

**PERFORMANCE GUARANTY AGREEMENT  
FOR RESIDENTIAL SUBDIVISION DEVELOPMENT**

This Performance Guaranty Agreement (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_ (hereinafter called “Applicant”), and Tampa Electric Company, a corporation organized and existing under the laws of the State of Florida (hereinafter called “the Company”).

**WITNESSETH:**

**Whereas**, the Applicant has applied to the Company for underground electric service distribution facilities to be installed on Applicant’s property commonly known as \_\_\_\_\_ located in \_\_\_\_\_, Florida (“Premises”); and

**Whereas**, the Premises requires a significant expansion of the Company’s present electric distribution system and a Company investment exceeding \$600,000; and

**Whereas**, the revenue expected to be derived from all or a portion of the extension within two years is uncertain; and

**Whereas**, the Company requires a Performance Guaranty Agreement for Residential Subdivision Development (“Performance Guaranty”) to provide assurance to the Company that appropriate revenue will be derived from the installation of new facilities so recovery of its costs is certain; and

**Whereas**, the Applicant is agreeable to providing a Performance Guaranty

**Now, therefore**, in recognition of their mutual covenants and promises, the Company and the Applicant do hereby agree as follows:

**ARTICLE 1 – DEFINITIONS**

- 1.1 “Service Installation” shall be defined as: 1) the completed installation of service cable from the Company’s designated point of service to the electric meter enclosure, and 2) the receipt by the Company of an electrical release from the appropriate governmental authorities (“Electrical Release”) acknowledging that the Premises constructed by the Applicant is available for occupancy, such that the Company may install and connect electric meters.
- 1.2 “Expiration Date” shall be defined as the date five (5) years from the date the Company determines it is first ready to render electric service to the extension.

**ARTICLE II -  
DETERMINATION OF INITIAL PERFORMANCE GUARANTY AMOUNT**

Applicant agrees to provide the Company a Performance Guaranty to be determined by the Company as follows:

- 2.1 The Company will estimate the total cost of facilities to be installed on the Premises (“Facilities”) and deduct the amount of Contribution in Aid of Construction (“CIAC”) paid

by the Applicant pursuant to the Company's Electric Tariff. The remaining amount will be prorated among the projected number of Service Installations from which sufficient revenue may be derived to recover the Company's investment expense. Based upon the Company's evaluation of Applicants' construction plans, construction schedule, and the manner in which the subdivision is to be developed, a prorated amount for each service installed will be required for \_\_\_\_ Service Installations in all or part of the subdivision where, in the opinion of the Company, service may not be connected within two years from the date the Company is first ready to render electric service.

- 2.2 In accordance with the above, the initial Performance Guaranty amount required by the Company prior to installing the requested line extension shall be \_\_\_\_\_ (\$\_\_\_\_\_).

