

**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**IN RE: SHADY HILLS ENERGY CENTER, )  
LLC, COMBINED-CYCLE FACILITY )  
POWER PLANT SITING APPLICATION )  
NO. PA18-59 )**

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**OGC CASE NO. 18-0119  
DOAH CASE NO. 18-0995EPP**

**FINAL ORDER**

This matter is before me as Secretary of the Department of Environmental Protection (DEP or Department) for the purpose of entering a Final Order under Sections 403.508(6), 403.509(1)(a), and 403.509(3), Florida Statutes.

**BACKGROUND**

On October 22, 2018, the Administrative Law Judge (ALJ) assigned by the Division of Administrative Hearings (DOAH) issued an order canceling hearing, closing file, and relinquishing jurisdiction to the Department for entry of a final certification order. The order granted the parties' request to cancel the certification hearing and relinquish jurisdiction in accordance with Section 403.508(6), Florida Statutes. The order was issued pursuant to a Joint Stipulation and Motion of the Parties to Cancel Certification Hearing and to Relinquish Jurisdiction to the Department for Entry of Final Certification Order (Joint Stipulation). The Joint Stipulation stated that no disputed issues of fact or law remain to be raised at the site certification hearing. The Joint Stipulation stated that the parties' requested cancellation of the site certification hearing originally scheduled to begin on November 6, 2018, and did not object to entry of a Final Order by the Department. Therefore, under Section 403.509(1)(a), Florida Statutes, the Department is required to prepare and enter a Final Order.

## **PARTIES**

The following are the parties to this site certification proceeding, under Section 403.508(4)(a), Florida Statutes: the Applicant Shady Hills Energy Center, LLC (Shady Hills), the Department, and Pasco County. Those parties have been granted party status by statute or have timely filed a Notice of Intent to be a Party under Section 403.508(3)(b), Florida Statutes. No other agency filed a Notice of Intent to be a Party before the 90th day prior to the scheduled certification hearing. Further, no third party has intervened in this proceeding as of October 5, 2018, which under Section 403.508(2)(e), Florida Statutes, was the last date by which intervention could be granted.

## **STATEMENT OF THE ISSUE**

The issue to be decided in this proceeding is whether DEP, acting in lieu of the Siting Board, should approve certification in accordance with the Florida Electrical Power Plant Siting Act (PPSA), Sections 403.501, *et seq.*, Florida Statutes, authorizing Shady Hills to construct and operate new electrical generating facilities and onsite associated facilities, known as the Shady Hills Energy Center Combined Cycle Facility (SHEC) at Shady Hills' existing Shady Hills Generating Station (SHGS) site in Pasco County, Florida, subject to the proposed Conditions of Certification set forth in the DEP Project Analysis Report (PAR) dated September 25, 2018.

## **PRELIMINARY STATEMENT**

On February 16, 2018, Shady Hills filed with the Department a Site Certification application (SCA or Application) for the SHEC (PAR, p. 1). On July 2, 2018, Shady Hills submitted to the Department an amendment to the Application. On July 31, 2018, Pasco County issued its land use and zoning determination for the SHEC, under Section 403.50665(2), Florida Statutes. The County determined that the SHEC site was consistent and in compliance with the adopted land use and zoning ordinances of Pasco County. No party challenged the County's

land use consistency determination following public notice. On May 18, 2018, DEP determined the application to be complete.

Under Section 403.519, Florida Statutes, the Florida Public Service Commission (PSC) issued its determination of need for the SHEC on May 25, 2018.<sup>1</sup> As required by Sections 403.5115(1) and (4), Florida Statutes, notice of that hearing was timely published by Shady Hills in the Tampa Bay Times in Pasco County and by DEP in the Florida Administrative Register.

A site certification hearing before DOAH was scheduled for November 6 - 9, 2018. The ALJ timely issued an order closing file on October 22, 2018, granting the parties' request to cancel the certification hearing. In accordance with Section 403.5115(1)(g), Shady Hills timely published notice of cancellation of the certification hearing in the Tampa Bay Times, and the Department timely published notice of cancellation of the certification hearing in the Florida Administrative Register. No party to this proceeding objects to, or recommends denial of, final certification for the SHEC, subject to the proposed Conditions of Certification.

## **FINDINGS OF FACT<sup>2</sup>**

### **A. The Applicant and the Proposed SHEC Project**

1. SHEC will be owned and operated by the Applicant, Shady Hills Electric Center, LLC. Shady Hills is a wholly-owned, indirect subsidiary of GE Capital US Holdings, Inc., which is a wholly-owned, indirect subsidiary of General Electric Company. Shady Hills is an independent power producer that will construct, own, operate, and maintain the proposed SHEC,

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<sup>1</sup> The PSC's Need Determination was under appeal before the Florida Supreme Court, but a stay was not issued for the Need Determination. The appellants, Michael Tuck and Quantum Pasco Power, L.P., voluntarily dismissed their appeal on November 6, 2018.

<sup>2</sup> SHEC, the Department, and Pasco County jointly stipulated to the findings of fact and proposed conclusions of law. These factual findings are supported by reference to the Site Certification Application (SCA), the Department's PAR dated June 1, 2018, and attachments thereto. Pasco County stipulates that there are no disputed issues of fact or law to be raised at a certification hearing; however, Pasco County takes no position on findings of fact outside its subject matter jurisdiction. As a result, Pasco County only stipulates to Paragraphs 6, 7, 10-17, 27, 39, 49, 51, and 65 of the joint stipulation.

and will sell 100 percent of SHEC's capacity, energy, and ancillary services to Seminole Electric Cooperative, Inc. (Seminole Electric) under a Tolling Agreement. (SCA, p. 2).

2. The SHEC application requests approval of the proposed construction and operation of a 573 megawatt (MW) (winter) natural gas-fired one-on-one combined cycle electrical power plant and associated facilities in unincorporated Pasco County, Florida, with commercial operation anticipated in December 2021. The configuration will include one combustion turbine generator (CTG), one heat recovery system generator (HRSG), one steam turbine generator (STG), and one generator step-up transformer, as well as one auxiliary boiler, one emergency generator, one fire pump, and one cooling tower. The SHEC will include a new approximately 0.6-mile 230-kV interconnection tie-line and an off-site temporary construction parking and laydown area. The SHEC includes the electrical generating equipment, and all associated on- and off-site facilities. (SCA, p. 4; PAR, pp. 4-6).

3. The SHEC combined cycle configuration consists of one nominal 385 MW General Electric Model 7HA.02 CTG. One HRSG with duct firing, and one nominal 210 MW STG. The combined output capacity is 573 MW (winter). (PAR, p. 7).

4. On-site facilities directly associated with electrical power generation consist of the combustion turbine, HRSG, STG, mechanical draft cooling tower, exhaust stack, generator step-up transformer, and auxiliary boiler. A utility right-of-way is located on-site and is approximately 0.4 acres. Other major on-site associated facilities include: electrical equipment enclosures; administration building with control room and maintenance area; warehouse; parking; diesel-fired emergency fire water pump; diesel-fired emergency generator; aboveground water, aqueous ammonia, and diesel fuel storage tanks; on-site switchyard; storm water management system; and zero liquid discharge (ZLD) system. (PAR, pp. 5-6).

5. Off-site facilities associated with the SHEC consist of a 0.6-mile 230-kV interconnection transmission tie-line and a tie-line corridor. The proposed tie-line will extend from the north end of the SHEC site and terminate at a new Duke Energy Florida substation. The SHEC also includes the temporary use of approximately 20 acres, owned by Seminole Electric, located adjacent to the eastern boundary of the SHEC site. This temporary construction parking and laydown area will be used for parking, equipment and materials storage, and the location of office trailers and sanitary facilities during construction. This area will be substantially restored to original grade and effectively stabilized with vegetation. (PAR, p. 6; Exhibit A, p. 24).

6. The SHEC will burn only natural gas in the combined cycle combustion turbine and in the auxiliary boiler. An on-site natural gas metering station and lateral will be constructed, owned, and operated by Florida Gas Transmission, and will not be part of the SHEC Certified Project. Florida Gas Transmission will connect the existing 12-inch Shady Hills gas lateral owned by Florida Gas Transmission to the SHEC. (SCA, p. 4).

#### *SHEC Project Site Description*

7. The SHEC electrical generating unit will be located on a portion of a 30-acre parcel of land owned by the Shady Hills Power Company, L.L.C., (SHPC). SHPC is the owner and operator of the SHGS located on approximately 16-acres of the 30-acre parcel. The SHEC will be located on approximately 14 acres of the currently undeveloped and vacant portion of the parcel previously disturbed and cleared for the temporary equipment laydown and parking during the construction phase of the SHEC and for equipment storage. The existing SHGS access and security infrastructure facilities will be shared with the SHEC. A 230-kV interconnection tie-line corridor will extend from the north end of the SHEC approximately 0.6 miles to the west. A 0.4-acre utility interconnection right-of-way will be located on-site, in the

southwest corner of the SHEC. (SCA, p. 1; PAR, p. 4).

8. The SHEC and SHGS are located on privately owned lands. These lands have been used for power generation and activities to support construction and equipment storage associated with the existing SHGS since 2002. (SCA, p. 15).

#### *Construction*

9. Construction is anticipated to begin mid-2019, with commercial operation beginning in December 2021. Figure 3 (attached as Exhibit B) of the PAR shows a conceptual rendering of the completed SHEC. (SCA, pp. xvi and 5; PAR, p. 5).

10. Shady Hills will construct a temporary construction parking and laydown area on approximately 20 acres adjacent to and east of the SHEC. The temporary construction parking and laydown area is shown in Figure 2 (attached as Exhibit C) of the PAR. (SCA, p. 4; PAR, p. 4).

#### *Socioeconomic Impacts*

11. The SHEC is anticipated to benefit the surrounding area's economy. Direct and indirect economic benefits from construction include construction workforce jobs, purchase and rental of equipment and materials, housing and living expenses for construction workers, and indirect employment. Direct and indirect economic benefits from operation include capital expenditures, operation and maintenance expenditures, and employment and property tax revenues. (SCA, p. 87; PAR, pp. 17-18, 24-25).

12. The workforce to construct the SHEC is expected to average approximately 230 workers per day between 2019 and 2021. At peak construction (during the 4th quarter of 2020), approximately 370 workers per day will work at the site. The estimated 40-year operating lifetime of the SHEC will generate a significant amount of economic stimulus for the local economy. Construction wages will increase the demand for goods and services in the region.

Direct purchases of construction materials will have both direct and indirect economic benefits, including construction materials (e.g., concrete and steel for foundations), rental equipment (e.g., construction cranes, pumps, etc.), food services, and transportation services. (SCA, p. 87; PAR, pp. 17-18, 24-25).

13. The SHEC is scheduled to become operational in December 2021. The total direct employment will increase by approximately 10-15 new full-time jobs, with an annual incremental operational payroll of approximately \$2.0-2.5 million in the first year. The operation of the SHEC is expected to generate over \$5 million in annual property tax revenue in 2022; with an estimated \$80 million generated over the projected 40-year operating lifetime. These taxes provide a large economic benefit to Pasco County, the school board, fire district, and water management district. The SHEC will also benefit the local Pasco County community through the purchase of utility services under the Utilities Service Agreement (USA), including reclaimed water, potable water, sanitary sewer services, and solid waste disposal services. (SCA, p. 87; PAR, pp. 17-18).

14. Shady Hills estimates that the total cost for the SHEC will be approximately \$400 million, excluding financing costs. Principal components include power plant development, equipment, construction, and related owner's costs. (SCA, p. 87).

15. External social cost impacts from the operation of SHEC will be minimal and localized. The operation of SHEC will not cause any adverse impacts to public or private facilities used for recreational purposes or impairment to recreational values. Additionally, the operation of SHEC will not result in any deterioration of aesthetic and scenic values. (SCA, p. 88).

**B. Public Service Commission's Determination of Need**

16. On December 21, 2017, Seminole and Shady Hills filed a Joint Petition for Determination of Need for the construction of the SHEC with the Florida Public Service Commission (PSC) pursuant to Sections 366.04 and 403.519, Florida Statutes.<sup>3</sup> (PAR, p. 20).

17. On May 25, 2018, the PSC issued by Final Order (PSC-2018-0263-FOF-EC) an affirmative need determination for the SHEC based on the factors in Section 403.519, Florida Statutes. Among these factors, the PSC found that Seminole Electric demonstrated a need for SHEC beginning in 2021 to maintain its system reliability and integrity and that no other renewable energy sources and technologies or conservation measures are reasonably available to Seminole Electric to mitigate the need for the SHEC. The PSC also found that the SHEC is the most cost- effective alternative available to meet Seminole Electric's generation needs. Further, the PSC found that the SHEC will provide adequate electricity at a reasonable cost. (*See* Order No. PSC-2018-0263- FOF-EC, pp. 14, 17, 20, and 29, Florida PSC May 25, 2018; PAR, p. 21, Appendix II-1).

**C. Pasco County**

18. On January 10, 2018<sup>4</sup>, Pasco County issued a Special Exception Order, which found that the proposed request by SHEC was consistent with the Land Development Code and the Pasco County Comprehensive Plan. On July 31, 2018, Pasco County filed its Determination of Land Use and Zoning Consistency, finding that SHEC is consistent with the County's land use

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<sup>3</sup> "Seminole is an electric utility pursuant to 366.02(2), Florida Statutes., while Shady Hills Energy Center, LLC, is not. In all instances relevant to docket No. 20170267-EC, it is Seminole's need that is at issue. As such, Seminole primarily conducted the analysis and provided the supporting documentation for the need determination in docket No. 20170267-EC. Thus, references in this Order to Seminole's positions, arguments, and data are intended to include Shady Hills Energy Center, LLC, in its role as a joint petitioner for the need determination for the Shady Hills Combined Cycle Facility." (PAR, p. 20).

<sup>4</sup> The PSC's Final Order was appealed; but the appellants voluntarily dismissed their appeal on November 6, 2018. *See* Supreme Court Case No. SC18-1025.

plans and zoning ordinances pursuant to Section 403.50665, Florida Statutes. In its Agency Report, dated August 31, 2018, the County recommended approval of certification of the Site and associated facilities subject to compliance with recommended Conditions of Certification, which were subsequently incorporated into the Department's PAR. (SCA, pp. 5, 11-13, Appendix 10.3; PAR, p. 23, Appendix II-7; DOAH Docket, *Pasco County's Determination of Land Use and Zoning Consistency*, July 31, 2018).

**D. Florida Fish and Wildlife Conservation Commission**

19. There are no anticipated significant impacts to ecological resources from the SHEC, which will be constructed upon previously-impacted upland areas adjacent to the existing SHGS. Neither the SHEC area, the tie-line corridor, nor the temporary construction parking and laydown areas provide significant wildlife habitat, and no adverse impacts to terrestrial systems are anticipated from construction and operation of the SHEC. Due to the previously-disturbed nature of these areas, no change in floral or faunal populations are anticipated from the SHEC. The SHEC does not contain significant areas of preferred habitat for nesting, roosting, or foraging by state-listed wildlife species. However, evidence of gopher tortoises has been observed on the SHEC site, and if shown that any individuals of this species, or any other state-listed species, are present at the site after conducting all surveys required, SHEC must report the findings to the Florida Fish and Wildlife Conservation Commission (FWCC). No long-term effects on the Gopher Tortoise population are expected to occur from the SHEC. Moreover, the SHEC is not expected to significantly impact regional populations of any other endangered or threatened wildlife or plant species. (SCA, pp. 28-32, 64-65, 85-86; PAR, pp. 21-22, Appendix II-3).

20. Noise from construction activities is not anticipated to significantly affect wildlife surrounding the site. The minor increase in noise from construction is not anticipated to affect

wildlife usage of the surrounding areas. Existing wildlife is expected to acclimate to the temporary noise associated with construction activities from the SHEC and temporary construction parking and laydown area. (SCA, p. 64).

21. In FWCC's Agency Report of August 23, 2018, it recommended approval of the SHEC subject to compliance with the agency's Conditions of Certification incorporated into the Department's PAR. (PAR, pp. 21-22, Appendix II-3).

