

SOLAR LEASE AND EASEMENT AGREEMENT

SOLAR LEASE AND EASEMENT AGREEMENT (“**Agreement**”) dated as of the ____ day of _____, 2015 (the “**Effective Date**”), by and between the City of Venice, a Florida municipal corporation (“**Lessor**”), and Florida Power & Light Company, a Florida corporation (“**Lessee**”). (Lessor and Lessee being sometimes referred to herein as a “**Party**” or collectively as the “**Parties**”).

WITNESSETH:

WHEREAS, Lessor is the owner of real property located in Sarasota County, Florida, as more fully described on the attached **Exhibit A (“Property”)** which exhibit is incorporated herein by reference; and

WHEREAS, the Property includes an eight thousand (8,000) square feet area of parking lot (the “**Parking Lot Area**”) as more particularly depicted on the attached **Exhibit B-1**, which exhibit is incorporated herein by reference (the “**Leased Area**”); and

WHEREAS, Lessee is the owner or lessee of certain renewable energy generating equipment, including, without limitation, solar panels, solar canopy structures, electrical power inverters, interconnection equipment, electrical wiring, wire management systems, electric meters, power distribution boxes, and racking systems (individually and collectively, the “**Equipment**”); and

WHEREAS, subject to the terms and conditions of this Agreement, Lessor has agreed to grant and lease to Lessee the leasehold and easement rights set forth herein.

NOW THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Grant.** Subject to the terms and conditions of this Agreement, Lessor hereby leases the Leased Area to Lessee for the purpose of constructing, installing, operating, inspecting, maintaining, repairing, enlarging and modifying within the Leased Area, removing, testing and replacing the Equipment and any additional equipment required to generate, measure, and transmit up to 100 kW of solar power, together with the following rights:

A. Prior to and during construction and installation of the Equipment, a temporary construction and laydown area adjacent to such Parking Lot Area as more particularly shown on the attached **Exhibit B-1**, for the placement and storage of materials and equipment (the “**Construction Laydown Area**”). Following completion of construction, Lessee will remove its equipment and materials from the Construction Laydown Area and return the surface of the Construction Laydown Area to substantially the condition existing on the Effective Date. Lessee shall construct and install the Equipment on the Leased Area only between May 15 and November 1, unless prior written approval from Lessor is obtained by Lessee. At no time shall Lessee’s activities interfere with Lessor’s use of the Parking Lot on the Leased Area unless prior

written approval from Lessor is obtained by Lessee. Lessor agrees to make reasonable efforts to coordinate Lessee's construction schedule with the public's use of the Leased Area.

B. The right, at Lessee's sole cost and expense, to install signage on the Equipment, the Leased Area and at the point of access to the Equipment for any and/or all of the following purposes: (i) identifying Lessee's ownership of the Equipment and prominently displaying Lessee's corporate name, trade name(s), trademark(s) and logo(s) on the Equipment on the Leased Area; (ii) identifying the existence of the Equipment on the Leased Area; (iii) instructing parties accessing the Leased Area to use caution so as not to damage the Equipment; and (iv) provide all necessary safety and hazard warnings. The location, design and content of such signage shall be subject to the prior approval of Lessor, which approval shall not be unreasonably withheld, conditioned or delayed. Such signage shall be removed by Lessee upon the final removal of the Equipment from the Leased Area in accordance with the terms of this Agreement.

C. Lessee is prohibited from trimming or removing any trees outside of the Leased Area without the prior written permission of Lessor. For any trees removed by Lessee within the Leased Area, Lessee will secure a Sarasota County tree permit and must replace such trees at an alternate, approved location in accordance with the requirements of the Sarasota County tree permit.

2. **Term.** Subject to and upon the terms and conditions set forth herein, in consideration of Ten Dollars (\$10.00) and other consideration the receipt and sufficiency of which are hereby acknowledged, the initial term of this Agreement shall commence on the Effective Date and continue for up to twelve (12) months (the "**Initial Construction Term**"), and shall automatically renew upon the same term and conditions as set forth herein for up to an additional twelve (12) months (the "**Extended Construction Term**") unless and until such time as Lessee delivers written notice to Lessor of Lessee's desire to either terminate the Agreement or commence the Operating Term of the Agreement. The Initial Construction Term and Extended Construction Term, if any, are hereafter collectively referred to as the "**Construction Term**". The "**Operating Term**" of the Agreement shall commence, on the Commencement Date (which for purposes of this Agreement shall mean the date in which the Equipment becomes operational as confirmed in writing by Lessee), and continue for a term ending on the thirtieth (30th) anniversary of the Commencement Date. The Operating Term and the Construction Term are collectively referred to herein as the "**Term**". For the purposes of this paragraph "operational" means the date on which Lessee has received any and all approvals, licenses, and permits necessary to operate the Equipment, the Equipment is installed on the Leased Area, is connected to the electric transformer, and is generating solar power. The expected life of the Equipment is thirty (30) years after the Commencement Date ("**Expected Equipment Life**").

