

RESOLUTION NO. 24-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE A SETTLEMENT AGREEMENT AND RELEASE BETWEEN FLORIDA POWER & LIGHT COMPANY, INFRATECH CORPORATION, FLORIDA COMMUNICATION CONCEPTS, INC., GEO & YUS CORPORATION AND THE CITY OF FORT LAUDERDALE, AND PROVIDING FOR SEVERABILITY, RECISSION OF CONFLICTING RESOLUTION PROVISIONS, AND AN EFFECTIVE DATE.

WHEREAS, on July 17, 2019, Florida Power & Light Company (“FPL”), through its subcontractors, was conducting construction work and drilled a hole into the City of Fort Lauderdale’s (“City”) water main near the Fort Lauderdale Executive Airport, causing damages; and

WHEREAS, on July 13, 2020, the City filed a lawsuit against FPL and its subcontractors, Infratech Corporation, Florida Communication Concepts, Inc., and Geo & Yus Corporation (collectively “the Parties”) to recover damages; and

WHEREAS, the City participated in mediation with the Parties and the City was offered \$400,000.00 in full settlement of the City’s claims; and

WHEREAS, the City and the Parties have reached a satisfactory resolution and wish to enter into a Settlement Agreement and Release, in substantially the form attached and identified as “Exhibit A” to memorialize their understanding, subject to certain terms and conditions; and

WHEREAS, the City Commission finds approving the proposed Settlement Agreement and Release will serve a legitimate government purpose and wish to authorize the City Manager or his designee to execute the same.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the City Manager or his designee is hereby authorized to execute a Settlement Agreement and Release with Florida Power & Light Company, Infratech Corporation, Florida Communication Concepts, Inc., and Geo & Yus Corporation, containing terms acceptable to the City Manager or their designee, in substantially the form attached and identified as “Exhibit A”.

SECTION 2. That the Office of the City Attorney shall review and approve as to form all documents prior to their execution by the City Manager or their designee.

SECTION 3. That if any clause, section or other provisions within this Resolution shall be held invalid or unconstitutional by a court of competent jurisdiction, the remainder of this Resolution shall not be affected thereby but shall remain in full force and effect.

SECTION 4. That all Resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. That the Effective Date of this Resolution is the date of final adoption.

ADOPTED this ____ day of _____, 2024.

ATTEST:

Mayor
DEAN J. TRANTALIS

City Clerk
DAVID R. SOLOMAN

Dean J. Trantalis _____

John C. Herbst _____

APPROVED AS TO FORM
AND CORRECTNESS:

Steven Glassman _____

Pamela Beasley-Pittman _____

City Attorney
THOMAS J. ANSBRO

Warren Sturman _____

EXHIBIT A

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Settlement Agreement") is entered into by and among the following:

- The City of Fort Lauderdale (the "City");
- Florida Power & Light Company ("FPL"), Infratech Corporation ("Infratech"), and Florida Communication Concepts, Inc. (collectively, the "Cross-Claimants");
- Geo & Yus Corporation ("Geo").

This Settlement Agreement is entered into by and among the above-listed parties in the case styled *City of Fort Lauderdale v. Florida Power & Light Company, et al.*, Case No. CACE 20-011186, pending in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida (the "Lawsuit"). Cross-Claimants and Geo are also referred to in this Settlement Agreement as the "Defendants". The City, Cross-Claimants, and Geo are also referred to in this Settlement Agreement as the "Parties".

RECITALS

WHEREAS, the Lawsuit relates to a Water Main Break that occurred on or about July 17, 2019, whereby the City alleges it incurred damages.

WHEREAS, on July 13, 2020, the City filed the Lawsuit against the Defendants.

WHEREAS, Cross-Claimants filed cross-claims against Geo (the "Cross-Claims").

WHEREAS, the Defendants deny: A) the allegations and all liability with respect to any and all facts and claims alleged in this Lawsuit; and B) that the City has suffered any damage.

WHEREAS, Geo denies: A) the allegations and all liability with respect to any and all facts and claims alleged in the Cross-Claims; and B) that Cross-Claimants have suffered any damage.