**E. Department of Environmental Protection**

*Air Emissions*

22. The SHEC will be an advanced, natural gas-fired combined cycle unit that minimizes air pollutant emissions by using fuel-efficient and pollution-preventing technology. Emissions of nitrogen oxides (NO<sub>x</sub>) resulting from the combustion of natural gas will be controlled using dry low-NO<sub>x</sub> (DLN) combustors. The proposed NO<sub>x</sub> stack emissions rates for the CTG associated with the SHEC will be further controlled using a selective catalytic reduction (SCR) system to reduce the NO<sub>x</sub> emission rate to 2 parts per million by volume dry, corrected to 15 percent oxygen (O<sub>2</sub>) or less. Use of an SCR system over DLN combustors will reduce the NO<sub>x</sub> emission rate by more than ninety (90) percent. The formation of carbon monoxide (CO) and volatile organic compounds (VOCs) will be limited by good combustion practices. CO formation is limited by ensuring complete, efficient combustion of the fuel in the turbine. Recent improvements in combustion turbine (CT) combustor technology allow for both reduced NO<sub>x</sub> emissions and low CO emissions. Combustion techniques will also be used to reduce the CO emissions from the auxiliary boiler, fire pump engine, and emergency generator. VOC emissions are formed by incomplete combustion of fuel. VOC formation is limited by ensuring complete, efficient combustion of the fuel in the CT. Recent improvements in CT combustor technology allow for low VOC emissions. High combustion temperatures, adequate excess air,

and good fuel/air mixing during combustion will minimize VOC formation. Particulate matter (PM, PM<sub>10</sub>, and PM<sub>2.5</sub>), sulfur dioxide (SO<sub>2</sub>), and sulfuric acid mist (H<sub>2</sub>SO<sub>4</sub>) emissions are controlled and minimized using clean fuels. The use of clean fuels--both natural gas and ultra-low-sulfur diesel fuel (ULSD), characterized by low PM and trace contaminant contents, coupled with advanced combustion techniques and highly efficient combined-cycle technology will minimize PM, PM<sub>10</sub>, and PM<sub>2.5</sub>, SO<sub>2</sub>, and H<sub>2</sub>SO<sub>4</sub> emissions from the combined cycle unit, auxiliary boiler, emergency generator, and fire pump engine and ensure compliance with applicable emission limiting standards. SHEC will minimize greenhouse gas (GHG) by using highly efficient combined cycle technology and natural gas (the lowest GHG emitting fossil fuel). Taken together, the design of the SHEC will incorporate features that will make it one of the most efficient and cleanest fossil fuel-fired units in Florida. (SCA, pp. 40-47, 49).

#### *Separate Air Construction Permitting*

23. The Department's Division of Air Resource Management regulates major stationary sources in accordance with Florida's Prevention of Significant Deterioration (PSD) program established in Rule 62-212.400, Florida Administrative Code. For new major stationary sources, or modifications to existing major stationary sources, each PSD-regulated air pollutant is reviewed for PSD applicability based on emissions thresholds known as Significant Emission Rates (SERs). (PAR, p. 11).

24. The SHEC is proposed in an area currently in attainment with the federal ambient air quality standards (AAQS), or otherwise designated as unclassifiable. It is also not located within an area of influence of a nonattainment area. Therefore, nonattainment New Source Review (NSR) requirements do not apply. However, the SHEC has the potential to emit above the SER for at least one PSD pollutant: and therefore, the SHEC is subject to a PSD applicability review. Based on that review, the SHEC was subject to a PSD analysis for the following

pollutants: NO<sub>x</sub>, CO, PM, PM<sub>10</sub>, PM<sub>2.5</sub>, SO<sub>2</sub>, H<sub>2</sub>SO<sub>4</sub>, and GHGs. The Department established Best Available Control Technology (BACT) requirements for each of those pollutants in the air construction permit it issued on July 27, 2018. (PAR, pp. 11-12).

25. An air quality impact analysis meeting the requirements of the Department's PSD's rules and the modeling guidance of the United States Environmental Protection Agency and the Department was performed. The air quality modeling results demonstrated that the air emissions from the SHEC will not cause or contribute to any exceedance of any applicable AAQS or PSD increment. (SCA, pp. 81-82).

26. On May 29, 2018, the Department concluded it had reasonable assurance that air emissions associated with the SHEC will not cause or significantly contribute to any violations of an AAQS or PSD increment and determined that the SHEC will comply with all applicable state and federal air pollution regulations. (PAR, p. 12).

27. The Department issued a final air construction permit for the SHEC on July 27, 2018. (PAR, p. 13).

#### *Cooling Water Intake and Discharge Considerations*

28. Steam turbine condenser cooling will be provided by a recirculating cooling water system. The sources of cooling tower makeup water will be reclaimed water from Pasco County's Shady Hills Wastewater Treatment Facility, the interconnected Pasco County Master Reuse System (PCMRS), and internally recycled process wastewater streams from the zero-liquid discharge (ZLD) system. (SCA, p. 51; PAR, p. 9).

29. Blowdown from the cooling towers will be sent to the lime softening clarifiers that are part of the wastewater treatment system. (SCA, p. 51; PAR, pp. 9-10).

30. As backup sources, Pasco County will supply potable water for process use if reclaimed water is not obtained from the PCMRS. (PAR, p. 9).

31. The SHEC also received authorization to access existing allocations of groundwater, which SHPC is authorized to withdraw for the SHEC when such groundwater is not being used by the SHGS. (SCA, p. 49-51; PAR, p. 13).

#### *Wastewater*

32. The SHEC will not discharge cooling or process water to surface or ground waters from the SHEC. The ZLD system allows for the treatment and reuse of the wastewater produced during operation of the SHEC. Consequently, the SHEC will not require a surface water discharge structure(s), a diffuser system, a mixing zone, or a National Pollutant Discharge Elimination System (NPDES) permit for process wastewater discharges. (PAR, p. 13).

33. Sanitary wastes from operation of the SHEC will be discharged to Pasco County's sanitary sewer system. (SCA, p. 51; PAR, p. 14).

#### *Storm Water Management*

34. The on-site drainage system for the SHEC will be designed, constructed, and operated independently from the SHGS system. Two retention storm water ponds are proposed for the SHEC (Pond 1 and Pond 2). Storm Water Pond 1 is located near the northwest site boundary and Storm Water Pond 2 is located near the southwestern site boundary. The SHEC proposes a combination of swales, drop inlets, and underground pipes for storm water collection and routing to the retention pond systems. (SCA, p. 56; PAR, p. 10).

35. The Department does not anticipate adverse impacts to surface water during construction and operation of the SHEC project. Shady Hills will prepare and implement a comprehensive storm water pollution prevention plan, as required under the NPDES Generic Permit for Storm Water Discharge from Large and Small Construction Activities. The Department does not anticipate discharge to surface waters during operation, because of the two storm water ponds and the high percolation rates at the SHEC. Surface water runoff from the

SHEC is estimated to be zero to 6 inches per year to the surface drainage system. (PAR, p. 13).

#### *Wetland Impacts*

36. No impacts to aquatic species or ecosystems are expected due to the absence of wetlands and aquatic systems located on the SHEC site, the interconnection tie-line corridor, and the temporary construction parking and laydown area. The SHEC is located outside of sensitive lands and areas of concern, such as rivers, lakes, wetlands, floodplains, natural vegetation communities, wells, wellfields, coastal high hazard areas, and evacuation routes. Therefore, the SHEC's construction and operation will not impact federal or state lands, scenic rivers, wetlands or outstanding waters of the state. (SCA, pp. 11, 28, 64; PAR, pp. 14-16).

#### *Solid Waste & Hazardous Substances*

37. Solid wastes, such as operational, maintenance, and municipal waste, will be generated in small amounts at the SHEC. The ZLD system will produce the bulk of the waste associated with operation. The system will produce approximately 41.4 tons of non-hazardous solid waste byproducts per day in the form of filter cakes (16.6 tons) and crystalized salts (24.8 tons). Shady Hills will collect and transport all non-hazardous solid waste off-site by private licensed waste collection companies for disposal at a permitted facility in accordance with chapter 62-701 or 62-702, Florida Administrative Code. (SCA, p. 23; PAR, p. 14).

38. The SHEC will be a conditionally exempt small quantity generator, with less than 100 kilograms of hazardous waste per month anticipated to be produced by the SHEC in the form of spent solvents and boiler chemical cleaning wastes. A licensed hazardous waste contractor will collect and transport off-site all hazardous waste produced at the SHEC. (SCA, p. 55-56; PAR, p. 14).

**F. Southwest Florida Water Management District**

*Water Usage*

39. The SHEC will not require a water use permit. (PAR, p. 21, Appendix II-2).

40. The SHEC primary water uses include cooling, process, service, potable, and irrigation. The primary water source for cooling, process, and irrigation will be reclaimed water from Pasco County's Shady Hills Wastewater Treatment Facility (SHWWTF) and the interconnected Pasco County Master Reuse System (PCMRS). (PAR, p. 13).

41. Due to the robust nature of the PCMRS, the potential use of potable water or groundwater is expected to be very infrequent. The use of reclaimed water for cooling, process, and irrigation minimizes impacts to groundwater supplies from operation of the SHEC. (SCA, pp. 4, 49-50; PAR, pp. 13-14, Appendix II-2).

42. As a backup supply, Pasco County will supply potable water for process use if water is not obtained from the PCMRS. (PAR, p. 13).

43. In addition, existing wells that serve the adjacent Shady Hills Generating Station under Water Use Permit No. 20012052 will be an additional source of back-up water supply. (SCA, pp. 49-50; PAR, pp. 13-14, Appendix II-2).

44. Shady Hills will obtain water during construction of the SHEC from reclaimed water and potable water supplied by Pasco County, or from dewatering effluent. During construction, the construction labor force may use portable chemical toilets and/or permitted holding tanks. During construction, Pasco County or a contractor will provide potable water for consumption, emergency eyewash, and shower stations. (SCA, p. 62).

45. In its July 31, 2018 Agency Report, the Southwest Florida Water Management District (SWFWMD) recommended approval and had no recommended Conditions of Certification. (PAR, p. 21, Appendix II-2).

**G. Florida Department of Transportation**

46. During construction of the SHEC, construction labor force and delivery traffic will use the existing roadway system near the site. Primary access during construction and operation of the SHEC include SR52, Hays Road, Hudson Avenue, Softwind Lane, and Merchant Energy Way. (SCA, p. 68; PAR, p. 17). All roadway segments are expected to operate at an acceptable Level of Service during construction and operation of the SHEC. Under worst-case conditions there will be 370 inbound vehicles during the AM peak hour and 370 exiting vehicles during the PM peak hour. In addition, during construction an estimated 13 trucks will arrive daily with supplies to the SHEC, which is an increase from the existing 1-3 truck deliveries daily at the adjacent Shady Hills Generating Station. The roadways can handle this temporary increase in traffic activity. Moreover, Shady Hills will implement traffic management practices during peak construction hours to maintain an acceptable Level of Service for the access points. (SCA, pp. 68-69, 86; PAR, p. 22, Appendix II-4).

47. The Department does not anticipate adverse impacts to traffic during operation of the SHEC. Except for construction-related traffic, there are no apparent impacts to the State Highway System. (SCA, p. 69; PAR, p. 22).

48. SHEC will develop a traffic management plan for construction to address appropriate traffic management and improvements, as necessary, to maintain an acceptable Level of Service for the access points. (PAR, p. 22, Appendix II-4).

49. In its September 17, 2018 Agency Report, the Florida Department of Transportation recommended approval of certification of the SHEC, subject to compliance with recommended Conditions of Certification, which were subsequently incorporated into the Department's PAR. (PAR, p. 22, Appendices I and. II-4).

#### **H. Department of State, Division of Historical Resources**

50. Shady Hills and the Division of Historical Resources (DHR) did not identify any state archaeological landmarks within five miles of the SHEC. (PAR, p. 18).

51. In 2012, a cultural resource desktop analysis was conducted by SHPC with the intent to expand the existing SHGS. The analysis consisted of research and review of the Florida Master Site File, which serves as an archive and repository of information about Florida's recorded cultural resources that are listed, eligible, or potentially eligible for the National Historic Preservation Act and resources with potential or confirmed human remains. (SCA, p. 15; PAR, p. 18).

52. In addition, SHPC coordinated with DHR regarding use of the Site to expand SHGS and provided DHR with the findings from the desktop analysis. DHR provided a letter of concurrence to Shady Hills confirming that DHR did not have any records of significant archaeological or historical resources in the SHEC area. The letter cautioned that the site still might contain undiscovered archaeological resources; and thus, DHR recommended that special conditions be included in case discoveries are made during construction. (SCA, p. 16; PAR, p. 18).

53. The location of the proposed 230-kV interconnection tie-line is owned by Pasco County and has been previously evaluated for cultural resources and archaeological significance associated with Pasco County's Shady Hills Wastewater Treatment Facility, located to the west, and the Pasco County Solid Waste Resource Recovery Facility, located to the north, of the proposed SHEC. (SCA, p. 16; PAR, pp. 18-19).

54. In addition, SHEC conducted a cultural resources survey on the area proposed for the interconnection tie-line corridor. On May 7, 2018, SHEC submitted the survey to DHR for its review and consideration in preparing its Agency Report. DHR determined that this area has

no significant archaeological and/or historical sites recorded or considered likely to be present. Based on the limited work to be conducted in the temporary construction parking and laydown area, the potential for impact to archaeological or historical sites is limited. DHR did not object to certification and submitted proposed Conditions of Certification to address the possibility of finding any resources during construction activities. (SCA, p. 16; PAR, pp. 18-19, 23, Appendix II-6).

**I. Agency Reports and Proposed Conditions of Certification**

55. Pasco County; SWFWMD; Florida Fish & Wildlife Conservation Commission (FWCC); the Florida Department of Transportation (FDOT); the Florida Department of Economic Opportunity (FDEO); and the Florida Department of State, DHR, submitted Agency Reports pursuant to Section 403.507(2)(a)2., Florida Statutes, and recommended approval subject to the Proposed Conditions of Certification or did not object to certification. The PSC determined a need for this facility, pursuant to Section 403.507(4)(a), Florida Statutes. (PAR, pp. 20-25).

56. On September 25, 2018, the Department issued its written PAR, pursuant to Section 403.507, Florida Statutes. The PAR contains Proposed Conditions of Certification for the SHEC, including conditions recommended by the reviewing agencies. In its PAR, the Department recommended approval of the SHEC provided Shady Hills complies with the proposed Conditions of Certification in the Department's PAR. (PAR, p. 26).

57. The Parties agree to the Proposed Conditions of Certification included in Exhibit A attached hereto.

## **CONCLUSIONS OF LAW**

58. Shady Hills, Pasco County, and the Department have standing to participate in this proceeding.

59. This proceeding was conducted in accordance with the Florida Electrical Power Plant Siting Act, Part II of Chapter 403, Florida Statutes.

60. The ALJ has the authority to cancel the scheduled site certification hearing upon stipulation by all parties to the proceeding that there are “no disputed issues of fact or law to be raised at the certification hearing.” *See* § 403.508(6)(a), Fla. Stat. (2018).

61. In accordance with Section 403.508(6), Florida Statutes, the ALJ granted the parties’ request to cancel the certification hearing and relinquish jurisdiction to the Department. Accordingly, the Department has jurisdiction to enter this Final Order. *See* § 403.509(1), Fla. Stat. (2018).

62. In accordance with Section 403.5115, Florida Statutes, and chapter 62-17, Florida Administrative Code, proper notice has been provided to all persons, entities, and parties entitled to such notice, including the general public. No third party intervened by the deadline for such intervention.

63. Pasco County has determined that the SHEC will be consistent with its local government comprehensive plans and land development regulations in accordance with Section 403.509(3)(c), Florida Statutes, subject to the Conditions of Certification attached hereto as Exhibit A. The County’s determination has not been disputed in accordance with Section 403.50665(4), Florida Statutes.

64. All necessary and required state, regional, and local governmental agencies participated in the certification process.

65. The PSC determined the need for the electric power to be supplied by the SHEC as required by Section 403.519, Florida Statutes. The PSC is the sole forum for the determination of the need for the SHEC pursuant to Section 403.519, Florida Statutes.

66. The SHEC is eligible for issuance of a final certification order (subject to the attached Conditions of Certification), upon consideration and balancing of the criteria in Section 403.509(3) Florida Statutes, based upon the information provided by Shady Hills in its site certification application, and the information provided by DEP in its PAR.

67. Under Section 403.509(3)(a), Florida Statutes, Shady Hills has provided reasonable assurances that operational safeguards for the SHEC are technically sufficient for the public welfare and protection, provided the SHEC implements and complies with the attached Conditions of Certification.

68. As required by Section 403.509(3)(b), Florida Statutes, the Department has concluded that the SHEC complies with applicable nonprocedural requirements of agencies, provided Shady Hills implements and complies with the attached Conditions of Certification. The Department's analysis concludes that the SHEC is not reasonably projected to cause or contribute to a violation of ambient air quality standards or PSD increments, or water quality standards. Pasco County approved an alternative standard related to fire protection, which is authorized under Section 407.5 of the Pasco County Land Development Code. No other agency identified variances from applicable state, regional, or local government standards are necessary for the SHEC.

69. Under Section 403.509(3)(e), Florida Statutes, certification of the SHEC in accordance with the attached Conditions of Certification effects a reasonable balance between the need for the SHEC, as determined by the PSC, and the minimal impacts on air and water

quality, fish and wildlife, water resources and other natural resources of the State that would result from the construction and operation of the SHEC.

70. Based upon the foregoing considerations, the Department concludes that the SHEC will serve and protect the broad interests of the public, provided Shady Hills implements and complies with the attached Conditions of Certification.

### **CONCLUSION**

Having reviewed the matters of record and being otherwise duly advised, the Department concludes that, if constructed and operated in accordance with the evidence presented in the record and the attached Conditions of Certification,<sup>5</sup> the SHEC will serve and protect the broad interests of the public and should be approved.