3. **Rent.**

A. Lessee shall pay rent to Lessor annually, on or before July 15th of each year of the Term in the amounts set forth on the **Exhibit C**, which is incorporated herein by reference (the "**Rent**"). If the Term commences on a date other than July 15th, Lessee

shall pay Lessor upon commencement of the Term an amount equal to the pro-rata portion of the applicable Rent for such annual period. Rent shall be payable to Lessor at Lessor's address specified in Section 25 below. If this Agreement expires or is terminated at a time other than on the last day of an annual period, Rent shall be pro-rated as of the date of the Agreement's expiration or termination for any reason (other than a default by Lessee) and all prepaid Rent that has not yet accrued shall be refunded to Lessee within thirty (30) days of the date of the expiration or termination of the Agreement.

B. As additional consideration for Lessee's use of the Leased Area, Lessee shall donate all Renewable Energy Certificates (collectively, "RECs", and each a "REC"), generated as a result of Lessee's installation and operation of the Equipment on the Leased Area to Lessor as such RECs become available. Lessee will take such annual actions needed so that the RECs are Green-e certifiable in accordance with the Green-e Energy National Standard Version 2.3, as it may be modified from time to time (*the "Green-e National Standard"*), administered by the Center for Resource Solutions. A REC that is "Green-e certifiable" means that the REC (i) includes all Green-e attributes arising as a result of the generation of electricity by an eligible renewable resource associated with the REC, and (ii) meets all requirements set forth in Green-e National Standard to be certified. To the extent requested by Lessor, Lessee will promptly deliver to Lessor the Green-e attestation form with such changes as the Center for Resource Solutions may require. Lessor will be responsible for any and all costs associated with certifying the donated RECs.

4. **Installation and Location of Equipment.** Upon the Effective Date, Lessee, any permitting, licensing, regulating or approving entity, agency or authority, any utility intending to purchase electricity generated by the Equipment, and the agents, employees, contractors, subcontractors, consultants and representatives of each (collectively, the "Lessee Parties"), shall have access to the Leased Area including to inspect, construct, install, maintain, repair, enlarge, modify, remove, replace, test and operate the Equipment. Lessor shall cooperate as necessary with Lessee (at no cost to Lessor) in Lessee's efforts to obtain all permits, licenses and approvals necessary for the installation and operation of the Equipment. It is anticipated that the Equipment shall be installed on the Leased Area at approximately the locations shown on **Exhibit B-2**. Except as otherwise set forth herein, Lessee shall have no right to access or utilize any other portion of Lessor's Property other than the Leased Area and the Easements (as defined below). Lessee may locate and install the Equipment on the Leased Area as is reasonably necessary in order to achieve optimal solar power generation. Installation of the Equipment shall be in compliance with all applicable laws and ordinances and shall not result in the imposition or creation of a lien against any portion of the Leased Area.

5. **Access.** At all times during the Term, the Lessee Parties shall have twenty-four (24) hours-a-day, seven (7) days-a-week access to the Leased Area. The Lessee Parties will use commercially reasonable efforts to minimize any interference with Lessor's operations on the Property.

6. **Interference.** During the Term, Lessor shall not directly or indirectly cause or allow any of the following:

A. Placement of any equipment, sign, logo, structure, or improvements on or over the any portion of the Equipment;

B. Placement of any equipment, sign, structure or improvement in a location that interferes with any portion of the Equipment's exposure to sunlight, as determined by Lessee in its sole discretion;

C. Interference in any way with any portion of the Equipment's ability to generate solar power, as determined by Lessee in its sole discretion;

D. Any portion of the Equipment to become subject to any lien, mortgage, deed of trust, security agreement, mechanics lien or other such encumbrance;

E. Any portion of the Leased Area to be maintained, altered, modified, repaired, replaced or compromised in such a way that it can no longer support the Equipment or any portion of the Equipment or the use of any portion the Equipment is materially impaired, as determined by Lessee in its sole discretion; or

F. Interference with Lessee's access to any portion of the Leased Area.

G. Sale, transfer, assignment, lease or sublease any portion of the Leased Area, other than subject to Lessor's obligations under this Agreement.