WHEREAS, the City and its counsel believe that, in consideration of all the circumstances, and after prolonged and serious settlement negotiations with the Defendants, that this Settlement Agreement is fair, reasonable, and adequate, and is in the City's best interest.

WHEREAS, Cross-Claimants and their respective counsels believe that, in consideration of all the circumstances, and after prolonged and serious settlement negotiations with Geo, that this Settlement Agreement is fair, reasonable, and adequate, and is in the best interests of Cross-Claimants.

WHEREAS, Geo maintains that it has consistently acted in accordance with governing laws, but after prolonged and serious settlement negotiations with the City and Cross-Claimants, and considering the expenses that would be necessary to defend this Lawsuit and the Cross-Claims and the benefits of a final resolution of this Lawsuit and the Cross-Claims, concluded that it is in its best interests to settle this Lawsuit and the Cross-Claims on the terms and conditions in this Settlement Agreement.

WHEREAS, the Parties and their respective counsel have engaged in arm's length settlement negotiations and mutually desire to fully, finally, and forever settle this Lawsuit and the Cross-Claims for the Released Claims (as defined below) in accordance with the terms and conditions of this Settlement Agreement, which the Parties believe constitute a fair and reasonable compromise of the claims and defenses asserted in this Lawsuit and the Cross-Claims.

WHEREAS, based on its evaluation of the facts and the law, the City has agreed to settle this Lawsuit after considering such factors as (1) the benefits to the City; (2) the risk, uncertainty, cost, and delay of litigation; and (3) the desirability of obtaining relief now rather than later (or not at all).

WHEREAS, the City has determined that the Settlement Agreement provides substantial benefits to the City and its interests and represents a fair, reasonable, and adequate settlement of the claims that are or could have been alleged in the Lawsuit.

WHEREAS, based on their evaluation of the facts and the law, the Cross-Claimants have agreed to settle the Cross-Claims after considering such factors as (1) the benefits to the Cross-Claimants; (2) the risk, uncertainty, cost, and delay of litigation; and (2) the desirability of obtaining relief now rather than later (or not at all).

WHEREAS, Cross-Claimants have determined that the Settlement Agreement provides substantial benefits to the Cross-Claimants and their interests and represents a fair, reasonable, and adequate settlement of the claims that are or could have been alleged in the Cross-Claims.

WHEREAS, Geo has made similar determinations, and while denying wrongdoing, Geo enters into the Settlement Agreement to avoid the expense, inconvenience, and inherent risk of litigation.

NOW, THEREFORE, in exchange for the mutual promises and valuable consideration provided for in this Settlement Agreement, and without any admission or concession by any of the Parties, the Parties agree to a full, complete, and final settlement and resolution of the Lawsuit and Cross-Claims, as follows:

I. DEFINITIONS

1. “City” means the City of Fort Lauderdale, and its (past, present, or future) agents, representatives, commissioners, employees, servants, volunteers, contractors, subcontractors, independent contractors, predecessors, successors, assigns, heirs, beneficiaries, administrators, attorneys, insurers, and re-insurers.

2. "Cross-Claimants" means Florida Power & Light Company, Infratech Corporation, and Florida Communications Concepts, Inc.

3. "Cross-Claims" means the cross-claims filed by the Cross-Claimants against Geo in the Lawsuit.

4. "Defendants" means Florida Power & Light Company, Infratech Corporation, and Florida Communication Concepts, Inc., and Geo & Yus Corporation.

5. "Effective Date" means one (1) day after full execution of this Settlement Agreement by the City and Cross-Claimants.

6. "FCC" means Florida Communication Concepts, Inc., and its (past, present, or future) subscribers, members, parents, subsidiaries, affiliate companies, officers, directors, stockholders, partners, limited partners, agents, representatives, employers, employees, servants, volunteers, contractors, subcontractors, independent contractors, predecessors, successors, assigns, heirs, beneficiaries, executors, administrators, estates, attorneys, coverholders, claim administrators, third-party administrators, insurers, and re-insurers.