It is therefore ORDERED that:

A. Site certification of Shady Hills Energy Center, Inc.'s Combined-Cycle electrical power plant and associated facilities in unincorporated Pasco County, Florida, as described in the Site Certification Application and the record as a whole, is hereby APPROVED.

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<sup>5</sup> The final Conditions of Certification are attached to this Final Order as Exhibit A.

B. The Shady Hills Energy Center is subject to, and the Shady Hills Energy Center, Inc., shall comply with, the Conditions of Certification that are attached as Exhibit A and incorporated by reference herein.

DONE AND ORDERED this 3<sup>rd</sup> day of December, 2018, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



\_\_\_\_\_  
NOAH VALENSTEIN  
Secretary

Marjory Stoneman Douglas Building  
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Tallahassee, Florida 32399-3000

FILED ON THIS DATE PURSUANT TO § 120.52,  
FLORIDA STATUTES, WITH THE DESIGNATED  
DEPARTMENT CLERK, RECEIPT OF WHICH IS  
HEREBY ACKNOWLEDGED.

  
CLERK

12/3/18  
DATE

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Final Order has been sent by electronic mail to:

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this 3<sup>rd</sup> day of December, 2018.

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**STATE OF FLORIDA  
DEPARTMENT  
OF  
ENVIRONMENTAL PROTECTION**



**Conditions of Certification**

**Shady Hills Energy Center, LLC  
Shady Hills Combined Cycle Facility**

**PA18-59**

Exhibit A

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## SECTION A: GENERAL CONDITIONS

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### SECTION A: GENERAL CONDITIONS

#### I. SCOPE

A. Pursuant to the Florida Electrical Power Plant Siting Act (PPSA), Sections 403.501-518, Florida Statutes (F.S.), and Chapter 62-17, Florida Administrative Code (F.A.C.), this certification is issued to Shady Hills Energy Center, LLC (SHEC) as owner/operator and Licensee of the Shady Hills Combined Cycle Facility (SHCCF). Subject to the requirements contained in these Conditions of Certification (Conditions), SHEC will operate a 573-megawatt (MW) (winter) facility consisting of a natural gas-fired one-on-one combined cycle electrical power plant, comprised of one combustion turbine generator with an associated heat recovery system generator, one steam turbine generator, and associated facilities as described in the Site Certification Application (SCA). The electric generating unit is located on an approximately 14-acre site at 14240 Merchant Energy Way in Pasco County, Florida. A utility right-of-way (ROW) is located on approximately 0.4 acres and an interconnection tie-line ROW is located on approximately 7 acres. These three areas, totaling approximately 22 acres, are all part of the SHCCF. The Universal Transverse Mercator (UTM) coordinates are: Zone 17; 347.44 kilometers (km) East; 3,138.8 km North.

B. The SHCCF includes but is not limited to the following major associated facilities:

- Combustion turbine and auxiliary skids;
- Steam turbine and auxiliary skids;
- Generator and auxiliary skids;
- Heat recovery steam generator and auxiliary skids;
- Steam surface condenser;
- Pumps and heat exchangers;
- 0.6-mile interconnection tie-line;
- 6-cell mechanical draft cooling tower;
- Exhaust stack;
- Generator step-up transformer;
- Auxiliary boiler;
- Electrical equipment enclosures;
- Administration building with control room and maintenance area;
- Warehouse;
- Parking;
- Diesel-fired emergency generator;
- Diesel-fired emergency fire water pump;
- Storage tanks for water, and aqueous ammonia, and diesel fuel;
- High voltage circuit breakers and disconnect switches;
- On-site switchyard;
- Stormwater management system;
- Zero liquid discharge system, including tankage, water treatment building, and solids loading facilities;
- Fire protection systems; and
- On-site reclaimed water, sanitary sewer, and potable water conveyance infrastructure.

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## SECTION A: GENERAL CONDITIONS

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C. These Conditions, unless specifically amended or modified, are binding upon the Licensee and shall apply to the construction, operation, and maintenance of the SHCCF. If a conflict should occur between the design criteria of the SHCCF and the Conditions, the Conditions shall prevail unless amended or modified. In any conflict between any of these Conditions, the more specific Condition governs.

D. Within 60 days after completion of construction of SHCCF, the Licensee shall provide to the Department in .pdf format: (1) a survey map signed by a professional land surveyor, or acceptable equivalent documentation such as an official legal description, delineating the boundaries of the SHCCF, and (2) an aerial photograph delineating the boundaries of the SHCCF and identifying the major components of the associated facilities that are authorized under this Certification. The survey map and aerial photograph shall be identified as the Certified SHCCF Map and attached hereto as part of Attachment A (Maps).

The Licensee shall notify the Department of any change to the SHCCF boundary depicted in the Certified SHCCF Map in Attachment A (Maps). The notification shall be accompanied by an updated land survey map (or legal description) and aerial photograph delineating the new boundaries of the SHCCF for review by the Department.

*[Sections 403.511 and 403.5113, F.S.; subsections 62-4.160(1-2) and 62-17.205(2), F.A.C.]*

## II. APPLICABLE DEPARTMENT RULES

The construction, operation, and maintenance of the SHCCF shall be in accordance with all applicable non-procedural provisions of the Florida Statutes and the Florida Administrative Code, including, but not limited to, the applicable non-procedural portions of the following Department regulations, except to the extent a variance, exception, exemption, or other relief is granted in the Final Order of Certification or in a subsequent modification to the Conditions, under any federal permit, or as otherwise provided under Chapter 403:

### **Florida Administrative Code:**

- 18-2 (Management of Uplands Vested in the Board of Trustees)
- 18-14 (Administrative Fines for Damaging State Lands)
- 18-20 (Aquatic Preserves)
- 18-21 (Sovereign Submerged Lands Management)
- 62-4 (Permits)
- 62-17 (Electrical Power Plant Siting)
- 62-40 (Water Resource Implementation Rule)
- 62-150 (Hazardous Substance Release Notification)
- 62-160 (Quality Assurance)
- 62-204 (Air Pollution Control-General Provisions)
- 62-210 (Stationary Sources-General Requirements)
- 62-212 (Stationary Sources-Preconstruction Review)
- 62-213 (Operation Permits for Major Sources of Air Pollution)
- 62-256 (Open Burning)
- 62-296 (Stationary Sources-Emission Standards)
- 62-297 (Stationary Sources-Emission Monitoring)
- 62-302 (Surface Water Quality Standards)
- 62-303 (Identification of Impaired Surface Waters)
- 62-304 (Total Maximum Daily Loads)

## SECTION A: GENERAL CONDITIONS

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62-330 (Environmental Resource Permitting)  
62-340 (Delineation of the Landward Extent of Wetlands and Surface Waters)  
62-342 (Mitigation Banks)  
62-345 (Uniform Mitigation Assessment Method)  
62-520 (Groundwater Classes, Standards, and Exemptions)  
62-528 (Underground Injection Control)  
62-531 (Water Well Contractor Licensing Requirements)  
62-532 (Water Well Permitting and Construction Requirements)  
62-550 (Drinking Water Standards, Monitoring, and Reporting)  
62-555 (Permitting, Construction, Operation, and Maintenance of Public Water Systems)  
62-560 (Requirements for Public Water Systems That Are Out of Compliance)  
62-600 (Domestic Wastewater Facilities)  
62-601 (Domestic Wastewater Treatment Plant Monitoring)  
62-604 (Collection Systems and Transmission Facilities)  
62-610 (Reuse of Reclaimed Water and Land Application)  
62-620 (Wastewater Facility and Activities Permitting)  
62-621 (Generic Permits)  
62-650 (Water Quality Based Effluent Limitations)  
62-660 (Industrial Wastewater Facilities)  
62-699 (Classification and Staffing of Water or Domestic Wastewater Treatment Plants and Water Distribution Systems)  
62-701 (Solid Waste Management Facilities)  
62-710 (Used Oil Management)  
62-730 (Hazardous Waste)  
62-737 (Management of Spent Mercury-Containing Lamps and Devices Destined for Recycling)  
62-740 (Petroleum Contact Water)  
62-761 (Underground Storage Tank Systems)  
62-762 (Aboveground Storage Tank Systems)  
62-769 (Florida Petroleum Liability and Restoration Insurance Program)  
62-777 (Contaminant Cleanup Target Levels)  
62-780 (Contaminated Site Clean-Up Criteria)  
62-814 (Electric and Magnetic Fields)

### III. REVISIONS TO DEPARTMENT STATUTES AND RULES

A. The Licensee shall comply with rules adopted by the Department subsequent to the issuance of the Certification under the PPSA which prescribe new or stricter criteria, to the extent that the rules are applicable to electrical power plants. Except when express variances, exceptions, exemptions, or other relief have been granted, subsequently adopted Department rules which prescribe new or stricter criteria shall operate as automatic modifications to the Certification.

B. Upon written notification to the Department, the Licensee may choose to operate the SHCCF in compliance with any rule subsequently adopted by the Department which prescribes criteria more lenient than the criteria required by the terms and conditions in the Certification which are not site-specific.

## SECTION A: GENERAL CONDITIONS

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*[Sections 403.511(5)(a) and (b), F.S.; subsection 62-4.160(10), F.A.C.]*

### IV. DEFINITIONS

The meaning of terms used herein shall be governed by the applicable definitions contained in Chapters 253, 373, 379, and 403, F.S., and any regulation adopted pursuant thereto. In the event of any dispute over the meaning of a term used in these Conditions which is not defined in such statutes or regulations, such dispute shall be resolved by reference to the most relevant definitions contained in any other state or federal statute or regulation, or in the alternative, by the use of the commonly accepted meaning. As used herein, the following shall apply:

A. “Application” or “SCA” as defined in Section 403.503(6), F.S. For purposes of this certification, “Application” shall include the original submittal on February 16, 2018, and the first amendment submitted on June 28, 2018, and shall also include materials submitted for post-certification amendments and petitions for modification to the Conditions of Certification, as well as supplemental applications.

B. “Associated facilities” as defined by Section 403.503(7), F.S. For purposes of certification, those onsite and offsite facilities which directly support the construction and operation of the electrical power plant such as electrical transmission lines, substations, and fuel unloading facilities; pipelines necessary for transporting fuel for the operation of the facility or other fuel transportation facilities; water or wastewater transport pipelines; construction, maintenance, and access roads; and railway lines necessary for transport of construction equipment or fuel for the operation of the facility.

C. “Certification” or “Final Order of Certification” means the written order of the Siting Board or the Secretary of the Florida Department of Environmental Protection approving the Site Certification Application for the licensing of the Shady Hills Combined Cycle Facility with Conditions as the Siting Board or Secretary deem appropriate.

D. “Conditions of Certification” means the conditions attached to the Final Order of Certification and any subsequent modifications.

E. “DEO” means the Florida Department of Economic Opportunity.

F. “DEP” or “Department” means the Florida Department of Environmental Protection.

G. “DHR” means the Florida Department of State, Division of Historical Resources.

H. “DOT” means the Florida Department of Transportation.

I. “Electrical power plant” means, for the purpose of certification, any steam or solar electrical generating facility using any process or fuel, including nuclear materials, except that this term does not include any steam or solar electrical generating facility of less than 75 megawatts in capacity unless the applicant for such a facility elects to apply for certification under this act. This term also includes the site; all associated facilities that will be owned by the applicant that are physically connected to the site; all associated facilities that are indirectly connected to the site by other proposed associated facilities that will be owned by the applicant; and associated transmission lines that will be owned by the applicant which connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends

## SECTION A: GENERAL CONDITIONS

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to connect. At the applicant's option, this term may include any offsite associated facilities that will not be owned by the applicant; offsite associated facilities that are owned by the applicant but that are not directly connected to the site; any proposed terminal or intermediate substations or substation expansions connected to the associated transmission line; or new transmission lines, upgrades, or improvements of an existing transmission line on any portion of the applicant's electrical transmission system necessary to support the generation injected into the system from the proposed electrical power plant.

J. "Emergency conditions" or "Emergency reporting" means urgent circumstances involving potential adverse consequences to human life or property as a result of weather conditions or other calamity.

K. "Feasible" or "practicable" means reasonably achievable considering a balance of land use impacts, environmental impacts, engineering constraints, and costs.

L. "FWC" means the Florida Fish and Wildlife Conservation Commission.

M. "Licensee" means the Shady Hills Energy Center, LLC.

N. "NPDES permit" means a federal National Pollutant Discharge Elimination System permit issued by DEP in accordance with the federal Clean Water Act.

O. "Post-certification submittal" shall mean a submittal made by the Licensee pursuant to a Condition of Certification.

P. "ROW" means the right-of-way to be selected by the Licensee within the certified corridor in accordance with the Conditions of Certification and as defined in Section 403.503(27), F.S., unless otherwise noted.

Q. "Shady Hills Combined Cycle Facility" or "SHCCF", for purposes of these Conditions of Certification, means the certified electrical power plant, the 0.4 acre utility connection easement, the 230 kilovolt (kV) interconnection tie-line, and all other certified on- or off-site associated structures and facilities identified/described in the Application, in the Final Order of Certification, or in a post-certification amendment or modification.

R. "Site" as defined in Section 403.503(28): Any proposed location within which will be located an electrical power plant's generating facility and onsite support facilities, or an alteration or addition of electrical generating facilities and onsite support facilities resulting in an increase in generating capacity, including offshore sites within state jurisdiction.

S. "State Water Quality Standards" shall mean the numerical and narrative criteria applied to specific water uses or classifications set forth in Chapters 62-302 and 62-520, F.A.C.

T. "Surface Water Management System" or "System" means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms "surface water management system" or "system" include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S.

U. "SWD" shall mean the DEP Southwest District office.

V. "SWFWMD" means the Southwest Florida Water Management District.

W. "Temporary construction parking and laydown area" means the approximately 20-acre L-shaped area immediately adjacent to the eastern boundary of the site. The Licensee

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will use this area for construction parking and laydown activities while the Licensee constructs the generating facility and other onsite support facilities. This area and these activities are part of the SHCCF and are approved for use on a temporary basis.

X. “Wetlands” shall mean those areas meeting the definition set forth in Section 373.019(27), F.S., as delineated pursuant to Chapter 62-340, F.A.C.

### V. FEDERALLY DELEGATED OR APPROVED PERMIT PROGRAMS

Subject to the Conditions set forth herein, this Certification shall constitute the sole license of the State and any agency as to the approval of the location, construction, and operation of the SHCCF except for the issuance of Department licenses required under any federally delegated or approved permit program. This Certification is not a waiver of any other Department approval that may be required under federally delegated or approved programs. In the event of a conflict between the certification process and federally required procedures, the applicable federal requirements shall control.

*[Sections 403.5055, 403.508(8), and 403.511(1), F.S.]*

### VI. DESIGN AND PERFORMANCE CRITERIA

Certification, including these Conditions, is predicated upon preliminary designs, concepts, and performance criteria described in the SCA or in testimony and exhibits in support of this Certification. Final engineering design will be consistent and in substantial compliance with the preliminary information described in the SCA or as explained at the Certification Hearing (if any). Conformance to those criteria, unless specifically modified in accordance with Section 403.516, F.S., and Rule 62-17.211, F.A.C., is binding upon the Licensee in the design, construction, operation, and maintenance of the SHCCF.

*[Sections 403.511(2)(a) and 403.516, F.S.; Rules 62-4.160(2) and 62-17.211, F.A.C.]*

### VII. NOTIFICATION

A. If, for any reason, the Licensee does not comply with or will be unable to comply with any Condition or limitation specified in this Certification, the Licensee shall immediately provide the DEP Southwest District (SWD) Office with the following information:

1. A description of and cause of noncompliance; and
2. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The Licensee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this Certification.

All notifications which are made in writing shall additionally be immediately provided to the Siting Coordination Office (SCO) via email to [SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us).

*[subsection 62-4.160(8), F.A.C.]*

B. The Licensee shall promptly notify the SCO in writing (email acceptable) of any previously submitted information concerning the SHCCF that is later discovered to be inaccurate.

*[subsection 62-4.160(15), F.A.C.]*

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C. Within 60 days after Certification of an associated linear facility the Licensee shall file a notice of the certified route with the Department's Office of General Counsel and the clerk of the circuit court for each county through which the corridor will pass.

The notice shall consist of maps or aerial photographs in the scale of 1:24,000 which clearly show the location of the certified route and shall state that the Certification of the corridor will result in the acquisition of rights-of-way (ROWS) within the corridor.

*[Section 403.5112, F.S.]*

### **VIII. EMERGENCY CONDITION NOTIFICATION AND RESTORATION**

If the Licensee is temporarily unable to comply with any of the Conditions of Certification due to breakdown of equipment or destruction by hazard of fire, wind or following an emergency as defined by Sections 252.34(4), (7), (8), or (10), F.S., the Licensee shall immediately notify the Department. Notification shall include pertinent information as to the cause of the problem, and what steps are being taken to correct the problem and to prevent its recurrence, and where applicable, the owner's intent toward reconstruction of destroyed facility(ies). Such notification does not release the Licensee from any liability for failure to comply with Department rules. Any exceedances and/or violations recorded during emergency conditions shall be reported as such, but the Department acknowledges that it intends to use its enforcement discretion during this timeframe. This acknowledgement by the Department does not constitute a waiver or variance from any requirements of any federal permit. Relief from any federal agency must be separately sought.