Upon Lessor's violation of this Section 6 thirty (30) days following Lessor's receipt of written notice of such violation from Lessee, Lessee may terminate this Agreement if Lessor has failed to address said violation, in which case, (a) Lessor shall pay to Lessee the Termination Value and (b) Lessee may enter onto the Leased Area and remove the Equipment in accordance with the terms of this Agreement. As used herein, "**Termination Value**" shall mean, the sum of (i) the unamortized value of the Equipment as of the date of such termination (which is the net book value of the Equipment on Lessee's accounting books at the time of Lease termination as determined by Lessee in accordance with its accounting procedures) and (ii) the cost of removal of the Equipment in accordance with the terms of this Agreement.

7. **Maintenance; Repair; Replacement; Reinstallation.**

A. For the Term of this Agreement, Lessee shall operate and maintain the Equipment in good working order and in a safe, clean manner. In the event the Equipment is damaged or destroyed at any time during the Term, Lessee shall have the right, but not the obligation, to repair, replace or reinstall the Equipment or any portion thereof within the Leased Area. If Lessee decides not to repair, replace, or reinstall the damaged or destroyed Equipment, or stop operating the Equipment for any reason, Lessee shall remove the Equipment from the Leased Area within ninety (90) days of discontinuing operation of the Equipment. In the event the

damaged or destroyed Equipment presents a hazard to the Leased Area or the public, Lessee shall, within a reasonable period of time, repair, replace, reinstall, or remove the Equipment.

B. Lessor shall conduct, or cause to be conducted, all routine and necessary maintenance of the Leased Area and shall ensure that the Leased Area shall remain able to support the Equipment for the duration of the Term. If Lessor has to replace the improvements to the Leased Area during the Term of the Agreement, then Lessor shall provide at least ninety (90) days written notice to Lessee and Lessee will coordinate protection of Lessee's Equipment with Lessor as appropriate in order to accommodate Lessor's construction schedule for replacement of any Lessor improvements to the Leased Area.

C. If the Leased Area is totally destroyed by fire or other casualty, Lessee may by written notice, given not later than thirty (30) days after the date of such total destruction, terminate this Agreement, in which event Rent paid for the period beyond the date of destruction shall be refunded to Lessee.

D. Lessee shall have the right to repair, replace or reinstall any affected Equipment on the Leased Area following complete or partial destruction of Lessor's and Lessee's improvements to the Leased Area. Following complete destruction of Lessor's improvements to the Leased Area, Lessor may provide Lessee with an alternative location on the Property on which Lessee may install the Equipment; provided, however, that such alternative location shall be no less suitable for the generation of solar power than was the Leased Area immediately prior to the destruction thereof or damage thereto. If, however, Lessor is unable to provide an alternative location for the Equipment suitable to Lessee, in its sole discretion, Lessee shall have the right, upon written notice, to terminate this Agreement. If the new location is acceptable to Lessee, **Exhibit B-1** to this Agreement will be amended to reflect the new location of the Leased Area.

E. Lessee shall have the right, in its sole discretion, to remove all or a portion of the Equipment at any time during the Term, and such removal shall not constitute a default or be deemed a termination under this Agreement. Following the removal of any Equipment the Rent shall be proportionally adjusted.

8. **Taxes.** Lessor shall submit a copy of Lessor's annual statement for real property taxes, if any, to Lessee within ten (10 business days after the date that Lessor receives the statement from the taxing authority). Lessor shall pay when due all real property taxes for the Property. In the event that Lessor fails to pay any such real property taxes or other fees and assessments, Lessee shall have the right, but not the obligation, to pay such owed amounts and deduct them from Rent amounts due under this Agreement. Notwithstanding the foregoing, Lessee shall pay any personal property tax which is attributable to the Equipment or the Equipment's installation or placement on or within the Leased Area. Lessor hereby grants to Lessee the right to challenge, whether in a court, administrative proceeding, or other venue, on behalf of Lessor and/or Lessee, any personal property or other tax assessments that may affect the Leased Area as a result of the Equipment. If Lessor receives notice of any personal property or other property tax assessment against the Lessor which may affect Lessee or the Equipment and is attributable, in whole or in part, to the Equipment, Lessor shall provide timely notice of

such assessment to Lessee sufficient to allow Lessee to consent to or challenge such assessment. Further, Lessor will provide to Lessee any and all documentation in the possession of Lessor that is associated with such assessment and will execute any and all documents reasonably necessary to effectuate the intent of this Section.

9. **Insurance.** Lessee will maintain at all times during the Agreement, the insurance designated in this Article in accordance with the terms and conditions required by this Article. Such policy or policies shall be issued by companies authorized to do business in the State of Florida with a minimum A.M. Best financial rating of "A- VII".

- (i) Commercial General Liability Insurance with limits of three million dollars (\$3,000,000) per occurrence combined single limit for bodily injury and property damage.
- (ii) Business Automobile Liability Insurance with limits of two million dollars (\$2,000,000) per occurrence combined single limit for bodily injury and property damage.
- (iii) Workers' Compensation Insurance in compliance with Florida Statutes, Chapter 440. Coverage shall include Employer's Liability Coverage with limits of one million dollars (\$1,000,000) per accident.

