neither this Agreement, nor the negotiations related to this Agreement, shall be used by any Party as evidence in any court proceeding other than to enforce its terms. To be clear, the Parties agree that neither this Agreement, nor the negotiations related to this Agreement shall constitute in any way a waiver, evidence of trade usage or course of dealing, or be binding in any way in future proceedings or projects involving the Parties.

8. Representation of Authority. The execution, delivery and performance by Releasor of this Agreement and Release have been duly authorized by all necessary action on the part of the Releasor, and do not and will not: (a) violate the organizational documents of Releasor or any Applicable Law; or (b) contravene, breach or result in a default under any

agreement or instrument to which Releasor is a party or by which its assets may be bound. Releasor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and has all requisite power and authority to carry on its business as proposed to be conducted in this Agreement and Release. If these representations herein are not true as of the signing of this Agreement, Releasor hereby agrees to indemnify and defend and hold harmless each Party of the Agreement for any damages, causes of action, demands, loss, expense, lawsuits, or any other costs arising from these representations not being true as of the signing of this Agreement.

9. No Third-Party Rights Or Obligations. Other than the parties released and discharged herein, no person or entity not a party to this Agreement shall have any rights relating hereto, including any rights as a third-party beneficiary.

10. Entire, Integrated Agreement. This Agreement is fully integrated, containing the entire agreement and understanding between the Parties (regarding the subject matter hereof), superseding and replacing all prior negotiations and proposed agreements, written or oral.

11. Modified Only In Writing. This Agreement may only be modified by express written agreement of the Parties.

12. Severability. Every provision of this Agreement is intended to be severable. Accordingly, should any provision be declared illegal, invalid, or otherwise unenforceable by a court of competent jurisdiction, such illegality, invalidity, or unenforceability shall not affect the remaining provisions, which shall remain fully valid, binding, and enforceable, unless it would defeat the overall intent of the parties with respect to this Agreement.

13. No Drafting Party. No party shall be deemed the “drafting party” of this Agreement. Consequently, this Agreement shall be construed as a whole, according to its fair meaning and intent, and not strictly for or against any party hereto.

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

15. Binding/Successors And Assigns. This Agreement is binding upon and inure to the benefit of the Parties, as well as their respective successors, representatives, and assigns.

16. Knowing And Voluntary Agreement. The Parties represent they have read this Agreement, understand it, voluntarily agree to its terms, and sign it freely without duress.

17. Indulgences/No Waivers. Neither the failure nor any delay on the part of any party to exercise any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise

of the same or any other right or remedy. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

18. Recitals Part Of Agreement/Contractual In Nature. To the extent necessary, the recitals set forth above are: (a) contractual in nature; (b) a binding part of this Agreement; (c) an essential part of the consideration exchanged hereunder; and (d) otherwise an integral part of this Agreement (which would not have been entered into by the Parties without the recitals).

19. Counterparts/Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be an original, and which taken together shall constitute the same instrument. Fax or electronically transmitted signatures are effective as originals.

Signed this 2 day of Feb, 2023 · Signed this 16th day of January, 2023



DUKE ENERGY FLORIDA, LLC

By: Kathryn H. Christian
Its: Associate General Counsel



AMERICAN EMPIRE BUILDERS, INC.

By: (Print Name) MARWAN HUEGEL
Its: Vice President

Signed this 17 day of February 2023, ~~2022~~



PINELLAS COUNTY

By: Barry A. Burton

Its: County Administrator

APPROVED AS TO FORM

By: Joseph Morrissey
Office of the County Attorney