*[Section 62-4.130, F.A.C.]*

### **IX. CONSTRUCTION PRACTICES**

#### **A. Local Building Codes**

The Conditions of Certification constitute the sole license of the State and any agency as to the approval of the location, construction, and operation of the SHCCF. The Licensee is not required to obtain building permits for the SHCCF. However, this Certification shall not affect in any way the right of any local government to charge appropriate fees or require that construction of installations used by the electric utility that are not an integral part of a generating plant, substation, or control center (such as, office buildings, warehouses, garages, machine shops, and recreational buildings) be in compliance with applicable building construction codes.

*[Section 403.511(4), F.S.]*

#### **B. Open Burning**

Prior to open burning in connection with land clearing, the Licensee shall seek authorization from the Florida Forest Service in accordance with the requirements of Chapters 62-256 and 51-2, F.A.C.

*[Chapters 51-2 and 62-256, F.A.C.]*

#### **C. Vegetation**

For areas located in any Florida Department of Transportation (DOT) right-of-way, Chapter 4.6 of the 2010 DOT *Utility Accommodation Manual* shall serve as guidelines for

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best management practices, and may be accessed at the following web address:  
<http://www.fdot.gov/programmanagement/utilities/UAM.shtm>.

### ***D. Existing Underground Utilities***

The Licensee must follow all applicable portions of the Underground Facility Damage Prevention and Safety Act, Chapter 556, F.S. The Licensee shall provide the affected local government and the SCO with copies of valid tickets obtained from Sunshine State One Call of Florida upon request. Tickets shall be available for request until the underground work is completed for the affected area.

*[Chapter 556, F.S.]*

### ***E. Electric and Magnetic Fields (EMF)***

Any associated transmission lines and electrical substations shall comply with the applicable requirements of Chapter 62-814, F.A.C.

*[Chapter 62-814, F.A.C.]*

### ***F. Existing Wells***

Any existing wells to be impacted in the path of construction of SHCCF that will no longer be used shall be abandoned by a licensed well contractor. All abandoned wells shall be filled and sealed in accordance with subsection 62-532.500(5), F.A.C., or with the rules of the authorizing agency, or consistent with these Conditions.

*[subsections 62-532.400 and 62-532.500(5), F.A.C.]*

### ***H. Abandonment of Existing Septic Tanks***

Any existing septic tanks to be impacted by construction and that will no longer be used shall be abandoned, in accordance with Rule 64E-6.011, F.A.C., unless these Conditions provide otherwise.

*[Chapter 64E-6, F.A.C.]*

## **X. RIGHT OF ENTRY**

A. Upon presentation of credentials or other documents as may be required by law, the Licensee shall allow authorized representatives of the Department or other agencies with jurisdiction over a portion of the SHCCF and any authorized off-site mitigation/compensation or otherwise associated areas:

1. At reasonable times, to enter upon the SHCCF in order to monitor activities within their respective jurisdictions for purposes of assessing compliance with this Certification; or
2. During business hours, to enter the Licensee's premises in which records are required to be kept under this Certification; and to have access to and copy any records required to be kept under this Certification.

B. When requested by the Department, on its own behalf or on behalf of another agency with regulatory jurisdiction, the Licensee shall within 10 working days, or such longer period as may be mutually agreed upon by the Department and the Licensee, furnish any information required by law, which is needed to determine compliance with this Certification.

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*[paragraph 62-4.160(7)(a) and subsection 62-4.160(15), F.A.C.]*

### **XI. DISPUTE RESOLUTION**

#### ***A. General***

If a situation arises in which mutual agreement between either the Department and the Licensee, or the Department and an agency with substantive regulatory jurisdiction over a matter cannot be reached, the Department can act as a facilitator in an attempt to resolve the issue. If the dispute is not resolved in this initial informal meeting, Licensee may request a second informal meeting in which both Licensee and the agency with substantive regulatory jurisdiction over the matter at issue can participate in an attempt to resolve the issue. If, after such meetings, a mutual agreement cannot be reached between the parties, then the matter shall be referred to the Division of Administrative Hearings (DOAH) for disposition in accordance with the provisions of Chapter 120, F.S. The Licensee or the Department may request DOAH to establish an expedited schedule for the processing of such a dispute. Any filing with DOAH shall state with particularity the specific project and geographic location to which the dispute relates. Work unrelated to the specific project and in areas other than the location to which the dispute relates will not be affected by the dispute.

#### ***B. Modifications***

If written objections are filed regarding a modification, and the objections address only a portion of a requested modification, then the Department shall issue a Final Order approving the portion of the modification to which no objections were filed, unless that portion of the requested modification is substantially related to or necessary to implement the portion to which written objections are filed.

#### ***C. Post-Certification Submittals***

If it is determined, after assessment of a post-certification submittal, that compliance with the Conditions will not be achieved for a particular portion of a submittal, the Department may make a separate assessment of other portions of the submittal, unless those portions of the submittal are substantially related to or necessary to implement that portion for which it has been determined that compliance with the Conditions will not be achieved.

*[Section 120.57, F.S.; Rule 62-17.211, F.A.C.]*

### **XII. SEVERABILITY**

The provisions of this Certification are severable, and if any provision of this Certification or the application of any provision of this Certification to any circumstance is held invalid, the remainder of the Certification or the application of such provision to other circumstances shall not be affected thereby.

### **XIII. ENFORCEMENT**

A. The terms, requirements, limitations, and restrictions set forth in these Conditions are binding and enforceable pursuant to Sections 403.141, 403.161, 403.514, 403.727, and 403.859 through 403.861, F.S., as applicable. Any noncompliance by the Licensee with these Conditions constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action and termination, revocation, or revision of the Certification. The Licensee is

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placed on notice that the Department may review this Certification periodically and may initiate enforcement action for any violation of these Conditions.

B. All records, notes, monitoring data, and other information relating to the construction or operation of the SHCCF which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the SHCCF and arising under the Florida Statutes or Department rules, subject to the restrictions in Sections 403.111 and 403.73, F.S. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

*[Sections 403.121, 403.131, 403.141, 403.151, 403.161, and 403.514, F.S.; subsections 62-4.160(1) and 62-4.160(9), F.A.C.]*

### **XIV. REVOCATION OR SUSPENSION**

The Certification shall be final unless revised, revoked, or suspended pursuant to law. This Certification may be suspended or revoked pursuant to Section 403.512, F.S. This Certification is valid only for the specific processes and operations identified in the SCA and approved in the Final Order of Certification and indicated in the testimony and exhibits in support of this Certification or approved in a subsequent amendment or modification of the Certification. Any unauthorized deviation from the approved drawings, exhibits, specifications, or Conditions of this approval may constitute grounds for revocation and enforcement action by the Department. Any enforcement action, including suspension and revocation, shall only affect the portion(s) of the SHCCF that are the cause of such action, and other portions of the SHCCF shall remain unaffected by such action.

*[Section 403.512, F.S.; subsection 62-4.160(2), F.A.C.]*

### **XV. REGULATORY COMPLIANCE**

As provided in Sections 403.087(7) and 403.722(5), F.S., except as specifically provided in the Final Order of Certification, a subsequent modification or amendment, or these Conditions, the issuance of these Conditions does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This Certification is not a waiver of or approval of any other Department license/permit that may be required for other aspects of the SHCCF which are not addressed in this Certification. This Certification does not relieve the Licensee from liability for harm or injury to human health or welfare, animal, or plant life, or public or private property caused by the construction or operation of the SHCCF, or from penalties therefore.

*[subsections 62-4.160(3) and 62-4.160(5), F.A.C.]*

### **XVI. CIVIL AND CRIMINAL LIABILITY**

Except to the extent a variance, exception, exemption, or other relief is granted in the Final Order of Certification, in a subsequent modification to these Conditions, or as otherwise provided under Chapter 403, F.S., this Certification does not relieve the Licensee from civil or criminal penalties for noncompliance with any Condition of this Certification, applicable rules, or regulations of the Department, or any other state statutes or regulations which may apply.

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*[Sections 403.141, 403.161, and 403.511, F.S.]*

### **XVII. USE OF STATE LANDS**

A. Except as specifically provided in the Final Order of Certification or these Conditions, the issuance of this Certification conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

B. If any portion of the SHCCF is located on sovereign submerged lands, state-owned uplands, or within an aquatic preserve, then the Licensee must comply with the applicable portions of Chapters 18-2, 18-20, and 18-21, F.A.C., and Chapters 253 and 258, F.S., except as specifically provided in the Final Order of Certification or these Conditions. If any portion of the SHCCF is located on sovereign submerged lands, the Licensee must submit Section F of Form 62-330.060(1), *Application for Individual and Conceptual Approval Environmental Resource Permit* (State 404 Program Permit) and *Authorization to Use State-Owned Submerged Lands* to the Department prior to construction. If any portion of the SHCCF is located on state-owned uplands, the Licensee must submit an Upland Easement Application to the Department prior to construction.

C. If a portion of the SHCCF is located on sovereign submerged lands or state-owned uplands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, then the proposed activity on such lands requires a proprietary authorization. Under such circumstances, the proposed activity is not exempt from the need to obtain a proprietary authorization. Unless otherwise provided in the Final Order of Certification or these Conditions, the Department has the responsibility to review and take action on requests for proprietary authorization in accordance with Rules 18-2.018 or 18-21.0051, F.A.C.

D. The Licensee is hereby advised that Florida law states: “A person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund under this chapter, until the person has received the required lease, license, easement, or other form of consent authorizing the proposed use.” Pursuant to Chapter 18-14, F.A.C., if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.

E. The terms, conditions, and provisions of any required lease or easement issued by the State shall be met. Any construction activity associated with the SHCCF shall not commence on sovereign submerged lands or state-owned uplands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required lease or easement documents have been executed.

*[Chapters 253 and 258, F.S.; Chapters 18-2, 18-14, 18-21, 62-340, and subsections 62-330.060(1) and 62-4.160(4), F.A.C.]*

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### XVIII. PROCEDURAL RIGHTS

Except as specified in Chapter 403, F.S., or Chapter 62-17, F.A.C., no term or Condition of Certification shall be interpreted to preclude the post-certification exercise by any party of whatever procedural rights it may have under Chapter 120, F.S., including those related to rule-making proceedings.

*[Section 403.511(5)(c), F.S.]*

### XIX. AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITTALS AND NOTICES

Where a Condition requires post-certification submittals and/or notices to be sent to a specific agency, the following agency addresses shall be used unless the Conditions specify otherwise or unless the Licensee and the Department are notified in writing of an agency's change in address for such submittals and notices:

Florida Department of Environmental Protection  
Siting Coordination Office, MS 5500  
2600 Blair Stone Road  
Tallahassee, Florida 32399-3000  
[SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us)

Florida Department of Environmental Protection  
Southwest District Office  
13051 North Telecom Parkway  
Temple Terrace, Florida, 33637-0926

Florida Fish & Wildlife Conservation Commission  
Conservation Planning Services  
620 South Meridian Street, MS 5B5  
Tallahassee, Florida 32399-1600  
[FWCConservationPlanningServices@myfwc.com](mailto:FWCConservationPlanningServices@myfwc.com)

Florida Department of Transportation  
District Administration  
605 Suwannee Street  
Tallahassee, Florida 32399-0450

Florida Department of Agriculture and Consumer Services  
Office of General Counsel  
407 South Calhoun Street  
Tallahassee, Florida 32399-0800

Florida Department of State  
Division of Historical Resources  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

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Pasco County  
County Administration Office  
West Pasco Government Center  
8731 Citizens Drive, Suite 340  
New Port Richey, Florida 34654

*[Section 403.511, F.S.]*

### **XX. PROFESSIONAL CERTIFICATION**

To ensure protection of public health, safety, and welfare, any construction, modification, or operation of an installation which may be a source of pollution, or of a public drinking water supply, shall be in accordance with sound professional engineering practices pursuant to Chapter 471, F.S.; and all final geological papers or documents involving the practice of the profession of geology shall be in accordance with sound professional geological practices pursuant to Chapter 492, F.S. Where required by Chapter 471 or 492, F.S., applicable portions of amendment requests, petitions for modifications, post-certification submittals, and supporting documents which are submitted to the Department for public record shall be signed and sealed by the professional(s) who prepared or approved them.

*[62-4.050, F.A.C.]*

### **XXI. PROCEDURES FOR POST-CERTIFICATION SUBMITTALS**

#### ***A. Purpose of Submittals***

Conditions which provide for the post-certification submittal of information to DEP or other agencies by the Licensee are for the purpose of facilitating the agencies' monitoring of the effects arising from the location of the SHCCF and the construction and maintenance of the SHCCF, unless otherwise specified. This monitoring is for DEP to assure, in consultation with other agencies with applicable regulatory jurisdiction, continued compliance with these Conditions, without further agency action. A submittal of information or determination of compliance pursuant to a post-certification submittal under this Condition does not provide a point of entry for a third party.

#### ***B. Filings***

All post-certification submittals of information by Licensee are to be filed with the DEP SWD Office and any other agency that is entitled to receive a submittal pursuant to these Conditions. The DEP SCO shall be copied on all post-certification submittals in electronic .pdf format only, unless otherwise requested, via email to [SCO@dep.state.fl.us](mailto:SCO@dep.state.fl.us). Each submittal shall clearly identify the SHCCF name, PA#, and the Condition number(s) (i.e. Section X, Condition XX.y.(z)) requiring the submittal. As required by Section 403.5113(2), F.S., each post-certification submittal will be reviewed by each agency with regulatory authority over the matters addressed in the submittal on an expedited and priority basis.

*[Section 403.5113, F.S.; subsection 62-17.191(3), F.A.C.]*

#### ***C. Completeness***

DEP shall review each post-certification submittal for completeness. This review may include consultation with the other agency(ies) receiving the post-certification submittal with regulatory jurisdiction over the matter addressed in the submittal. DEP's finding

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of completeness shall specify the area(s) of the SHCCF affected and shall not delay further processing of the post-certification submittal for non-affected areas.

If any portion of a post-certification submittal is found to be incomplete, the Licensee shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness. Subsequent findings of incompleteness, if any, shall address only the newly filed information.

*[subparagraph 62-17.191(1)(c)2., F.A.C.]*

### ***D. Interagency Meetings***

DEP may conduct an interagency meeting with other agencies that received a post-certification submittal. The purpose of such an interagency meeting shall be for the agency(ies) with regulatory jurisdiction over the matters addressed in the post-certification submittal to discuss whether compliance with these Conditions has been provided. Failure of DEP to conduct an interagency meeting or failure of any agency to attend an interagency meeting shall not be grounds for DEP to withhold a determination of compliance with these Conditions nor to delay the timeframes for review established by these Conditions. At DEP's request, a field inspection shall be conducted with the Licensee and the agency representative in conjunction with the interagency meeting.

### ***E. Determination of Compliance***

DEP shall give written notification within 90 days, to the Licensee and the other agency(ies) to which the post-certification information was submitted, of DEP's determination of whether there is demonstration of compliance with these Conditions. If it is determined that compliance with the Conditions has not been provided, the Licensee shall be notified with particularity of the deficiencies and possible corrective measures suggested. Failure to notify Licensee in writing within 90 days of receipt of a complete post-certification submittal shall constitute a determination of compliance. A post-certification compliance review may be the basis for initiating modifications to the relevant Condition or to other related Conditions.

### ***F. Commencement of Construction***

If DEP does not object within the time period specified in paragraph E., above, Licensee may begin construction pursuant to the terms of these Conditions and the subsequently submitted construction details.

### ***G. Revisions to Design Previously Reviewed for Compliance***

If revisions to SHCCF-specific designs occur after submittal, the Licensee shall submit revised plans prior to construction for review in accordance with the post-certification process specified in this Condition.

*[Sections 120.569, 373.413, 373.416, and 403.511, F.S.; Rules 62-17.191 and 62-17.205, F.A.C.]*

## **XXII. POST-CERTIFICATION SUBMITTAL REQUIREMENTS SUMMARY**

Within 90 days after issuance of the Final Order of Certification, and within 90 days after any subsequent modification or Certification, the Licensee shall provide the SCO a complete summary of those post-certification submittals that are identified in these Conditions when due-dates for the information required of the Licensee have been identified. A summary

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shall be provided as a separate document for each transmission line, if any. Such submittals shall include, but are not limited to, monitoring reports, management plans, wildlife surveys, etc. The summary shall be provided to the SCO, in a sortable spreadsheet, electronically, in the format shown below or equivalent. For subsequent modifications and certifications, a Post-Certification Submittal Requirements Summary shall be required for only those resulting in new or altered post-certification requirements.

| Condition Number | Requirement and Timeframe | Due Date | Name of Agency or Agency Subunit to whom the submittal is required to be provided |
|------------------|---------------------------|----------|---|
|                  |                           |          |   |
|                  |                           |          |   |
|                  |                           |          |   |

*[Section 403.5113, F.S.; Subsection 62-17.191(3), F.A.C.]*

### XXIII. POST-CERTIFICATION AMENDMENTS

If, subsequent to Certification, the Licensee proposes any material change to the SCA and revisions or amendments thereto, as certified, the Licensee shall submit a written request for amendment and a description of the proposed change to the SCA to the Department. Within 30 days after the receipt of a complete request for an amendment, the Department shall determine whether the proposed change to the SCA requires a modification to the Conditions.