Lessee has the right to meet the insurance designated in this Article through any combination of self-insurance, primary or excess coverage. Should Lessee self-insure, then prior to accessing the Premises, Lessee will provide Lessor with a letter of such self-insurance which will include a reference to publicly available financial statements and annual reports.

10. **Indemnification.** Lessee shall indemnify Lessor from and against all third party claims for personal injury or death to persons and damage to Lessor's personal property arising during the Term of this Agreement, to the extent arising from the negligence or willful misconduct of Lessee, its agents, employees, representatives, contractors, or sub-contractors up to One Million Dollars (\$ 1,000,000.00), except to the extent prohibited by applicable law. To the extent permitted under Florida law, including, but not limited to, the provisions of Section 768.28 of the Florida Statutes, if applicable, Lessor shall indemnify Lessee from and against all third party claims for personal injury or death to persons and damage to Lessee's personal property arising during the Term of this Agreement, to the extent arising from the negligence or willful misconduct of Lessor, its agents, employees, representatives, contractors, or sub-contractors up to One Million Dollars (\$ 1,000,000.00). In no event shall Lessor or Lessee be liable to the other for consequential, special, exemplary, punitive, indirect or incidental losses or damages, nor shall any parent, subsidiary, affiliate or employee of Lessor or Lessee have any liability under this Agreement. Lessor and/or its insurer shall not, without the prior written consent of Lessee, which consent will not be unreasonably withheld, enter into the settlement or compromise of any claim brought against the Lessee which is the subject of indemnification under this Agreement. Lessee and/or its insurer shall not, without the prior written consent of Lessor, which consent will not be unreasonably withheld, enter into the settlement or compromise of any claim brought against the Lessor which is the subject of indemnification

under this Agreement. This paragraph shall survive the expiration or earlier termination of this License Agreement, or any renewal term thereof.

11. **Equipment to Remain Personal Property of Lessee.** The Equipment is and will remain the property of Lessee, its successors or assigns, regardless of its use or manner of attachment to the Leased Area. Lessor agrees to execute such further documentation as is reasonably necessary to ensure that the Equipment does not constitute, and is not deemed to be, a fixture attached to the Leased Area. Except as expressly set forth in this Agreement, Lessor will have no right, title, or interest in the Equipment, and no right to purchase or otherwise acquire title to or ownership of the Equipment, and Lessor hereby expressly disclaims any right, title or interest in or to the Equipment, whether arising by lien, by operation of law, or otherwise.

12. **Subordination.** Lessor will secure a subordination and non-disturbance agreement or non-disturbance agreement from each Lessor mortgagee or lienholder or tenant in form and substance satisfactory to Lessee, which provides that such mortgagee or lienholder or tenant will not disturb Lessee's possession or rights under this Agreement, or terminate this Agreement so long as Lessor is not entitled to terminate this Agreement or Lessee's leasehold interest in the Leased Area.

13. **Quiet Enjoyment.** Lessor covenants and warrants to Lessee that (i) Lessor has full right, power and authority to execute this Agreement, (ii) it has good and unencumbered title to the Leased Area free and clear of any liens, mortgages or other encumbrances, except those set forth on the attached Schedule 1, and (iii) execution and performance of this Agreement will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Lessor. Lessor represents and warrants (i) that there are no agreements with third parties that may adversely affect the Equipment's exposure to sunlight and (ii) that it will not enter into any such agreements during the Term. Lessor covenants that at all times during the Term, Lessee's quiet enjoyment of the Leased Area or any part thereof shall not be disturbed as long as Lessee is not in default under this Agreement beyond any applicable grace or cure period.

14. **Disclosure.** Lessor discloses that a Venice Museum building is scheduled to be constructed north of the Leased Area in accordance with the plan attached hereto as **Exhibit E**. Lessee has reviewed such plan for the Venice Museum building and acknowledges that its construction, as disclosed by the Lessor in the attached plan, will not interfere with Lessee's Equipment.

15. **Easements.** In addition to the Leased Area, Lessor hereby agrees to grant to Lessee and its successors and assigns for the Term of this Agreement, a ten feet (10') wide access, distribution and transmission easement in substantially the form of the attached **Exhibit F** connecting the Leased Area to Lessee's existing easement along Turin Avenue, with the exact location of such easement to be determined by mutual agreement of the Parties, for the purposes of accessing the Equipment for construction, installation, operation, inspection, maintenance, repair, enlargement, modification, removal, testing and replacement of the Equipment, and for the installation of wire, poles, conduit and related facilities necessary for the connection of the Equipment to the electrical grid (collectively, "**Easements**").