### ARTICLE III – PAYMENT AND REFUND

- 3.1 The Applicant shall pay the above specified Performance Guaranty Amount to the Company to guarantee that the Applicant's development is completed so that all Facilities installed to serve new customers are utilized. This amount may be paid in cash or secured either by a surety bond or an irrevocable letter of credit in a form acceptable to the Company. At the Company's option, different forms of security may be accepted, including a parent guarantee or another form acceptable to the Company.
- 3.2 At the request of the Applicant, this Performance Guaranty Amount will be refunded without interest, if cash, or the required amount reduced, if secured by a surety bond or an irrevocable bank letter of credit, no earlier than quarterly intervals on a prorated basis of \_\_\_\_\_ (\$\_\_\_\_\_ ) for each Service Installation and \_\_\_\_\_ (\$\_\_\_\_\_ ) for the final Service Installation.
- 3.3 If the Performance Guaranty Amount is secured by an irrevocable bank letter of credit, the Applicant may provide either an amended or replacement irrevocable bank letter of credit in a form acceptable to the Company at the time to reflect the reduced Performance Guaranty Amount as provided for in Section 3.2. If, upon notice of cancellation or prior to expiration of an irrevocable bank letter of credit, a replacement irrevocable bank letter of credit in a form acceptable to the Company or payment in cash is not provided by Applicant to the Company, the Company will require the third party issuing either of these guaranties to pay the full balance due in accordance with this Agreement in cash. It is the responsibility of the customer to track the progress of construction and report it to the Company on an annual basis. The Company will continue to refund the Performance Guaranty Amount in accordance with Section 3.2 except such refund will be paid jointly to the Applicant and the designated third party having paid the Performance Guaranty Amount. The check shall be provided to the Applicant with a copy to the third party.
- 3.4 Upon written consent from the Company, the Applicant may replace the balance of any cash Performance Guaranty Amount with an irrevocable bank letter of credit acceptable to the Company. Upon receipt of such irrevocable bank letter of credit, the Company will refund the balance of the cash Performance Guaranty Amount. If a third party has made payment to the Company pursuant to Section 3.3, then any such refund will be paid jointly to the Applicant and the designated third party. The check shall be provided to the Applicant with a copy to the third party.

#### **ARTICLE IV - FINAL SETTLEMENT**

Upon the termination or expiration of this Agreement, any portion of the Performance Guaranty Amount not previously refunded or otherwise eligible for refund under the terms of this Agreement shall be retained by Company and any remaining balance of the Performance Guaranty Amount that is subject to a letter of credit shall become immediately due and payable.

#### **ARTICLE V - TITLE AND OWNERSHIP**

Title to and complete ownership and control over the Facilities shall at all times remain with Company and Company shall have the right to use the same for the purpose of serving other customers.

#### **ARTICLE VI – PROCEEDING WITH WORK**

The Company, upon execution of this Agreement by both parties and receipt of the required Performance Guaranty Amount, will proceed with the extension work as described in the plans and specifications attached as EXHIBIT A, and all work done and materials used shall conform to the methods and practices specified by the Company's engineers.

#### **ARTICLE VII - ENTIRE AGREEMENT**

This Agreement supersedes all previous agreements, or representations, whether written or oral, between company and Customer, made with respect to the matters herein contained, and when duly executed constitutes the entire agreement between the parties hereto; provided however, that all terms and conditions contained in the Company's Underground Distribution Facilities Installation Agreement dated \_\_\_\_\_ relating to the installation of the Facilities shall be adhered to.

#### **ARTICLE VIII - HEIRS, SUCCESSORS, AND ASSIGNS**

This Agreement shall inure to the benefits of and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto, but Customer shall not assign this Agreement without first having obtained the written consent of Company, such consent not to be unreasonably withheld.

#### **ARTICLE IX - SUBJECT TO FPSC RULES**

This Agreement is subject to the Rules and Orders of the Florida Public Service Commission and to Tampa Electric Company's Electric Tariff including, but not limited to the General Rules and Regulations for Electric Service (collectively "Regulations"), as such Regulations are now written, or as they may be hereafter revised, amended or supplemented, and at Company's request, Customer agrees to conform this Agreement to such provisions, or enter into a new Agreement reflecting such provisions. This Agreement shall not be used in lieu of applicable requirements set forth in the Regulations pertaining to contributions in aid of construction, advances or deposits.

**In Witness Whereof**, Customer and Company hereby have caused this Agreement to be executed in triplicate by their duly authorized representatives to be effective as of the day and year first written above.

Charges and Terms Accepted by:

\_\_\_\_\_  
Customer (Print/Type Name of Organization)

TAMPA ELECTRIC COMPANY

By: \_\_\_\_\_  
Signature (Authorized Representative)

By: \_\_\_\_\_  
Signature (Authorized Representative)

\_\_\_\_\_  
(Print or Type Name)

\_\_\_\_\_  
(Print or Type Name)

Title: \_\_\_\_\_

Title: \_\_\_\_\_