A. If the Department concludes that the change would not require a modification to the Conditions, the Department shall provide written notification of the approval of the proposed amendment to the Licensee, all agencies, and all other parties to the Certification.

B. If the Department concludes that the change would require a modification to the Conditions, the Department shall provide written notification to the Licensee that the proposed change to the SCA requires a request for modification pursuant to Section 403.516, F.S.

*[Section 403.5113, F.S.]*

### XXIV. MODIFICATION OF CERTIFICATION

A. Pursuant to Section 403.516(1)(a), F.S., and Rule 62-17.211, F.A.C., the Siting Board hereby delegates the authority to the Department to modify any Condition which would not otherwise require approval by the Siting Board, after notice and receipt of no objection by a party to the Certification within 45 days after notice by mail to the party's last address of record, and if no other person whose substantial interests will be affected by the modification objects in writing within 30 days of public notice.

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B. The Department may modify Conditions, in accordance with Section 403.516(1)(b), F.S., which are inconsistent with the terms of any subsequent and separately DEP issued permits, permit amendments, permit modifications, or permit renewals under a federally delegated or federally approved permit program. Such modification may be made without further notice if the matter has been previously noticed under the requirements for any federally delegated or approved permit program.

C. In accordance with Section 403.516(1)(c), F.S., the Licensee may file a petition for modification with the Department, or the Department may initiate the modification upon its own initiative.

D. Any anticipated expansions, production increases, or process modifications to SHCCF which may result in new, different or increased discharge or emission of pollutants, change in fuel, or expansion in generating capacity, must be reported by submission of an appropriate request for an amendment, modification, or certification.

E. Any anticipated change to SHCCF that results in a change to the boundaries identified in the Certified SHCCF Map (attached hereto as part of Attachment A (Maps)) or the addition or removal of equipment, buildings, or structures that are certified and part of the SHCCF, attached hereto as part of Attachment A (Maps), must be accompanied by a new Certified SHCCF Map showing the proposed new boundaries. Within 120 days after completion of construction of the approved change, the Licensee shall provide the information required by Section A. General Conditions, Condition I. Scope, paragraphs D and E, as appropriate.

*[Section 403.516, F.S.; Rule 62-17.211, F.A.C.]*

### **XXV. COASTAL ZONE CONSISTENCY**

Pursuant to Sections 373.428 and 403.511, F.S., Certification of the SHCCF constitutes the State's concurrence that the licensed activity or use is consistent with the federally approved program under the Florida Coastal Management Act.

*[Sections 373.428, 380.23, and 403.511(7), F.S.]*

### **XXVI. WATER QUALITY CERTIFICATION**

Pursuant to the Operating Agreement between the Department, Water Management Districts, and U.S. Army Corps of Engineers, a written Final Order granting 'Certification' constitutes Certification by the Department that the SHCCF complies with applicable state water quality standards.

*[2012 Operating Agreement, Jacksonville District USACOE, DEP, and Water Management Districts, Section II.A.1.(f)]*

### **XXVII. TRANSFER OF CERTIFICATION**

A. This Certification is transferable in whole or in part, upon Department approval, to an entity determined to be able to comply with these Conditions. A transfer of Certification of all or part of the SHCCF may be initiated by the Licensee's filing of a Notice of Intent to Transfer Certification with the Department's SCO. The notice of intent shall: identify the intended new Certification holder or Licensee; identify current and new entity responsible for compliance with the Certification; and include a written agreement from the intended Licensee/Transferee to abide by all Conditions of Certification, as well as, applicable laws and

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regulations. Upon receiving a complete notice of intent, the transfer shall be approved by the Department unless the Department objects to the transfer on the grounds that the new Licensee will be unable to comply with the Conditions of Certification, specifies in writing its reasons for its objections, and gives notice and an opportunity to petition and administrative hearing pursuant to Section 120.57, F.S. Upon approval, the Department will initiate a modification to the Conditions to reflect the change in ownership in accordance with Rule 62-17.211, F.A.C.

B. In the event of the dissolution of the Licensee, the Department may transfer Certification to successor entities which are determined to be competent to construct, operate, and maintain the SHCCF in accordance with the Conditions of Certification and which are proper applicants as defined by the PPSA. Upon determination that such a successor entity complies with the requirements for transfer of Certification, the Department will initiate a modification to the Conditions to reflect the change in ownership in accordance with Rule 62-17.211, F.A.C.

[Chapter 120, F.S.; Rule 62-17.211, F.A.C.]

### XXVIII. LABORATORIES AND QUALITY ASSURANCE

Chemical, physical, biological, microbiological, and toxicological data collected as a requirement of these Conditions must be reliable and collected and analyzed by scientifically sound procedures. Unless otherwise specified in these Conditions, the Licensee shall adhere to the minimum field and laboratory quality assurance, methodological and reporting requirements of the Department as set forth in Chapter 62-160, F.A.C.

[Chapter 62-160, F.A.C.]

### XXIX. ENVIRONMENTAL RESOURCES

#### A. General

##### 1. Submittals for Construction Activities

a. Prior to the commencement of construction of new facilities and/or associated facilities the Licensee shall provide to the DEP SWD Office for review, all information necessary for a complete *Application for Individual and Conceptual Approval Environmental Resource Permit* (State 404 Program Permit), DEP Form 62-330.060(1), F.A.C. A copy of the submittal shall also be provided to the SCO.

This form may: a) be submitted concurrently with a SCA; b) be submitted as part of an amendment request or a petition for modification; or c) be submitted as a post-certification submittal following approval of a project through Certification, modification, or amendment. Information submitted as a post-certification may be submitted for discrete portions of the SHCCF for a determination of compliance with these Conditions of Certification. Such Environmental Resource Permit (ERP) submittals, once received, shall be reviewed in accordance with the non-procedural standards and criteria for issuance of an ERP, including all the provisions related to reduction and elimination of impacts, conditions for issuance, additional conditions for issuance, and mitigation contained in Chapters 62-330, F.A.C., as applicable, unless otherwise stated in these Conditions. While the information is provided for review via submittal of the ERP form, pursuant to Section 403.511, F.S., issuance of a separate ERP is not required for Certified Facilities.

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Those forms submitted as part of a SCA, an amendment, or modification, shall be processed concurrently with, and under the respective certification, amendment, or modification procedures. Those forms submitted as a post-certification submittal (after Certification, modification, or amendment and prior to construction) shall be processed in accordance with Section A. General Conditions, Condition XXI. Procedures for Post-Certification Submittals.

No construction shall commence on a feature of the SHCCF, or in a particular segment for a linear facility, until the Department has determined that there is a demonstration of compliance with these Conditions. For post-certification submittal reviews, the Department's determination is governed by Section A. General Conditions, Condition XXI. Procedures for Post-Certification Submittals.

b. Concurrent with submittal of the DEP form required in subparagraph A.1.a., above, the Licensee shall submit, as applicable, a survey of wetland and surface water areas as delineated in accordance with Chapter 62-340, F.A.C., and verified by appropriate agency staff for Department compliance review. Available DEP approved wetland and surface water delineations within the boundaries of the SHCCF or a portion thereof may be used and reproduced for this delineation submittal and verification.

*[Section 373.416, F.S.; Chapters 62-330 and 62-340, F.A.C.]*

2 Construction, operation, and maintenance of the proposed project (including any access roads and structures constructed within wetlands and other surface waters, and/or associated facilities) shall satisfy any applicable non-procedural requirements in the Department rules.

*[Section 373.414(1)(a), F.S.]*

3. Any delineation of the extent of a wetland or other surface water submitted as part of the DEP ERP Application Form required by subparagraph A.1.a., above, including plans or other supporting documentation, shall not be considered binding on the Department unless a specific condition of this Certification or a formal wetlands jurisdictional determination under Section 373.421(2), F.S., provides otherwise.

*[Sections 373.421 and 403.504, F.S.]*

### ***B. Surface Water Management Systems***

1. Information regarding surface water management systems (SWMS) will be reviewed for consistency with the applicable non-procedural requirements under Part IV of Chapter 373, F.S., following submittal of Form 62-330.060(1) F.A.C., to the Department's SWD Office.

2. All construction, operation, and maintenance of the SWMS(s) for the SHCCF shall be as set forth in the plans, specifications, and performance criteria contained in the SCA and other materials presented during the certification proceeding, post-certification submittals, and as otherwise approved. If specific requirements are necessary for construction, operation, and/or maintenance of an approved SWMS, those requirements shall be incorporated into a SWMS Plan for that system and included in Attachment B (Surface Water Management System Plans). Any alteration or modification to the SWMS Plan or the SWMS as certified, requires prior approval from the Department.

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3. To allow for stabilization of all disturbed areas, immediately prior to construction, during construction of the SWMS, and for a period of time after construction of the SWMS, the Licensee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility exists of transferring suspended solids into the receiving waterbody due to the work authorized under this Certification, and shall remain in place at all locations until construction in that location is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual* (Florida Department of Transportation and Florida Department of Environmental Protection, by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007) unless a project-specific erosion and sediment control plan is approved as part of this Certification. If project-specific Conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the Licensee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual*. The Licensee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as feasible. Once project construction is complete in an area, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before conversion to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

4. The Licensee shall complete construction of all aspects of the SWMS described in the ERP Application Form, submitted as part of a post-certification submittal, amendment, modification, or certification application including water quality treatment features, and discharge control facilities prior to use of the portion of the SHCCF being served by the SWMS.

5. At least 48 hours prior to the commencement of construction of any new SWMS for any part of a SHCCF authorized by this Certification, the Licensee shall submit to the Department a written notification of commencement using an “Environmental Resource Permit Construction Commencement Notice” (DEP Form 62-330.350(1), F.A.C.), indicating the actual start date and the expected completion date.

6. Each phase or independent portion of the approved system must be completed in accordance with the submitted DEP Form prior to the operation of the portion of the SHCCF being served by that portion or phase of the system.

7. Within 30 days, or such other date as agreed to by DEP and the Licensee, after completion of construction of any new portions of the SWMS, the Licensee shall submit to the DEP SWD Office, and copy the SCO, a written statement of completion and certification by a registered professional engineer (P.E.), or other appropriate registered professional, as authorized by law, utilizing the required “As-Built Certification and Request for Conversion to Operation Phase” (DEP Form 62-330.310(1), F.A.C.). Additionally, if deviations from the

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approved drawings are discovered, the As-Built Certification must be accompanied by a copy of the approved drawings with deviations noted.

8. Any substantial deviation from the approved drawings, exhibits, specifications, or Conditions, may constitute grounds for revocation or enforcement action by the Department.

9. The operation phase of any new SWMS approved by the Department shall not become effective until the Licensee has complied with the requirements of the conditions herein, the Department determines the system to be in compliance with the approved plans, and the entity approved by the Department accepts responsibility for operation and maintenance of the system.

10. The DEP SWD must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in off-site discharge or sediment transport into wetlands or surface waters, a written dewatering plan must be submitted to and approved by the Department prior to the dewatering event.

*[Section 373.414, F.S.; Chapters 62-25, 62-302, 62-330, and Rule 62-4.242, F.A.C.]*

### **C. Wetland and Other Surface Water Impacts**

1. The SHCCF shall be constructed in a manner which will eliminate or reduce adverse impacts to on-site and/or adjacent wetlands or other surface waters to the extent practicable or otherwise comply with substantive criteria for elimination or reduction of such adverse impacts. When impacts to wetlands will occur as a result of a future amendment, modification, or certification, and cannot be practicably eliminated or reduced, the Licensee may propose and the Department or Board shall consider mitigation to offset otherwise unpermissible activities under the ERP review process pursuant to subparagraph A.1.a, above.

2. Proposed mitigation plans submitted with the DEP ERP Application forms required in subparagraph A.1.a., above, or submitted and approved as part of an amendment, modification, or certification, and that are deemed acceptable by DEP, shall include applicable construction conditions, success criteria and monitoring plans, and shall be incorporated into these Conditions as Attachment C (Wetland Mitigation Plans).

*[Sections 373.413, 373.414, 373.4145, 403.511, and 403.814(6), F.S.; Chapters 62-312, 62-330, 62-340, 62-342, and 62-345, F.A.C.]*

## **XXX. THIRD PARTY IMPACTS**

The Licensee is responsible for maintaining compliance with these Conditions even when third party activities authorized by the Licensee occur in or on the SHCCF.

*[Section 403.506(1), F.S.]*

## **XXXI. FACILITY OPERATION**

The Licensee shall properly operate and maintain the SHCCF and systems of treatment and control (and related appurtenances) that are installed and used by the Licensee to achieve compliance with these Conditions, as required by the Final Order of Certification, these Conditions, or a post-certification amendment or modification. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the Final Order of Certification, these Conditions, or a post-certification

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## SECTION A: GENERAL CONDITIONS

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amendment or modification. Further, the Licensee shall take all reasonable steps to minimize any adverse impact resulting from noncompliance with any limitation specified in this Certification, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying event.

*[subsection 62-4.160(6), F.A.C.]*

### **XXXII. RECORDS MAINTAINED AT THE FACILITY**

A. These Conditions or a copy thereof shall be kept at the SHCCF.

B. The Licensee shall hold at the site, or other location designated by these Conditions, records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation required by these Conditions, copies of all reports required by these Conditions, and records of all data used to complete the SCA for this approval. These materials shall be retained at least 3 years from the date of the sample, measurement, report, or application unless otherwise specified by Department rule.

C. Records of monitoring information shall include:

1. the date, exact place, and time of sampling or measurements;
2. the person responsible for performing the sampling or measurements;
3. the dates analyses were performed;
4. the person responsible for performing the analyses;
5. the analytical techniques or methods used; and,
6. the results of such analyses.

*[subsection 62-4.160(12) and paragraph 62-4.160(14)(b), F.A.C.]*

### **XXXIII. WATER DISCHARGES**

A. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption, or other relief is granted or authorized by these Conditions, the Licensee shall not discharge to surface or ground waters of the State, wastes in concentrations, which, alone or in combinations with other substances or components of discharges (whether thermal or non-thermal), are carcinogenic, mutagenic, or teratogenic to human beings (unless specific criteria are established for such components in Rule 62-520.400, F.A.C.) or are acutely toxic to indigenous species of significance to the aquatic community within surface waters affected by the ground water at the point of contact with surface waters.

B. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption, or other relief is granted or authorized by these Conditions, all discharges and activities must be conducted so as to not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-550, and 62-620, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.

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C. Except as otherwise authorized by a permit issued by the Department under a federally approved or delegated program or to the extent a variance, exception, exemption, or other relief is granted or authorized by these Conditions, all dewatering discharges must be in compliance with Rule 62-621.300, F.A.C.

*[Chapters 62-4, 62-302, 62-520, 62-550, and 62-620, F.A.C.]*

### **XXXIV. SOLID AND HAZARDOUS WASTE**

#### **A. Solid Waste**

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-701, F.A.C., for any solid waste generated within the SHCCF during construction, operation, maintenance, and closure.

*[Chapters 62-701, F.A.C.]*

#### **B. Hazardous Waste, Used Oil, Petroleum Contact Water, and Spent Mercury**

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-730, F.A.C., for any hazardous waste generated within the SHCCF. An EPA identification number must be obtained before beginning hazardous waste activities unless the facility is a Conditionally Exempt Small Quantity Generators (CESQGs). CESQGs generate no more than 100 kilograms (220 lbs) of hazardous waste in any month.

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-710, F.A.C., for any used oil and used oil filters generated within the SHCCF.

The Licensee shall comply with all applicable non-procedural provisions of DEP Chapter 62-737, F.A.C., for any spent mercury-containing lamps and devices generated within the SHCCF.

The Licensee shall comply with all applicable provisions of DEP Chapter 62-740, F.A.C., for any petroleum contact water located within the SHCCF.

*[Chapters 62-710, 62-730, 62-737, and 62-740, F.A.C.]*

#### **C. Hazardous Substance Release Notification**

1. If the Licensee has knowledge of any release of a hazardous substance from the SHCCF in a quantity equal to or exceeding the reportable quantity in any 24-hour period shall notify the Department by calling the STATE WATCH OFFICE, (800) 320-0519, as soon as possible, but not later than one working day of discovery of the release.

2. Releases of mixtures and solutions are subject to these notification requirements only where a component hazardous substance of the mixture or solution is released in a quantity equal to or greater than its reportable quantity.

3. Notification of the release of a reportable quantity of solid particles of antimony, arsenic, beryllium, cadmium, chromium, copper, lead, nickel, selenium, silver, thallium, or zinc is not required if the mean diameter of the particles released is larger than 100 micrometers (0.004 inches).

*[Chapter 62-150, F.A.C.]*

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### ***D. Contaminated Site Cleanup***

The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-780, F.A.C., for any violations of relevant provisions of Chapters 376 or 403, F.S., that result in legal responsibility for site rehabilitation pursuant to those chapters. This responsibility for site rehabilitation does not affect any activity or discharge permitted or exempted pursuant to Chapters 376 or 403, F.S., or rules promulgated pursuant to Chapters 376 or 403, F.S.