16. **Default by Lessee.** The happening of any one or more of the following events shall be events of default under this Agreement:

A. The failure of Lessee to pay any installment of Rent or other charge or money obligation herein required to be paid by Lessee within fifteen (15) calendar days after written notice of such default from Lessor to Lessee, or

B. The failure of Lessee to fully perform any other of its covenants under this Agreement within sixty (60) calendar days after written notice of such default from Lessor to Lessee, provided, however, if such non-monetary failure cannot reasonably be cured within such sixty (60) days period, Lessee shall not be in default if Lessee has started and is diligently pursuing the cure to completion within such sixty (60) calendar days period.

17. **Lessor's Remedies.** Upon an event of default by Lessee as set forth in Section 16 of this Agreement, then in addition to and not by way of limitation of the exercise by Lessor of any and all rights and remedies Lessor may have at law or in equity, except as provided for herein,, Lessor's remedies for events of default by Lessee shall include the following:

A. Upon an event of default for non-payment of Rent as set forth in Section 16(A) above, Lessee shall pay to the Lessor interest daily on the unpaid amount at the annual rate of eight percent (8%) ("**Interest**").

B. Upon an event of default as set forth in Section 16(B) above, Lessor may perform, or cause to be performed, (except for performing any obligation of Lessee in Section 7.A or performing any action that may impact, affect or alter any of the Equipment) on behalf and at the expense of Lessee, any or all of the undertakings or obligations as to which Lessee is in default, in which event Lessee will reimburse Lessor for such costs and expenses, within forty-five (45) days following Lessee's receipt of Lessor's invoice and supporting documentation.

C. Upon any uncured event of default by Lessee under Section 16 that remains unresolved ninety (90) days following Lessee's receipt of Lessor's written notice advising that, (i) for a default relating to the operation or maintenance of the Equipment, in the opinion of a qualified independent engineer secured by Lessor, the default complained of remains uncured (a copy of the independent engineer's report shall be provided to Lessee with the notice); and ii) for all other, non-operational defaults, in Lessor's opinion, the default remains uncured, and (iii) the specific actions necessary to cure, in each case, following expiration of the original cure period together with the supporting documentation regarding same, and upon the expiration of such additional ninety (90) day period, Lessor shall have the right to terminate this Agreement without penalty and have the Equipment removed from the Leased Area by a qualified, licensed contractor, in which event Lessee will reimburse Lessor for all costs and expenses associated with removal of the Equipment forty-five (45) days following Lessee's receipt of Lessor's invoice and supporting documentation. In such event, Lessor shall use its best efforts not to damage the Equipment during removal from the Leased Area and will return the Equipment to Lessee when Lessee reimburses Lessor for costs and expenses associated with the removal of the Equipment.

18. **Default by Lessor.** The failure of Lessor to fully perform any term, provision, or covenant of this Agreement within sixty (60) calendar days following written notice of such default from Lessee to Lessor, provided, however, that if such default cannot be cured with such sixty (60) calendar days period, Lessor shall not be in default if Lessor has started and is diligently pursuing the cure to completion within such sixty (60) calendar days period. In the event of a natural disaster impacting Lessor, Lessee shall provide reasonable extensions of time to Lessor to resolve any issues related to the Leased Area constituting a default by Lessor under this Agreement.

19. **Lessee's Remedies.** Upon an event of default by Lessor as set forth in Section 18 of this Agreement, then in addition to and not by way of limitation of the exercise by Lessee of any and all rights and remedies Lessee may have at law or in equity Lessee shall have the right, at its election, to cure such default or cause such default to be cured at Lessor's sole cost and expense. Lessee may deduct such amounts owed by Lessor to Lessee from Rent due under this Agreement.

20. **Termination.** Lessee may terminate this Agreement at any time for any reason, upon thirty (30) days prior written notice to Lessor.

21. **Removal.** At the end of the Term, as it may be extended, or upon Lessee's abandonment of the Equipment for twelve (12) consecutive months, or upon the earlier termination of this Agreement by Lessee, Lessee shall continue to have the right of reasonable access to the Leased Area for a period of ninety (90) additional days in order to remove the Equipment, and repair and restore the affected portions of the Leased Area to substantially the same condition as existed on the Effective Date of this Agreement, at Lessee's sole cost and expense; provided, however, that if Lessee fails to remove such Equipment within six (6) months following such expiration of the Agreement, or twelve (12)-month abandonment of the Equipment or termination of the Agreement by Lessee, Lessor may remove such Equipment without damage thereto and be reimbursed by Lessee for the cost of such Equipment removal within forty-five (45) days following Lessor's submittal of its invoice and complete supporting documentation of such removal costs and expenses.