7. "FPL" means Florida Power & Light Company, and its (past, present, or future) subscribers, members, parents, subsidiaries, affiliate companies, officers, directors, stockholders, partners, limited partners, agents, representatives, employers, employees, servants, volunteers, contractors, subcontractors, independent contractors, predecessors, successors, assigns, heirs, beneficiaries, executors, administrators, estates, attorneys, coverholders, claim administrators, third-party administrators, insurers, and re-insurers.

8. "Geo" means Geo & Yus Corporation, and its (past, present, or future) subscribers, members, parents, subsidiaries, affiliate companies, officers, directors, stockholders, partners, limited partners, agents, representatives, employers, employees, servants, volunteers, contractors,

subcontractors, independent contractors, predecessors, successors, assigns, heirs, beneficiaries, executors, administrators, estates, attorneys, coverholders, claim administrators, third-party administrators, insurers, and re-insurers, including Interstate Fire & Casualty Company (“Interstate”) and Trisura Specialty Insurance Company (“Trisura”).

9. "Infratech" means Infratech Corporation, and its (past, present, or future) subscribers, members, parents, subsidiaries, affiliate companies, officers, directors, stockholders, partners, limited partners, agents, representatives, employers, employees, servants, volunteers, contractors, subcontractors, independent contractors, predecessors, successors, assigns, heirs, beneficiaries, executors, administrators, estates, attorneys, coverholders, claim administrators, third-party administrators, insurers, and re-insurers.

10. "Lawsuit" means the case styled *City of Fort Lauderdale v. Florida Power & Light Company, et al.*, Case No. CACE 20-011186, pending in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County.

11. "Parties" means the City, Cross-Claimants, and Geo.

12. “Released Claims” means any and all (past, present, or future) claims, lawsuits, actions, causes of action, cross-claims, third-party claims, complaints, rights, liabilities, damages, or demands of any kind whatsoever, known or unknown, matured or unmatured, at law or in equity, existing or potentially existing under any law or in any jurisdiction (including any federal court, state court, or foreign court), that arise from, stem from, are based on, are a consequence of, refer to, or relate to, any of the following:

- (1) The Water Main Break;
- (2) The events, damages, and allegations, described in the Lawsuit;
- (3) The events, damages, and allegations described in the Cross-Claims.

The "Released Claims" include any and all (past, present, or future) possible claims or causes of action including but not limited to the following: negligence, gross negligence, strict liability, indemnification, contractual indemnification, common law indemnification, breach of contract, injunction, subrogation, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys' fees, costs, interest or expenses, or assigned claims that the City and Cross-Claimants had, have, or may claim now or in the future to have. The term "Released Claims" extends and applies to any and all claims or causes of action that have been raised or could be raised arising from or relating to, the same nucleus of operative facts as any of the claims alleged or asserted in the Complaint or in the Cross-Claims.

13. "Settlement" means the settlement of the Lawsuit, the settlement of the Cross-Claims, and the terms thereof contained in this Settlement Agreement.

II. RELIEF TO PLAINTIFF AND CROSS-PLAINTIFFS

As full consideration for the Released Claims, within sixty (60) days of the Effective Date, Geo shall make, or cause to be made, a one-time payment to the City, in the amount of \$400,000.00 (the "Settlement Payment").

III. RELIEF TO DEFENDANTS

In consideration for the Settlement Payment, the City does hereby release, dismiss, hold harmless, and forever discharge the Defendants from any and all Released Claims. The City specifically agrees to file a notice of dismissal of the Lawsuit with prejudice, with each Party bearing its own attorney's fees and costs, within five (5) days of receipt of the Settlement Payment.

IV. RELIEF TO GEO

In consideration for the Settlement Payment, and dismissal of the Lawsuit by the City, the Cross-Claimants do hereby release, dismiss, hold harmless, and forever discharge Geo, and its insurance carriers, including specifically Interstate and Trisura from any and all Released Claims and claims of breach of contract, contribution, indemnification, subrogation claims, claims for contractual or extra-contractual damages, claims for common law or statutory bad-faith, and/or any other claims whatsoever, whether arising in tort or contract, or arising under the common-law, regulatory law, statute, or any other body of law. The Cross-Claimants specifically agree to file a dismissal of the Cross-Claims with prejudice, with each Party bearing its own attorney's fees and costs, within five (5) days of the City's dismissal of the Lawsuit.