*[Chapter 62-780, F.A.C.]*

### **XXXV. STORAGE TANK SYSTEMS**

Registration, construction, installation, operation, maintenance, repair, closure, and disposal of storage tank systems within a SHCCF that stores regulated substances shall be in accordance with Chapters 62-761 and 62-762, F.A.C., in order to minimize the occurrence and environmental risks of releases and discharges. Mineral acid storage tank systems are subject only to Rule 62-762.891, F.A.C.

#### ***A. Incident Notification Requirements***

Notification of the discovery of the loss from a storage tank system of a regulated substance exceeding 100 gallons on impervious surfaces, other than secondary containment, such as driveways, airport runways, or other similar asphalt or concrete surfaces, provided that the loss does not come in contact with pervious surfaces or of the discovery of any other incident listed in subsections 62-761.405 or 62-762.411, F.A.C., shall be made to the County on Incident Notification Form 62-761.900(6) within 24 hours or before the close of the County's next business day.

#### ***B. Discharge Reporting Requirements***

Upon discovery of an unreported discharge of a regulated substance, the Licensee shall report to the County on Discharge Report Form 62-761.900(1) within 24 hours or before the close of the County's next business day those items listed in paragraph 62-761.405, F.A.C., including a spill or overfill event of a regulated substance to soil or another pervious surface, equal to or exceeding 25 gallons, unless the regulated substance has a more stringent reporting requirement specified in 40 CFR Part 302.

#### ***C. Discharge Cleanup***

If a discharge of a regulated substance occurs at a SHCCF, actions shall be taken immediately to contain, remove, and abate the discharge under all applicable Department rules. The Licensee is advised that other federal, state, or local requirements may apply to these activities. If the contamination present is subject to the provisions of Chapter 62-780, F.A.C., corrective action, including free product recovery, shall be performed in accordance with that Chapter.

#### ***D. Out of Service and Closure Requirements***

Storage tank systems shall be taken out-of-service and/or closed as necessary in accordance with Rules 62-761.800 and 62-762.801, F.A.C., as applicable.

*[Chapters 62-761, 62-762, and 62-780, F.A.C.]*

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### SECTION B. SPECIFIC CONDITIONS

#### I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

##### A. *Temporary Construction Parking and Laydown Area*

1. Prior to construction of the temporary construction parking and laydown area, the Licensee shall provide detailed plans of the access roads and construction entrances, final grades, and any additional impervious or semi-impervious materials/surfaces needed. Once the Licensee completes construction and the SWD has confirmed this area has been substantially restored to original grade and effectively stabilized with vegetation, the approval for use of this area and the activities associated with it shall terminate. If impervious or semi-impervious materials will need to be in place in an amount exceeding the permitting thresholds listed in Rule 62-330.020, F.A.C., a stormwater management system (SWMS) will need to be included in the design to ensure there will be no adverse water quantity or quality impact at this location.

*[Rule 62.330.020, F.A.C.]*

2. The following construction sequence and reporting requirements shall be followed for temporary placement of fill in the temporary construction parking and laydown area) or other stockpile areas for the SHCCF:

a. Prior to the placement of fill material for temporary access, the Licensee shall flag and stake the areas to be filled and photograph the areas to show the pre-construction conditions. Photograph locations shall be identified on a location drawing/map(s). The photographs and location drawing/map(s) shall be submitted to the Department prior to placement of fill in these areas;

b. Prior to placement of the temporary fill, best management practices (i.e., hay bales, silt fences, etc.) shall be installed along the perimeter of the fill area to prevent erosion of the material into surface waters or wetlands;

c. Within 14 days of the completion of construction, the temporary fill shall be removed, and the ground elevation contours shall be restored to pre-existing elevations to promote natural re-vegetation of the area;

d. Photographs of the area shall be taken from the same locations as required in subparagraph a., above, within 72 hours of grading of the fill area. These photographs shall be combined with the photographs and location drawing/map(s) required in subparagraph a., above, and shall be submitted to the Department within 14 days of the completion of the regrading; and,

e. Photographs of the area shall be taken from the same locations as required in subparagraph a., above, to show the condition of vegetation and substrate within the temporary fill areas 1 year after grading has been completed. The photographs and a map(s) showing the photograph locations shall be submitted to the Department within 14 days of being taken.

##### B. *Dry Retention Areas*

Excavation of dry retention areas is limited to authorized design specifications as depicted in the approved project drawings. If limestone bedrock is encountered during construction, the Licensee shall notify the Department immediately and shall cease construction

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in the affected area. The Licensee shall submit a design revision to the Department for review and approval that will demonstrate compliance with Rule 5.4.1.b., of the SWFWMD ERP Applicant's Handbook, Volume II prior to proceeding with construction.

### ***C. Transmission Line Construction***

Prior to construction of the on-site Certified 230-kV interconnection tie-line, the Licensee shall provide detailed construction drawings for the 230-kV interconnection tie-line for review and processing as a post-certification submittal.

### ***D. Pipeline Construction***

Prior to construction of the natural gas pipeline and potable water, sewer services, reclaimed water, and irrigation pipelines that are part of the SHCCF, the Licensee shall provide detailed construction drawings for review and processing as a post-certification submittal.

### ***E. Sinkholes***

The Licensee shall notify the Department of any sinkhole development in the SWMS within 24 hours after discovery and must submit a detailed sinkhole evaluation and repair plan for Department approval within 30 days of discovery.

## **II. DEPARTMENT OF TRANSPORTATION**

### ***A. Access Management to the State Highway System***

Any access to the State Highway system will be subject to the requirements of Rule Chapters 14-96, State Highway System Connection Permits, and 14-97, Access Management Classification System and Standards, F.A.C., which may require a right-of-way access approval from DOT.

*[Chapters 14-96 and 14-97, F.A.C.]*

### ***B. Overweight or Over-Dimensional Loads***

Operation of overweight or over-dimensional loads by the Licensee on state transportation facilities during construction and operation of the SHCCF will be subject to safety and permitting requirements of Chapter 316, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for overweight and Over-Dimensional Vehicles, F.A.C.

*[Chapter 316, F.S.; Chapter 14-26, F.A.C.]*

### ***C. Use of State of Florida Right-of-Way or Transportation Facilities***

All usage and crossing of State of Florida ROW (as defined pursuant Section 334.03(21), F.S.) or transportation facilities will be subject to Rule Chapter 14-46, Utilities Installation or Adjustment, F.A.C.; Florida Department of Transportation's Utility Accommodation Manual (Document 710-020-001); Design Standards for Design, Construction, Maintenance, and Utility Operation on the State Highway System; Standard Specifications for Road and Bridge Construction; and pertinent sections of the Florida Department of Transportation's Project Development and Environmental Manual.

*[Sections 337.403 and 337.404, F.S.; Chapters 14-15 and 14-46, F.A.C.]*

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### ***D. Standards***

The Manual on Uniform Traffic Control Devices; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance, and Utility Operation on the State Highway System; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; Florida Department of Transportation's Utility Accommodation Manual; and pertinent sections of the Department of Transportation's Project Development and Environmental Manual will be adhered to in all circumstances involving the State Highway System and other transportation facilities.

*[Chapter 14-15, F.A.C.]*

### ***E. Drainage***

Any drainage onto State of Florida rights-of-way and transportation facilities will be subject to the requirements of Rule Chapter 14-86, Drainage connections, F.A.C., including the attainment of any permit required thereby. For DOT purposes, right-of-way means land in which the State, the Department, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility pursuant to Section 334.03(21), F.S.

*[Chapter 14-86, F.A.C.]*

### ***F. Use of Air Space***

Any newly proposed structure or alteration of an existing structure will be subject to the requirements of Chapter 333, F.S., and Rule 14-60.009, F.A.C. Additionally, notification to the Federal Aviation Administration (FAA) is required prior to beginning construction, if the structure exceeds notification requirements of 14 CFR Part 77, Objects affecting Navigable Airspace, Subpart B, Notice of Construction or Alteration. Notification will be provided to the FAA Southern Region Headquarters using FAA Form 7460-1, Notice of Proposed Construction or Alteration in accordance with instructions therein. A subsequent determination by the FAA stating that the structure exceeds any federal obstruction standard of 14 CFR Part 77, Subpart C, for any structure that is located within a 10 nautical mile radius of the geographical center of a public use airport or military airfield in Florida will be required to submit information for an Airspace Obstruction Permit from the Florida Department of Transportation or variance from local government depending on the entity with jurisdictional authority over the SHCCF. The FAA Determination regarding the structure serves only as a review of its impact on federal airspace and is not an authorization to proceed with any construction. However, FAA recommendations for obstruction marking and/or lighting of the proposed structure are made mandatory by Florida law (per Rule 14-60.009(4), F.A.C.). For structures under Florida Department of Transportation jurisdiction, application will be made by submitting Florida Department of Transportation Form 725-040-11, Airspace Obstruction Permit Application, in accordance with the instructions therein.

*[Chapter 333, F.S.; Rule 14-60.009, F.A.C.]*

### ***G. Best Management Practices***

Traffic control during SHCCF construction and maintenance will be subject to the standards contained in the Manual on Uniform Traffic Control Devices; Florida Department of Transportation's Design Standards for Design, Construction, Maintenance, and Utility

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Operation on the State Highway; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; and Florida Department of Transportation's Utility Accommodation Manual, whichever is more stringent.

If the Licensee uses contractors for the delivery of any overweight or over-dimensional loads to the SHCCF during construction, the Licensee should ensure that its contractors adhere to the necessary standards and receive the necessary permits required under Chapter 316, F.S., and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Over-Dimensional Vehicles, F.A.C.

*[Chapter 316, F.S.; Chapter 14-26, F.A.C.]*

### IV. FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

#### A. General Listed Species Surveys

1. The Licensee shall coordinate with the Florida Fish and Wildlife Conservation Commission (FWC) to obtain and follow the current survey protocols for all listed species that may occur within the SHCCF, interconnection tie-line area, construction staging areas, and accessible appropriate buffers within the SHEC property as defined by the listed species' survey protocols, prior to conducting detailed surveys. Guidance related to general and species-specific survey protocols can be found in the appropriate species permitting guidelines/management plan (<http://myfwc.com/wildlifehabitats/imperiled/mangement-plans/>) or in FWC's Florida Wildlife Conservation Guide (FWCG) at <http://myfwc.com/conservation/value/fwcg/>.

2. Surveys shall be conducted prior to clearing and construction in accordance with the survey protocols. The results of those surveys shall be provided to the FWC in a report and coordination shall occur with the FWC on appropriate impact avoidance, minimization, or mitigation methodologies. Reports may be sent to: [FWCConservationPlanningServices@MyFWC.com](mailto:FWCConservationPlanningServices@MyFWC.com).

*[Article IV, Section 9, Florida Constitution; Sections 379.2291 and 403.507, F.S.; Chapter 68A-27, F.A.C.]*

#### B. Specific Listed Species Surveys

Before land clearing and construction activities within the SHCCF, interconnection tie-line area, associated construction staging areas, the Licensee shall conduct an assessment for terrestrial listed species and shall note all habitat, occurrence, or evidence of listed species. Wildlife surveys shall be conducted during the reproductive or "Active" season for each species that falls before the projected clearing activity schedule unless otherwise approved by the FWC. For species that are difficult to detect, the Licensee may make the assumption that the species is present and plan appropriate avoidance/mitigation measures for FWC post-certification review and approval at least 60 days prior to commencing clearing or construction activities within the surveyed area. The surveys required by these Conditions of Certification may be conducted prior to issuance of the Final Order of Certification, in which case this Conditions would be considered satisfied.

1. This survey shall be conducted in accordance with U.S. Fish and Wildlife Service (USFWS) or FWC guidelines and methodologies by a person or firm that is

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knowledgeable and experienced in conducting flora and fauna surveys for each potentially occurring listed species.

2. This survey shall identify locations of breeding sites, nests, and burrows for listed wildlife species. Nests and burrows shall be recorded with global positioning system (GPS) coordinates, identified on an aerial photograph, and submitted with the final listed species report. Although nests and burrows may be recorded individually with GPS, the FWC prefers that any applicable protection radii surrounding groups of nest sites and burrows be included on a site-specific basis, rather than around individual nests and burrows, and be physically marked so that clearing and construction shall avoid impacting them.

3. This survey shall include an estimate of the acreage and percent cover of each existing vegetation community that is contained within the Shady Hills Combined Cycle Facility area to be impacted prior to land clearing and construction activities using a geographic information system (GIS). Examples of such wildlife-based habitat classification schemes include Florida's State Wildlife Action Plan (FWC 2012) or the Natural Communities Guide (Florida Natural Areas Inventory 2010).

*[Article IV, Section 9, Florida Constitution; Section 379.2291, F.S.; Chapters 68A-4, 68A-16, and 68A-27, F.A.C.]*

### **C. Listed Species Locations**

1. Where any suitable habitat or evidence is found of the presence of listed species, including but not limited to those specified in Paragraph D., below, within the Shady Hills Combined Cycle Faculty area to be impacted, the Licensee shall report those locations to and confer with the FWC regarding the need for additional pre-clearing surveys, and to identify potential avoidance, minimization, or mitigation recommendations. If additional pre-clearing surveys are required by the FWC as appropriate and as specified in these Conditions of Certification, they shall occur in the reproductive season prior to the anticipated date for commencement of clearing and construction. The Licensee shall not construct in areas where evidence of listed species was identified during the initial survey until the particular listed-species issues have been resolved.

2. If listed wildlife species are found, their presence shall be reported to the DEP SCO, the DEP SWD Office, the FWC, and the USFWS.

3. If avoidance of state-listed wildlife species is not feasible, the Licensee shall consult with the FWC to determine the steps appropriate for the species potentially impacted to avoid, minimize, mitigate, or otherwise appropriately address the potential impacts. These steps shall be memorialized in a Wildlife Species Management Plan and submitted to the FWC.

*[Article IV, Section 9, Florida Constitution; Section 379.2291, F.S.; Chapter 68A-27, F.A.C.]*

### **D. Gopher Tortoise**

1. The Licensee shall conduct surveys for gopher tortoises (*Gopherus polyphemus*), in accordance with the FWC-approved Gopher Tortoise Management Plan (as revised) and the FWC approved Gopher Tortoise Permitting Guidelines, or subsequent FWC approved versions of the Plan or Guidelines. A Burrow survey covering a minimum of 15

## SECTION B: SPECIFIC CONDITIONS

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percent of the potential gopher tortoise habitat to be impacted is required. Immediately prior to capturing tortoises for relocation, a 100 percent survey is required to effectively locate and mark all potentially occupied tortoise burrows and to subsequently remove the tortoises. Burrow survey methods are outlined in Appendix 4 of the Gopher Tortoise Permitting Guidelines, “Methods for Locating Gopher Tortoise Burrows on Sites Slated for Development.” Surveys must be conducted as described in Paragraph D.3., below. All surveys completed by authorized agents or other licensees are subject to field verification by the FWC.

2. The Licensee is not required to provide a monitoring compliance assessment for activities that occur more than 25 feet from a gopher tortoise burrow entrance, provided that such activities do not harm gopher tortoises or violate rules protecting gopher tortoises. Examples of such violations noted in the past by the FWC include, but are not limited to, killing or injuring a tortoise more than 25 feet away from its burrow, harassing a tortoise by blocking access to its burrow, and altering gopher tortoise habitat to such an extent that resident tortoises are taken.

3. The Licensee shall coordinate with and provide the FWC detailed gopher tortoise relocation information in accordance with the FWC approved Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines as a post-certification submittal. This information shall provide details on the location for on-site recipient areas and any off-site FWC approved temporary contiguous habitat, as well as appropriate mitigation contributions per tortoise, as outlined in the Gopher Tortoise Permitting Guidelines.

4. Any commensal species observed during the burrow excavations that are listed by the FWC shall be relocated in accordance with the applicable guidelines for that species in accordance with Appendix 9 of the Gopher Tortoise Permitting Guidelines.

5. To the maximum extent practicable or feasible, all staging and storage areas shall be sited to avoid impacts to gopher tortoise burrows and habitat.

*[Article IV, Section 9, Florida Constitution; Chapters 68A-27 and 68A-4, F.A.C.; Sections 379.2291, 403.5113, and 403.526, F.S.]*

### **V. DEPARTMENT OF STATE – DIVISION OF HISTORICAL RESOURCES**

A. Any alterations of the SHCCF involving an expansion of the boundaries identified in the Certified SHCCF Map may need to have a survey as determined in consultation with the Department of State, Division of Historical Resources (DHR). A qualified cultural resources consultant will identify an appropriate work plan for this project based on a thorough review of the Certified Facility. Prior to beginning any field work, the work plan will be reviewed in consultation with DHR. Upon completion of the survey, the results will be compiled into a report which shall be submitted to DHR. If feasible, sites considered to be eligible for the National Register shall be avoided during construction of the project and access roads, and subsequently during maintenance. If avoidance of any discovered sites is not feasible, impact shall be mitigated through archaeological salvage operations or other methods acceptable to DHR, as appropriate.

