

ORDINANCE NO. 2013-362

AN ORDINANCE GRANTING TO GULF POWER COMPANY, A FLORIDA CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO MAINTAIN AND OPERATE AN ELECTRIC PLANT AND AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF PARKER AND TO CONSTRUCT, MAINTAIN, OPERATE AND EXTEND ELECTRIC TRANSMISSION AND DISTRIBUTION LINES IN THE STREETS AND PUBLIC PLACES OF SAID CITY; PROVIDING THE TERMS AND CONDITIONS OF SUCH GRANT; REPEALING ORDINANCE NO. 97-228, AS AMENDED, AND ALL CODES, ORDINANCES AND RESOLUTIONS TO THE EXTENT OF ANY CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PARKER AS FOLLOWS:

Section 1. Grant of Franchise Privilege.

In consideration of the benefits that will accrue to the City of Parker, Florida ("City"), and the inhabitants thereof, Gulf Power Company, a Florida corporation ("Gulf Power"), its successors and assigns, is hereby given, granted and vested with the right, authority, easement, privilege and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate and conduct within the municipal boundaries of the City ("Franchise Area"), a plant or plants and system for the generation, transmission and distribution of electric energy for all purposes whatsoever.

Section 2. Non-Exclusive Right to Operate.

Gulf Power is hereby further given, granted and vested with the non-exclusive right, authority, easement, privilege and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate and conduct in the City, a system of poles, towers, conduits, cables, conductors, transforming stations, fittings, appliances and appurtenances necessary or desirable to the transmission, distribution or sale of electric energy for all purposes whatsoever (collectively "Facilities"), in, over, under, along, upon and across all streets, avenues, alleys, ways, bridges, and public places in the City, as they now exist or as they may hereafter be laid out or extended within the present and future municipal boundaries of the City, together with the further right, privilege and franchise to construct, erect, suspend, install, extend, renew, repair and maintain and operate a

terms of this Ordinance and agreeing to perform all the conditions hereof. The City will not unreasonably withhold its consent to the transfer of this franchise.

Section 6. Forfeiture of This Franchise.

Failure by Gulf Power to comply in any substantial respect with any of the provisions, terms or requirements of this Ordinance shall be grounds for forfeiture of this franchise, but no such forfeiture shall take effect if the reasonableness and propriety thereof is timely protested and satisfactorily addressed or until a court of competent jurisdiction shall have found that Gulf Power has failed to comply in a substantial respect with any of the provisions, terms or requirements of this Ordinance. Both the City and Gulf Power reserve the right of appeal of such court findings. Gulf Power shall have six (6) months after the final determination of the questions to make restitution or make good the default or failure before forfeiture shall result. The City, at its discretion, may grant additional time to Gulf Power for restitution and compliance as the necessities of the case may require.

Section 7. Termination of Grant by Insolvency or Bankruptcy of Gulf Power.

In the event of a final adjudication of bankruptcy of Gulf Power, the City shall have full power and authority to terminate, revoke and cancel any and all rights granted under the provisions of this ordinance.

Section 8. Hold Harmless.

The City shall in no way be liable or responsible for any accident or damage which may occur due to the construction, location, relocation, operation or maintenance by Gulf Power of said poles, towers, conduits, wires, cables and other appliances, equipment and vehicles subject to the terms and conditions of this franchise. Gulf Power hereby agrees to indemnify the City, its council members, officers, boards and employees and to hold them harmless against any and all liability, loss, cost, damage or any expense connected therewith including a reasonable attorneys' fees incurred in the defense of any type of court action related hereto, which may accrue to the City or its council members, officers, boards and employees by reason of negligence, default or other misconduct of Gulf Power in its construction, location, relocation operation or maintenance of the Facilities, vehicles or equipment of the electric system subject to this franchise.

remain in effect until such time as a mutually satisfactory arrangements can be developed and agreed upon.

Section 10. Review and Revisions of Franchise Provisions.

With the exception of the provisions of Section 4 concerning the franchise fee, the City and Gulf Power may from time to time request of either party to review any or all of the other provisions of this Ordinance and by mutual agreement revise any such provision, or add any additional provisions that may be appropriate.

Section 11. Other Franchises.

Gulf Power shall furnish the City with a copy of all other municipal franchises that it is granted from time to time during the life of this franchise.

Section 12. Successors and Assigns.

Whenever in this Ordinance either the City or Gulf Power is named or referred to, it shall be deemed to include the respective successor, successors or assigns of either, and all rights, privileges and obligations herein conferred shall bind and inure to the benefit of such successor, successors or assigns of said the City or of Gulf Power.

Section 13. Proper Location and Operation.

The Facilities shall be constructed, erected, located and/or relocated in accordance with good engineering practices and shall not unreasonably interfere with (1) the proper use of the streets, avenues, alleys, ways, bridges, rights of way, and public places in the City, (2) drainage of the affected property, and (3) reasonable egress from and ingress to abutting property. The Facilities shall be maintained in reasonably good condition and repair by Gulf Power. Except in the case of an emergency, Gulf Power shall provide the City with reasonable notice of its intention to install or relocate Facilities within the Franchise Area. The foregoing notification requirement shall not apply to routine small-scale installations or relocations. Failure to restore service within a reasonable time shall constitute a material breach of this franchise.

Section 19. Surrender of Rights.

As a further consideration for the granting of the rights, privileges and franchises granted hereby, Gulf Power surrenders all rights, privileges and franchises heretofore granted by the City or the State of Florida for any of the purposes stated in Section 1 and 2 of this Ordinance and now enjoyed by Gulf Power in the City, provided, however, that such surrender shall not be effective unless and until this Ordinance shall be finally adopted and in effect and the rights, privileges and franchises granted hereby shall be validly in force and effect.

Section 20. Condition Precedent - Written Acceptance by Gulf Power.

As a condition precedent to the effectiveness of this Ordinance, within thirty (30) days after adoption, Gulf Power shall file its acceptance hereof with the City Clerk, and make all required filings with the Department of State as required by law.

Section 21. Severability.

If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.


Section 22. Repeal of Conflicting Codes, Ordinances and Resolutions.

Ordinance No. 97-228, as amended, and all Codes, ordinances and resolutions or parts of codes, ordinances and resolutions or portions thereof of the City of Parker, in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 23. Effective Date.

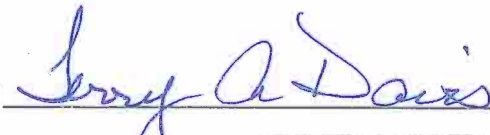
This Ordinance shall take effect on the later of March 1, 2013, or the last filing required in Section 22 above, but in the event that all filings have not been made, on April 1, 2013.

GULF POWER COMPANY, INC., a Florida
Corporation

By: 
President

Printed Name: S.W. Connolly, Jr.

ATTEST:

By: 
Printed Name: TERRY A. DAVIS

Title: ASST. SECRETARY

2/19/2013

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