V. ATTORNEYS' FEES AND COSTS

Except as otherwise set forth in Section VII, each Party shall bear its own attorneys' fees and costs in connection with the Lawsuit and the Cross-Claims.

VI. NO ADMISSION OF LIABILITY

A. No Admission of Liability: The Parties understand and acknowledge that this Settlement Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Settlement Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims, the Cross-Claims, or defenses heretofore made, or an acknowledgment or admission by any of the Parties of any fault, liability, or wrongdoing of any kind whatsoever.

B. No Use of Agreement: Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to

be, or may be used as, an admission of, or evidence of, the validity of any claim made by the City or the Cross-Claimants; or (ii) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission by the Defendants in the Lawsuit, Cross-Claims, or in any proceeding in any court, administrative agency or other tribunal.

VII. GOVERNING LAW

This Settlement Agreement shall be governed by, construed, and interpreted in accordance with the laws of the State of Florida, regardless of the choice of law principles, and the Parties agree specifically that the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County, Florida, shall be the sole and exclusive jurisdiction and venue for the resolution of any and all disputes and actions arising out of or related to this Settlement Agreement. In any such action at law or in equity necessary to enforce the terms of this Settlement Agreement, or arising as a result of same, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorneys' fees, costs, and expenses, including specifically appellate attorneys' fees and costs, in addition to any other relief to which the prevailing party may be entitled.

VIII. MISCELLANEOUS PROVISIONS

A. Integration and Drafting: The Settlement Agreement was drafted and negotiated by counsel for the Parties at arm's length. It sets forth the entire agreement among the Parties with respect to resolution of the Lawsuit and Cross-Claims.

B. Construction: The Settlement Agreement has been drafted by all Parties and shall not be construed for or against any of the Parties solely by reason of its drafting.

C. Counterparts: The Settlement Agreement may be executed in counterparts, each of which will be considered an original. Executed signature pages are valid and enforceable whether they are originals or copies.

D. Authority to Execute Agreement: Each person executing the Settlement Agreement represents that he or she is authorized to execute it.

<THIS SECTION INTENTIONALLY LEFT BLANK>

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2024.

ATTEST:

CITY OF FORT LAUDERDALE, a Florida municipality

David R. Solomon, City Clerk

By: _____
Greg Chavarria, City Manager

Approved as to Form and Correctness:
Thomas J. Ansbro, City Attorney

By: _____
Thomas J. Ansbro
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2024.

Florida Power & Light Company

Print Name

STATE OF FLORIDA:
COUNTY OF _____:

I HEREBY CERTIFY that on this day, before me by means of _____ physical presence or _____ online notarization, the foregoing instrument was subscribed and acknowledged before me this _____ day of _____, 2024, by _____ for Florida Power & Light Company, who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

(SEAL)

Signature of Notary Public – State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2024.

Infratech Corporation

Print Name

STATE OF _____ :
COUNTY OF _____ :

I HEREBY CERTIFY that on this day, before me by means of _____ physical presence or _____ online notarization, the foregoing instrument was subscribed and acknowledged before me this _____ day of _____, 2024, by _____ for Infratech Corporation, who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

(SEAL)

Signature of Notary Public – State of _____

Print, Type, or Stamp Commissioned Name of Notary Public

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2024.

Florida Communication Concepts, Inc.

Print Name

STATE OF FLORIDA:
COUNTY OF _____:

I HEREBY CERTIFY that on this day, before me by means of _____ physical presence or _____ online notarization, the foregoing instrument was subscribed and acknowledged before me this _____ day of _____, 2024, by _____ for Florida Communication Concepts, Inc., who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

(SEAL)

Signature of Notary Public – State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 2024.

Geo & Yus Corporation

Print Name

STATE OF FLORIDA:
COUNTY OF _____:

I HEREBY CERTIFY that on this day, before me by means of _____ physical presence or _____ online notarization, the foregoing instrument was subscribed and acknowledged before me this _____ day of _____, 2024, by _____ for Geo & Yus Corporation, who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

(SEAL)

Signature of Notary Public – State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public