B. If historical or archaeological artifacts or features are discovered at any time within the Certified Facility, the Licensee shall notify the appropriate DEP District office(s) and the DHR, R.A. Gray Building, 500 South Bronough Street, Room 423, Tallahassee, Florida

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32399-0250, telephone number (850) 245-6333, and the Licensee shall consult with DHR to determine appropriate action.

*[Sections 267.061, 403.531, and Chapter 872, F.S.]*

### **VI. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

Only herbicides registered by the U.S. Environmental Protection Agency and the Florida Department of Agriculture and Consumer Services shall be used at the SHCCF. Herbicide applications will be in accordance with label directions and will be carried out by a licensed applicator, in compliance with all federal, state and local regulations. Herbicide applications shall be selectively applied to targeted vegetation. Broadcast application of herbicide shall not be used unless effects on non-targeted vegetation are minimized.

*[Chapter 487, F.S.]*

### **VII. PASCO COUNTY**

#### ***A. Utilities Service Agreement***

Provision of the SHCCF's potable water, emergency potable water, reclaimed water, sanitary sewer services, and interconnections for the SHCCF shall be pursuant to the Utilities Service Agreement (USA) between Pasco County and Shady Hills Energy Center, LLC (SHEC) (the Licensee), as approved by the Pasco County Board of County Commissioners (BOCC) on September 4, 2018, and all the agreements referenced and incorporated therein, including amendments thereto.

#### ***B. Solid Waste Disposal***

1. The Licensee shall comply with all applicable non-procedural provisions of Chapter 62-701, F.A.C., for any solid waste generated within the SHCCF and temporary construction parking and laydown area during construction, operation, maintenance, and closure.

2. The Pasco County Solid Waste Resource Recovery Facility (PCRRF) is not required to accept any of the solid waste generated by the SHCCF's reclaimed water treatment systems which does not meet Pasco County's definition of "processable waste".

*[Chapter 62-701, F.A.C.; Section 90-27, Pasco County Code of Ordinances]*

#### ***C. Interconnection Tie-Line***

1. Pasco County intends to grant a 100-foot-wide right-of-way (ROW as defined in Section A, Condition IV.P.) easement to the Licensee for construction and operation of a 0.6-mile-long interconnection tie-line.

a. This 100-foot-wide ROW easement will be located within the 200-foot-wide, approximately 0.6-mile-long corridor addressed in the SCA and will be a part of the SHCCF.

b. For 1,000 linear feet to the west of the eastern boundary of the interconnection tie-line corridor, the ROW easement shall be located on the southern half of the corridor, unless otherwise mutually agreed upon by Pasco County and the Licensee, or if geotechnical, physical, cultural resource, or ecological constraints prevent installation of the interconnection tie-line within that area.

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c. For 150 linear feet to the east and to the west from the center of the existing weigh station, located at the entrance to the PCRRF, the ROW easement shall be located on the northern half of the corridor, unless otherwise mutually agreed upon by Pasco County and the Licensee, or if geotechnical, physical, cultural resource, or ecological constraints prevent installation of the interconnection tie-line within that area.

d. The Licensee shall determine the location of the remaining ROW length within the 200-foot-wide corridor. The Licensee's engineers shall submit to the County as a post-certification submittal, the finalized route of the interconnection tie-line.

*[Agreement between Pasco County and Licensee]*

2. Licensee may not trim or remove trees outside of the 100-foot-wide ROW easement for the interconnection tie-line unless necessary to comply with the Federal Energy Regulatory Commission (FERC) requirements under *Mandatory Reliability Standards for the Bulk-Power System*, Title 18, Part 40 of the Code of Federal Regulations (CFR). Additionally, the Licensee must comply with the North American Electric Reliability Corporation (NERC), Electric Reliability Standard in *Minimum Vegetation Clearance Distances* Facilities Design, Connections, and Maintenance (FAC) FAC-003-3, and *Transmission Vegetation Management* FAC-003-4, (or subsequent version).

*[Title 18 CFR Part 40, FERC; FAC-003-3 and 4, NERC]*

a. Unless inconsistent with the FERC standards, removing, pruning, or trimming a tree shall be in conformance with the American National Standards Institute (ANSI) A300 (Part 1)-2001, as amended.

b. The Licensee shall provide notification, via email, to the Pasco County Administrator at least 3 business days prior to removal of trees 18 inches in diameter at breast height (dbh) and larger within or outside of the 100-foot wide ROW easement for the interconnection tie-line.

*[A300 (Part 1)-2001, ANSI; Agreement between Pasco County and Licensee]*

3. Within the 200-foot-wide interconnection tie-line corridor, the Licensee is prohibited from erecting any poles or placing any guy-wires closer than 100 feet to the east of the eastern edge of the existing access road to the PCRRF and 100 feet to the west of the western edge of the existing access road at the entrance to the adjacent PCRRF.

*[Agreement between Pasco County and Licensee]*

4. Except within 300 feet of the Duke Energy Florida LLC's transmission line corridor, the Licensee shall place and maintain the overhead interconnection electrical power lines within the 100-foot-wide ROW easement, a minimum height of 40 feet above finished grade or roadways, measured from the lowest point of the wires, connectors, or cables and under worst-case operating conditions (i.e., maximum sag at high load, high temperature conditions) to the surface below.

*[Agreement between Pasco County and Licensee]*

### **D. Special Exception Approval**

1. Except as otherwise provided herein, the Licensee shall comply with the non-procedural requirements of Pasco County's Special Exception (Attachment E) approval

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issued for the SHCCF on January 10, 2018 (corrected September 6, 2018), including any subsequent amendments thereto.

2. The Licensee is authorized to access the temporary construction parking and laydown area and the SHCCF via Softwind Lane for the duration of the construction until the Licensee completes construction of the SHCCF and the construction trailers have been removed. Access via Softwind Lane to the SHCCF is prohibited after removal of all construction trailers.

*[Agreement between Pasco County and Licensee]*

3. The Licensee is authorized to access the SHCCF via Hays Road, Hudson Avenue, and Merchant Energy Way. An access-management analysis is not required to be submitted by the applicant. However, access-management land development code (LDC) requirements may be reviewed as part of the final construction plan review process.

*[Section 901.3.A., Pasco County LDC]*

### **E. Site Plan**

1. *Conditions of Certification On-Site Copy:* The Licensee shall maintain a copy of the most recent Conditions of Certification at the SHCCF during construction and operation and made available to Pasco County representatives upon request. The Licensee shall maintain a copy of the current Conditions of Certification and include the final Construction Plan in paragraph 2., below, in a weatherproof container, clearly visible from the Pasco County right-of-way on Softwind Lane, and available to Pasco County representatives at all reasonable times until completion of construction in compliance with Section 18-44 Pasco County Code of Ordinances.

*[Section 18-44, Pasco County Code of Ordinances]*

#### **2. Construction Plan:**

a. As a post-certification submittal, under Rule 62-17.191, F.A.C., the Licensee shall submit a final Construction Plan for the SHCCF to Pasco County, in accordance with Pasco County LDC Section 403.5 (Construction Plans), confirming that all infrastructure and improvements associated with buildings and structures, not directly associated with power generation, will be installed in conformance with the non-procedural requirements of the Pasco County LDC, including, but not limited to the following: warehouse and administrative building, parking facility, landscaping and buffers, and SWMS. This post-certification submittal will be reviewed in accordance with this Condition (Section B, Condition VII.E.2) rather than Section A., Condition XXI. B-E.

*[Rule 62-17.191(1), F.A.C.; Section 403.5, Pasco County LDC]*

b. Pasco County must request any additional information needed to complete its review of the final Construction Plan within 21 working days after receipt. The information required shall be equivalent to that which would be submitted for final construction permits required by Pasco County in the absence of Certification to make the submittal both sufficient and complete. A failure by Pasco County to request additional information within 21 working days after the Licensee submits the requested information or responds to a request for additional information shall constitute a finding of completeness. For any changes that are substantial, these changes will be reviewed under the procedures in subparagraph a., above.

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*[Rule 62-17.191(1)(b), (c)1., and (c)2., F.A.C.; Agreement between Pasco County and Licensee]*

c. The Licensee shall respond to any timely requests for additional information within 14 calendar days, unless a longer time is mutually agreed to between Pasco County and Licensee.

*[Agreement between Pasco County and Licensee]*

d. Within 25 working days after a finding of completeness under subparagraph b., above, Pasco County shall notify the Department and the Licensee, in writing, of its assessment of whether the final Construction Plan, as supplemented, is in compliance with the non-procedural requirements of the Pasco County LDC. If Pasco County determines that the final Construction Plan is not in compliance with non-procedural requirements of the Pasco County LDC, then Pasco County shall notify the Licensee, and suggest corrective measures with particularity.

*[Rule 62-17.191(1)(c)3., F.A.C.; Agreement between Pasco County and Licensee]*

e. The Licensee's submittal and Pasco County's positive determination of compliance must occur prior to display of the final Construction Plan required under paragraph 1., above. Display of the final Construction Plan following Pasco County's positive determination of compliance must occur prior to commencement of construction of the SHCCF's components not directly related to power generation.

f. Failure of Pasco County to notify the Licensee, in writing, of its compliance assessment within 25 working days after a finding of completeness under subparagraph b., above, shall constitute a positive finding of compliance and the Licensee is authorized to display the final Construction Plan as required under paragraph 1., above, and following that display, to begin construction of the SHCCF's components that are not an integral part of the generating plant (such as the administrative building/warehouse), pursuant to the Conditions of Certification and the final Construction Plan submittal.

*[Rule 62-17.191(1)(c)4., F.A.C.; Agreement between Pasco County and Licensee]*

g. The Licensee's final Construction Plan submittal is only for the SHCCF's components not directly associated with power generation, therefore this submittal and Pasco County's compliance review shall not affect the Licensee's authority to commence construction and installation of equipment and components directly associated with power generation and associated structures within the SHCCF.

*[Section 403.511, F.S.]*

h. For any subsequent changes to the final Construction Plan considered to be non-substantial under LDC Section 403.9, the Pasco County Administrator, or their designee, has the authority to review and confirm compliance without following the procedures established in paragraph 2., above. For any changes that are substantial, these changes will be reviewed under the procedures in paragraph 2., above.

*[Section 403.9.B., Pasco County LDC]*

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3. *Commencement of Construction:* The Licensee shall notify the Pasco County Engineering Services Department, Project Management Division at least 5 working days prior to commencing construction of the SHCCF.

*[Section 390.2., Pasco County LDC]*

4. *Pasco County ROW:* All construction within a Pasco County ROW (for County purposes ROW defined herein means land in which the state, the Florida Department of Transportation, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility and includes the land, air space over the land, and area below the land to the extent the entity holds a property interest therein) must be conducted in accordance with the Pasco County LDC Section 406.5. The Licensee shall notify Pasco County prior to commencement of construction in a Pasco County ROW. The Licensee shall ensure that any improvements installed in ROWs are constructed in compliance with applicable Pasco County standards. The Licensee shall install signs and markings for construction within a Pasco County ROW pursuant to applicable County and DOT standards as referenced in the Pasco County LDC.

*[Section 406.5., Pasco County LDC]*

5. *Building Permit:* The Licensee shall comply with the applicable provisions of the Florida Building Code, adopted by the Florida Building Commission under Section 553.73, F.S., when constructing the administrative building and warehouse. The Licensee shall submit information about the administrative building and warehouse as a post-certification submittal using the Pasco County building permit application form. Upon completion of construction, the Licensee shall coordinate with building inspectors from Pasco County to ensure that the administrative building and warehouse meet the applicable Florida Building Code. Prior to or at the time of the inspection, the Licensee shall pay the applicable building permit fee for construction of the administrative building and warehouse, pursuant to Pasco County LDC Section 406.4 and Section 18-40, Pasco County Code of Ordinances.

*[Section 553.73, F.S.; Section 406.4., Pasco County LDC; Section 18-40, Pasco County Code of Ordinances]*

6. *Other Impact Fees and Special Assessments:* Prior to commencement of construction, the Licensee shall pay a one-time fire combat and rescue impact fee in accordance with LDC Section 1302.6, a one-time mobility and administration fee in accordance with LDC Section 1302.2, and an initial solid waste assessment in accordance with Section 90-105, Pasco County Code of Ordinances.

*[Section 90-105, Pasco County Code of Ordinances; Sections 1302.2. and 1302.6., Pasco County LDC]*

7. *Proposed Signs:* If the Licensee proposes a sign at the entrance of the SHCCF, at any time, the Licensee must submit design plans to Pasco County as a post-certification submittal to confirm consistency with LDC Section 406.1.

*[Section 406.1., Pasco County LDC]*

### **F. Design Standards**

1. All roads, drainage, and utilities shall be constructed in accordance with County design standards and tested in compliance with the Pasco county Engineering Services

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Department's *Testing Specifications for Construction of Roads, Storm Drainage, and Utilities* (October 2006).

*[Section 310.14.B., Pasco County LDC]*

2. Prior to occupancy, the Licensee's architect or engineer must submit a certification that the SHCCF has been designed and constructed in accordance with the Americans with Disabilities Act (ADA), as a post-certification submittal.

*[Agreement between Pasco County and the Licensee]*

### **G. Fire Protection and Access Management**

1. Licensee shall provide fire protection in compliance with the Pasco County LDC Section 904.3, except as set forth in paragraph 4., below.

*[Section 904.3., Pasco County LDC]*

2. Licensee shall confirm the locations of all fire hydrants proposed for the SHCCF as part of the construction plans being submitted post-certification. The hydrant spacing shall comply with Section 904.2 LDC which adopts the Florida Fire Protection Code (FFPC) 6<sup>th</sup> Edition, Section 1:18.5.3, and any subsequently amended versions. Specifically, the maximum distance to a fire hydrant from the closest point on the warehouse and administrative building shall not exceed 400 feet.

*[Section 904.2., Pasco County LDC]*

3. Licensee shall provide for and maintain at all times clearances of 5 feet in front of and to the sides of all fire hydrants. Where required by Pasco County, fire hydrants subject to vehicular damage shall be protected.

*[Sections 1:18.5.7.2. and 1:18.5.8., FFPC, 6<sup>th</sup> Edition]*

4. Licensee shall follow Chapter 16 of National Fire Protection Association(NFPA) Code 850 (2015), Recommended Practice for Fire Protection for Electric Generating Plants and High Voltage Direct Current Converter Stations, during construction of the SHCCF, in lieu of LDC Section 904 or Chapter 16 of NFPA Code 1 (2018). Upon completion of construction, the SHCCF will comply with LDC Section 904.3.

*[Chapter 16, Code 850, NFPA, 2015; Sections 407.5., 407.5.B., and 904.3, Pasco County LDC]*

5. Licensee shall provide a final fire truck wheel tracking diagram, based on a 240" wheelbase, showing circulation throughout the SHCCF as part of the construction plans being submitted post-certification.

*[Section 1:18.2.3.4.3.1., FFPC, 6<sup>th</sup> Edition]*

6. Licensee shall install and maintain a siren operating system, or a 3M Opticom<sup>TM</sup> system, for emergency access at each gated entrance of the SHCCF.

*[Section 1:18.2.2.2., FFPC, 6<sup>th</sup> Edition]*

### **H. Stormwater Management**

1. Prior to any construction activity, the Licensee shall ensure that the applicable erosion and sediment control measures are in place for the SHCCF and the temporary

## SECTION B: SPECIFIC CONDITIONS

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construction parking and laydown area. At least 2 days prior to the start of clearing and grubbing, site preparation, or any soil disturbance, Licensee shall notify the Pasco County Stormwater Management Division and shall provide a copy of the applicable National Pollutant Discharge Elimination System (NPDES) Stormwater Permit, per Pasco County LDC Section 902.1.D., to the Pasco County Stormwater Management Department as a post-certification submittal.

*[Section 902.1.D., Pasco County LDC]*

2. If dewatering is needed during construction of the SHCCF, Licensee shall provide a Dewatering Plan, pursuant to Pasco County LDC Section 902.2, to the Pasco County Engineering Inspections Department, prior to undertaking the dewatering activities, as a post-certification submittal.

*[Section 902.2., Pasco County LDC]*

3. Prior to commencing construction, Licensee shall pay the standard fee, for the County's nonresidential sediment and erosion control inspections during 3 phases of the erosion sedimentation control (stormwater management) plans for the following: construction and operation of the temporary construction parking and laydown area; construction of the SHCCF; operation of the SHCCF.

*[Section 902.1.F., Pasco County LDC; Resolution 18-73, Pasco County Board of County Commissioners]*

### **I. Geotechnical Engineering**

1. As a post-certification submittal, and prior to commencement of construction of each foundation, the Licensee shall provide a final Geotechnical Report, which shall include a certification by the design professional that the final design of the foundation to be constructed adheres to the recommendations identified in the report pursuant to LDC Section 807.6.