22. **Tax Credits, Financial Incentives, Sale of Energy.** Installation and operation of the Equipment on the Leased Area may result in the availability of federal and/or state tax credits, and other financial incentives (collectively hereinafter "**Incentives**"). Lessee is and shall be the sole recipient and beneficiary of any and all such Incentives, which shall be distributed, disbursed and/or assigned in Lessee's sole discretion. Lessor shall have no right to any Incentives, except as otherwise agreed to in writing by Lessee. Furthermore, any and all solar power electricity produced by or relating to the Equipment ("**Energy**"), and the right to utilize and/or sell the same, shall be the sole property and right of Lessee. Lessor shall have no right to utilize the Energy, to purchase the Energy from Lessee, to sell the Energy, or to engage in any "net metering" involving the Energy.

23. **Assignment; Leasehold Financing.**

A. In addition to the assignment of Lessee's rights in this Agreement to Lessee's lender, Deutsche Bank Trust Company Americas (formerly known as Bankers Trust Company), which assignment may occur freely and without Lessor's consent, each Party shall have the right to freely assign its rights and obligations under this Agreement at any time to an affiliate of the assigning Party without the consent of the other. Any sale or lease of the Property, or of a portion of the Property which includes the Leased Area, shall be subject to this Agreement, which Lessor may freely assign to such purchaser or lessee of the Leased Area with at least thirty (30) days' prior notice to Lessee, but without Lessee's consent. The terms and conditions of this Agreement will inure to the benefit of and be binding upon the respective successors and assigns of the Parties.

B. Lessor acknowledges that Lessee's interests under this Agreement and in the Equipment are and will be encumbered by Lessee's existing mortgage. Additionally, Lessee may, upon notice to Lessor, mortgage or grant a security interest in this Agreement and the Equipment, and may assign this Agreement and the Equipment to any of Lessee's future mortgagees or holders of security interests, including their successors or assigns (Lessee's existing mortgagee and any future Lessee mortgagees or security interest holders are collectively referred to herein as the "Mortgagees"), and such Mortgagees shall have the right, but not the obligation, to assume Lessee's rights and obligations under this Agreement. In such event, Lessor shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Lessor agrees to notify Lessee and Lessee's Mortgagees simultaneously of any default by Lessee and to give Mortgagees the same right to cure any default as Lessee, except that the cure period for any Mortgagees shall not be less than thirty (30) calendar days after receipt of the default notice, as provided in Section 15 of this Agreement. All such notices to Mortgagees shall be sent to Mortgagees at the address specified by Lessee. Failure by Lessor to give Mortgagees such notice shall not diminish Lessor's rights against Lessee, but shall preserve all rights of Mortgagees to cure any default as provided in Section 15 of this Agreement.

24. **Condemnation.** In the event of condemnation of some or all of the Leased Area, Lessor and Lessee shall each be entitled to pursue their own separate awards with respect to such taking, as their respective interests appear. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation.

25. **Notices.** All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to this Agreement shall be in writing, signed by the notifying Party, or officer, agent or attorney of the notifying Party, and shall be deemed to have been effective upon delivery if served personally, including but not limited to delivery by messenger, overnight courier service or by overnight express mail, or upon posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Lessor: City of Venice
401 West Venice Avenue

Venice, Florida 34285
Attn: Ed Lavalley, City Manager

To Lessee: Florida Power & Light Company
700 Universe Boulevard, EX 1/JB
Juno Beach, Florida 33408
Attn: Vice President,
Development and External Affairs, Office of Clean Energy

The address to which any notice, demand, or other writing may be delivered to any Party as above provided may be changed by written notice given by such Party.

26. **Memorandum of Lease.** It is specifically understood and agreed by both Parties hereto that a Memorandum of Lease in substantially the form of the attached **Exhibit D** will be executed by the Parties and recorded in the Public Records of the county in which the Leased Area is located, indexed in the land records of that office in the names of both Parties hereto and will be a matter of public record.

27. **Miscellaneous.**

A. **Entire Agreement; Modification; Waiver.** All of the representations and obligations of the Parties are contained herein and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a Party unless in writing, signed by that Party or a duly authorized agent of that Party empowered by a written authority signed by that Party. The waiver by either Party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision by the same Party, or of any other provision or condition of the Agreement. No waiver shall be implied by delay or any other act or omission of either Party.

B. **Governing Law.** This Agreement shall be subject to and governed by the laws of the State of Florida, without regard to its conflict of laws principles. The Parties agree that any action or proceeding arising out of or related in any way to this Agreement shall be brought solely in a court of competent jurisdiction in the State of Florida. Venue shall be in Sarasota County, Florida. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. The prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.