*[Section 807.6., Pasco County LDC]*

2. Should any noticeable soil slumping or sinkhole formation become evident before or during construction, the Licensee shall immediately stop all work (except for mitigation activities) in the affected area and notify Pasco County and the SWFWMD. The work shall remain stopped until Pasco County and SWFWMD approve resuming construction activities. The Licensee shall also:

- a. Take immediate measures to ensure no surface water drains into the affected areas;
- b. Visually inspect the affected area;
- c. Excavate and backfill or grout if needed to prevent further subsidence;
- d. Use soil reinforcement materials in the backfilling operation when appropriate;

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e. If the affected area is in the vicinity of a water-retention area, maintain a minimum distance of 2 feet from the bottom of the retention pond to the surface of the lime-rock or karst connection; and,

f. If the affected area is in the vicinity of a water-retention area and the above methods do not stabilize the collapse, amend the SCA to address relocation of the retention area.

3. The Engineer of Record shall provide a statement that certifies that the design of the project is in compliance with the Geotechnical Report.

*[Section 807.4., Pasco County LDC]*

### **J. Landscaping and Buffering**

1. The Licensee and its landscaping and buffering plans for the SHCCF, shall comply with the applicable, non-procedural landscaping and buffering requirements.

*[Section 905.2., Pasco County LDC]*

2. Licensee shall pay a fee to Pasco County for planned tree removals based on actual tree removals and consistent with LDC Section 802.

*[Section 802, Pasco County LDC]*

3. As required under LDC Section 905.2., Licensee shall provide a 10-foot-wide vegetative buffer that includes a single row of trees, maximum 60 feet on center, and a continuous row of evergreen shrubs along the eastern and southern boundaries of the approximately 14-acre parcel where the power generating equipment is being constructed. The Licensee shall also provide a 10-foot-wide vegetative buffer along the northern boundary of the approximately 14-acre parcel, except for 100 feet along that boundary, centered at the point where the SHCCF's power generation components connect to the interconnection tie-line, where trees will be prohibited within that portion of the buffer. No raised berm or fencing is required as part of these buffers. Buffering along the western boundary of the approximately 14-acre parcel is not required. The Licensee remains responsible for maintaining the vegetative buffer until closure of the SHCCF. Upon closure, the property owner shall maintain the vegetative buffer as applicable per the LDC.

*[Section 905.2., Pasco County LDC]*

4. A Registered Landscape Architect or other person as authorized by Chapter 481, F.S., as amended shall conduct a final field inspection. A notification of compliance shall be provided to the County as a post-certification submittal.

*[Chapter 481, F.S.; Section 905.4.H., Pasco County LDC]*

### **K. Parking and Traffic Standards**

1. All on-site parking spaces within the SHCCF shall be striped and signed in accordance with the Pasco County LDC Sections 907.1.D.2., 907.1.D.9., and 907.1.D.10.; Section 316.0747, F.S.; and the Florida DOT *Manual on Uniform Traffic Control Devices* (2018). Parking spaces, directional arrows, and stop bars shall be striped in white. It shall be the Licensee's responsibility to properly sign and stripe in accordance with applicable standards.

*[Section 907.1., Pasco County LDC]*

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2. All vehicular use areas shall comply with the applicable requirements of the ADA. To the extent consistent with the ADA, all handicapped parking spaces shall be signed and marked/striped in accordance with Chapter 316, F.S., and the Florida DOT *Manual on Uniform Traffic Control Devices* (2018).

*[Chapter 316, F.S.; Agreement between Pasco County and Licensee]*

### **L. Natural Resources**

1. If evidence of the presence of Florida or federally protected plant and/or animal species is discovered within the SHCCF or the temporary construction parking and laydown area during construction, the Licensee shall notify Pasco County and applicable agencies within 2 working days of the discovery of the protected species. The Licensee shall immediately stop all work in the affected area until compliance with state and federal guidelines can be demonstrated.

*[Section 803, Pasco County LDC]*

2. The Licensee shall provide a 100 percent Gopher Tortoise Burrow Survey, conducted according to FWC Guidelines. The Licensee shall coordinate with and provide the FWC and Pasco County gopher tortoise relocation information in accordance with the FWC approved Gopher Tortoise Management Plan and Gopher Tortoise Permitting Guidelines as a post-certification submittal.

*[Sections 403.5.B.1.o. and 803.2.C., Pasco County LDC]*

### **M. Historical Resources**

If, during construction activities, any evidence of historic resources including, but not limited to, aboriginal or historic pottery, prehistoric stone tools, bone or shell tools, historic trash pits, or historic building foundation, are discovered on the SHCCF or in the temporary construction parking and laydown area, the Licensee shall immediately stop all work and shall notify the Department of State DHR (State Historic Preservation Officer) and Pasco County within 2 working days of the resources being found.

*[Section 809.5., Pasco County LDC]*

### **N. Temporary Construction Parking and Laydown Area) Buffer and Access Conditions**

1. Pursuant to Pasco County's LDC Section 905.2.D.5., the Licensee may not remove any vegetation within a 10-foot-wide buffer area across the northern perimeter of the temporary construction parking and laydown area, where it abuts the existing PCRRF. This vegetative buffer area shall be maintained until the Licensee completes construction of the SHCCF and no longer utilizes the temporary construction parking and laydown area.

*[Section 905.2.D.5., Pasco County LDC]*

2. Prior to the start of clearing and grubbing, site preparation, or any soil disturbance, the Licensee shall provide a copy of the applicable National Pollutant Discharge Elimination System (NPDES) Stormwater Permit, per Pasco County LDC Section 902.1.D, to the Pasco County Stormwater Management Department as a post-certification submittal. Licensee shall also notify the Stormwater Management Division 5 days prior to commencing any clearing and grubbing, site preparation, or any soil disturbance.

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*[Section 902.1.D., Pasco County LDC]*

3. The Licensee shall prepare a tree survey in accordance with Pasco County LDC Section 802.3.B.1.b.(1) and provide the tree survey to Pasco County Development Review as a post-certification submittal.

*[Section 802.3.B.1.b.(1), Pasco County LDC]*

4. Based on the tree survey, the Licensee shall pay a fee to Pasco County for planned tree removals for the caliper inches of replacement trees not planted in accordance with Pasco County LDC Section 802.3.C. and Pasco County Board of County Commission (BOCC) Resolution 08- 284.

*[Section 802.3.C., Pasco County LDC; Resolution 08-284, Pasco County BOCC]*

5. Licensee shall comply with tree protection requirements as identified in Pasco County.

*[Section 802.3.G., Pasco County LDC]*

### **O. Construction Trailers**

Licensee shall notify Pasco County Utilities in writing within 5 working days after successful completion of performance testing of the zero liquid discharge system. Within 90 days thereafter unless otherwise mutually agreed to between the Licensee and Pasco County, the Licensee shall remove all temporary construction trailers from SHCCF and the temporary construction parking and laydown area.

*[Section 18-52, Pasco County Code of Ordinances]*

## HISTORY

## ATTACHMENTS

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### **ATTACHMENT A: SHCCF Map(s)**

(to be inserted upon submittal)

**ATTACHMENT B: Surface Water Management System (SWMS) Plan**

***A. Completion of Construction***

Once SHCCF construction has been deemed complete, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before the transfer to the operation and maintenance phase, all obsolete erosion control materials shall be removed.

***B. Operation and Maintenance Phase***

1. The SWMS conveyance pipes shall be maintained free of blockage and the pond must be kept free of obstructions or blockage by sediment. Any scouring or erosion at these locations must be repaired.

2. The approved SWMS shall only be used for the purpose of controlling surface water runoff from the site and shall not be used to dispose of or store any solid/liquid waste or products generated or used during operation or construction of the facility.

3. Percolation performance shall be evaluated within the ponds at least every third year. If reworking the pond bottom fails to restore adequate percolation, additional retention area restoration shall be performed as follows:

a. Remove the top layer of the retention area bottom material to a depth of 2 to 3 inches and scarify or deep-rake the excavated bottom.

b. Replace excavated bottom material with suitably permeable material and restore the pond bottom to design grade.

4. Within 30 days of any failure of a SWMS or deviation from the authorized design, a report shall be submitted to the Department on Form 62-330.311(1), operation and maintenance inspection certification, describing the remedial actions taken to resolve the failure of deviation. This report shall be signed and sealed by a registered professional.

## ATTACHMENTS

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### **ATTACHMENT C: Mitigation Plan(s)**

(to be inserted if applicable)

## ATTACHMENTS

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### **ATTACHMENT D: Groundwater Monitoring Requirements**

(to be inserted if applicable)

## ATTACHMENTS

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### **ATTACHMENT E: Pasco County Special Exception**

# ATTACHMENT E

Corrected

## BEFORE THE PLANNING COMMISSION IN AND FOR PASCO COUNTY

IN RE: SPECIAL EXCEPTION APPLICATION NO. 7295  
SHADY HILLS ELECTRIC COMPANY, LLC

### ORDER

THE PLANNING COMMISSION OF PASCO COUNTY, FLORIDA, on January 10, 2018, with a quorum present and voting, after due public notice, being empowered under Chapter 200, Section 204 of the Pasco County Land Development Code (LDC) to hear and decide requests for special exceptions, does hereby make the following findings, conclusions, and interpretations as applied to the above special exception request for a power generating plant for essential public services in an A-C Agricultural District:

1. A transmission and power delivery facility is a specified special exception use as set forth in the A-C Agricultural District.
2. The Planning Commission has heard and considered the presentation and evidence of the applicant and individuals in opposition to and in favor of the application.
3. The Planning Commission has reviewed the report and recommendations of County staff and the following findings of fact:

### FINDINGS OF FACT:

- a. The subject site is a vacant portion of Shady Hills Power Company, LLC power plant tract, encompassing 10 acres of a 30 acre tract owned by Shady Hills Power Company, LLC. The applicant proposes to use the site for a new electric private utility facility (a nominal 550 megawatt (MW) combined-cycle, natural gas-fired, electric power generating plant).

The applicant provided the following narrative:

Proposed Special Exception: Shady Hills Power Company LLC proposes to construct and operate a new electric private utility facility herein described as a nominal 550 megawatt (MW) combined-cycle, natural gas-fired, electric power generating plant (Project) in unincorporated Pasco County, Florida. The proposed Project will be constructed on a 10-acre parcel of land (expansion site) situated adjacent to and east of an existing electric power generating plant that Shady Hills Power Company LLC owns and operates. The existing facility was approved by the Pasco County Planning Commission under Special Exception RA5528 dated December 8, 1999. The Site is located on Merchant Energy Way, north of Hudson Road, east of Shady Hills Wastewater Treatment Plant, and south of the Pasco County Resource Recovery facility.

The Project will consist of a single combustion turbine generator equipped with advanced emission control equipment, a heat recovery steam generator with duct burners, a single condensing Steam Turbine Generator, a deaerating surface condenser, a mechanical draft wet cooling tower, and associated ancillary equipment necessary for the generation of electric energy. A short (approximately 1.0 mile) new transmission line will be required as part of the Project that will traverse the resource recovery property and connect to a new Duke substation to be located within Duke's existing transmission lines rights-of-way.

The Project will increase electrical generation capacity that currently exists on the adjacent 20 acres by approximately 550 MWs using economical, fuel-efficient, state-of-the-art technology, while minimizing environmental impacts to the expansion site and surrounding area. The Project will be fired by natural gas only. Natural gas will be transported by Florida Gas Transmission through an existing pipeline lateral connection that terminates at the existing power plant site. The Project will utilize treated wastewater (also referred to as reclaimed water)

obtained from Pasco County from and/or through the Shady Hills Wastewater Treatment Plan for process purposes, including cooling. The Project will secure the rights-of-way by easement with Pasco County and install piping in the rights-of-way to transfer reclaimed water to the County and install piping in the Rights-of-way to transfer reclaimed water to the expansion site. The plant will use zero liquid discharge technology to eliminate industrial wastewater discharge. Potable water and sanitary sewer will be provided by Pasco County from connections at the existing adjacent power plant.

- b. The subject site is 330 feet wide and approximately 1,320 in depth.
- c. Access to the site is from Merchant Energy Way, a private, 2-lane residential paved roadway within a 24-foot wide (varies) private maintained right-of-way in very good condition. The private portion of Merchant Energy Way ties into a 2-lane county paved roadway within a 24 foot wide (varies) county maintained right-of-way that connects to Hudson Avenue, a 2-lane residential roadway within a 24' – 26 foot wide (varies) county maintained right-of-way.
- d. The subject site is located in Flood Zone "X," and development is subject to the requirements of the Land Development Code (LDC), Section 1104, Flood Damage Prevention.
- e. The surrounding area is characterized by an electric generating plant, a wastewater treatment plant, a resource recovery facility, inactive concrete batch plant, single family residential and a planned outdoor shooting range (Pasco Sheriff Office).
- f. The subject area has been designated RES-1 (Residential – 1 du/ga) under the Comprehensive Plan.

- g. The subject site is within the South Market Area and Urban Expansion Area.
- h. On September 26, 2017, the owner's/applicant's consultants met with the representatives from the Planning and Development Department, the Fire Rescue Department, and the Office of Economic Growth to discuss the expansion of the subject facility.
- i. On November 17, 2017, the subject request was found to be exempt from Timing and Phasing (Section 901.12.C.1) as the highest and best use of the proposed special exception would result in less than 50 peak hour trips, a.m. or p.m. whichever is higher. Access Management Analysis and Substandard Road Review will be performed at the time of Preliminary Site Plan or Preliminary Development Plan, if applicable.
- j. On December 8, 1999, the existing facility was approved, with conditions, by the Pasco County Planning Commission under Special Exception Petition No. 5528.  
  
The proposed request is consistent with the LDC, Chapter 400, Permit Types and Applications; Section 402.4.E, Special Exception, Review Considerations; and the applicable provisions of the County's Comprehensive Plan.
- k. On December 13, 2017 the Planning Commission approved Special Exception No. 7290, with conditions, for a transmission, substation, and power delivery facility for Seminole Electric Cooperative for a parcel located adjacent to the east of the subject site.
- l. The proposed request is consistent with the LDC, Chapter 400, Permit Types and Applications; Section 402.4.E, Special Exception, Review Considerations; and the applicable provisions of

the County's Comprehensive Plan.

4. Upon consideration and adoption of the recommendation of staff and the evidence presented at the public hearing, the Planning Commission has determined that the standards for issuing a special exception, as set forth in the Pasco County LDC, Chapter 400, Section 402.4.F. have been met.

5. The special exception requested is consistent with the adopted Pasco County Comprehensive Plan and would not have an adverse effect on the health, safety, and welfare of the public.

Accordingly, it is hereby

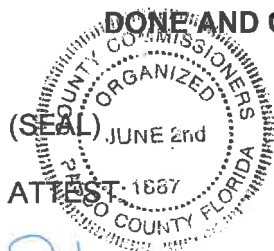
**ORDERED** that Special Exception Application No. 7295 is hereby approved for the property described in Exhibit A attached hereto, subject to the following conditions:

CONDITIONS OF APPROVAL

1. The owner/developer shall provide a new driveway and loop road around the perimeter of the proposed plant expansion. At time of preliminary site plan review, the owner/applicant shall be required to file an access-management analysis for review and approval by the County. The owner/applicant shall be required to comply with any conditions that the approved access-management analysis may require.
2. All access shall be via Hudson Avenue and Merchant Energy Way.
3. The owner/applicant acknowledges that any provision of Pasco County ordinances, not specifically waived shall be in full force and effect, including all applicable conditions of Special Exception Petition No. 5528.
4. The owner/applicant shall enter into a utility service agreement with Pasco County prior to site plan approval.
5. Prior to any development or redevelopment of the site, the owner/applicant shall submit and receive approval of a Preliminary Site Plan, per Land Development Code, Section 403.
6. Calculation of allowable density and intensity shall be in compliance with the land use category limitations set forth in the Pasco County Comprehensive Plan.

7. This special exception shall be limited to power generating facility for essential public services use of power generating facilities (stack, heat recovery steam generator, gas turbine, inlet air filter, generator, take-off tower/circuit breaker/line disconnect switch, step-up transformer, fuel gas condition and pressure regulation station, gas metering yard, auxiliary broiler area, circulating water pumps, cooling tower (fan height 50 feet), steam turbine, electric power distribution center (PDC) 1,500 sq.ft. +/-, surface condenser, new lines, rebuilds and maintenance needs), and associated and ancillary equipment for generation to occur.
8. This approval is subject to the provisions of the LDC, Section 402.4.I, Revocation of Special Exception and Conditional Use Approvals. In addition, staff may initiate an enforcement for violations of the conditions of approval by any of the methods available in the LDC, Section 108, or through revocation of the Special Exception pursuant to the provisions of the LDC, Section 402.4.I, Revocation of Special Exception and Conditional Use Approvals, or both.
9. In addition to complying with the above conditions, no activity shall commence on site until such time as the acknowledgment portion of this document is completed (including notarization) and received by the Planning and Development Department after the final action.

**DONE AND ORDERED** effective as of this 10th day of January, 2018.



*Shannon Egbert*  
PAULA S. O'NEIL, Ph.D., CLERK & COMPTROLLER

PLANNING COMMISSION OF  
PASCO COUNTY, FLORIDA

*[Signature]*  
CHAIRMAN

09/06/2018