C. **Severability.** Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

D. **Authority.** Each Party represents to the other that it has complete authority to enter into this transaction.

E. **Counterparts.** This Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

F. **Binding.** This Agreement shall be binding and inure to the benefit of the Parties and their respective successors and assigns.

G. **Publicity.** Lessor acknowledges and agrees that Lessee shall have the right (i) to issue press releases regarding use of the Equipment on the Leased Area and to publicize Lessee's involvement to Lessee's customers and to the public; (ii) to use Lessor's name in Lessee's press releases, publicity and advertising; and (iii) to take and display photographs of the Equipment and Leased Area in its advertising and promotional materials; (iv) take members of the public on tours of the Equipment and the Leased Area following five (5) business days' advance written notice from Lessee to Lessor. Lessor shall not make any public announcement or publication concerning, related to or connection with this Agreement (or any activity related to this Agreement) unless Lessee approves in writing such announcement or publication, which such approval may be withheld by Lessee in its sole discretion.

H. **Force Majeure.** The Parties shall be excused from performing their respective obligations under this Agreement, and shall not be liable in damages or otherwise, if and to the extent that they are unable to perform, or are prevented from performing, by a Force Majeure, provided that: (i) the non-performing Party, as promptly as practicable after the occurrence of the Force Majeure, but in no event later than thirty (30) days thereafter, gives the other Party written notice describing the particulars of the occurrence; (ii) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure; (iii) the non-performing Party uses good faith and commercially reasonable efforts to remedy its inability to perform; and (iv) as soon as the non-performing Party is able to resume performance of its obligations excused as a result of the occurrence, the non-performing Party shall give prompt written notification thereof to the other Party. As used herein, "**Force Majeure**" shall mean causes beyond the reasonable control of and without the fault or negligence of the non-performing Party, including but not limited to acts of God, labor unrest (including but not limited to slowdowns, picketing, boycotts or strikes), flood, hurricane, storm, earthquake, fire, lightning, explosion, power failure or power surge, vandalism, theft, the cutting of power, transmission or other lines, wires or cables, epidemic, war, revolution, riot, civil disturbance, acts of terror, or sabotage, lack of materials or raw materials, delayed manufacture or shortage of cable, parts or Equipment, or unknown or unforeseen physical conditions at the site which differ materially from those originally encountered, which, in any of the foregoing cases, by exercise of due foresight such Party could not reasonably have expected to avoid and which, by the exercise of due diligence it is unable to overcome.

[Signatures on Next Page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

Lessor:

CITY OF VENICE

By: _____
John Holic, Mayor

Attest:

City Clerk

Lessee:

Florida Power & Light Company

By: *Pamela Rauch* PR
Pamela Rauch
Vice President,
Development and External Affairs,
Office of Clean Energy

Witness:

Matthew P. Nelson

Approved as to Form and Correctness:

David Persson, City Attorney

EXHIBIT A
to Agreement

Description of Property

The Property is commonly known as 200 Turin Street and 351 Turin Street, Venice, FL and more particularly described below:

All of Block 91A, VENEZIA PARK SECTION OF VENICE, according to the Plat thereof, as recorded in Plat Book 2, Page 168, of the Public Records of Sarasota County, Florida.

EXHIBIT B-1
to Agreement

Depiction and Legal Description of Leased Area &
Location of Construction Laydown Areas Adjacent to Leased Area

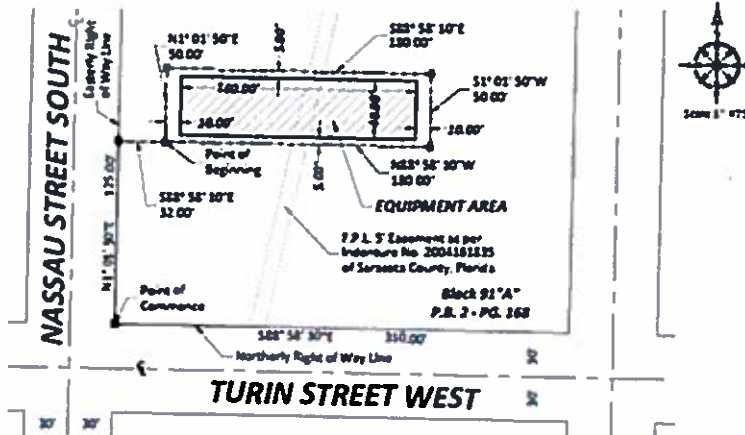
A portion of the Property more commonly known as 200 Turin Street and 351 Turin Street, Venice, FL, more particularly described below, being a Portion of Block 91-A, Venice-Venizia Park Section, according to the Plat thereof, as recorded in Plat Book 2, page 168, of the Public Records of Sarasota County, Florida, being more particularly described as:

COMMENCE AT THE SOUTHWEST CORNER OF SAID BLOCK 91-A, AS SHOWN ON SAID PLAT OF VENICE - VENIZIA PARK SECTION; THENCE NORTH 1 DEGREES 01 MINUTES 50 SECONDS EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID NASSAU STREET SOUTH A DISTANCE OF 125.00 FEET; THENCE SOUTH 88 DEGREES 58 MINUTES 10 SECONDS EAST A DISTANCE OF 32.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 1 DEGREES 01 MINUTES 50 SECONDS EAST A DISTANCE OF 50.00 FEET; THENCE SOUTH 88 DEGREES 58 MINUTES 10 SECONDS EAST A DISTANCE OF 180.00 FEET; THENCE SOUTH 1 DEGREES 01 MINUTES 50 SECONDS WEST A DISTANCE OF 50.00 FEET; THENCE NORTH 88 DEGREES 58 MINUTES 10 SECONDS WEST A DISTANCE OF 180.00 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION:

A EQUIPMENT AREA BEING ON A PORTION OF BLOCK 91-A, VENICE - YENIDA PARK SECTION AS PER PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 168, PUBLIC RECORDS OF SARASOTA COUNTY FLORIDA. SAID AREA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

COMMENCE AT THE SOUTHWEST CORNER OF SAID BLOCK 91-A, AS SHOWN ON SAID PLAT OF VENICE - YENIDA PARK SECTION. THENCE NORTH 1 DEGREE 01 MINUTE 50 SECONDS EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID NASSAU STREET SOUTH A DISTANCE OF 125.00 FEET, THENCE SOUTH 83 DEGREES 58 MINUTES 30 SECONDS EAST A DISTANCE OF 32.00 FEET TO THE POINT OF BEGINNING. THENCE NORTH 1 DEGREE 01 MINUTE 50 SECONDS EAST A DISTANCE OF 50.00 FEET; THENCE SOUTH 83 DEGREES 58 MINUTES 30 SECONDS EAST A DISTANCE OF 180.00 FEET; THENCE SOUTH 1 DEGREE 01 MINUTE 50 SECONDS WEST A DISTANCE OF 50.00 FEET; THENCE NORTH 83 DEGREES 58 MINUTES 30 SECONDS WEST A DISTANCE OF 180.00 FEET TO THE POINT OF BEGINNING.



This Sketch is not a Survey.

Not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

Global One Survey

796-486-8083

[Existing FPL ten feet (10') wide access, transmission & distribution easement shown in green on the image below]



EXHIBIT B-2
to Agreement

Equipment Placement on Leased Area

[Existing FPL ten feet (10') wide access, transmission & distribution easement shown in green]

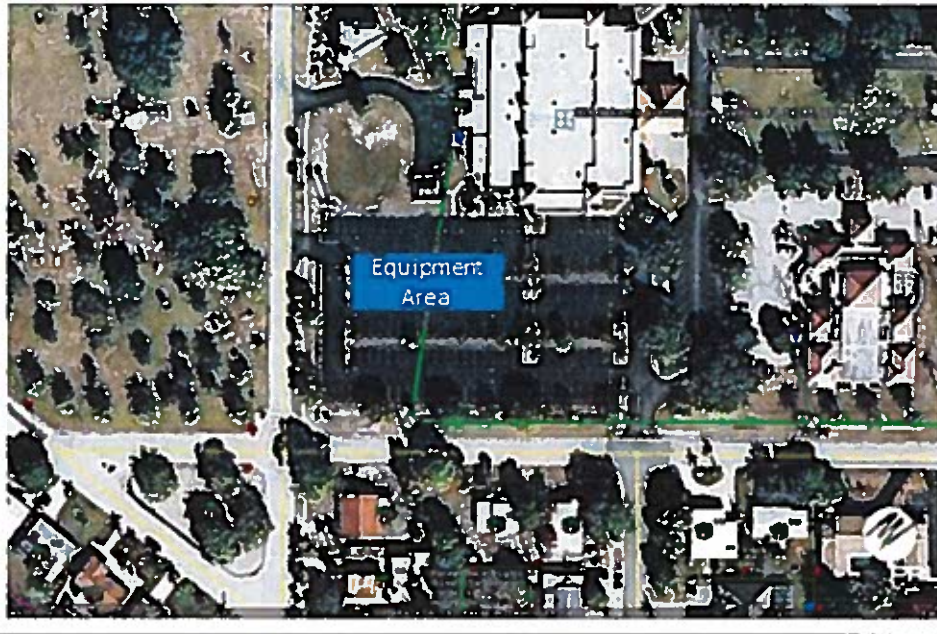


EXHIBIT C
to Agreement

Rent

Operating Period:

01-30

EIGHTEEN DOLLARS (\$18.00) per kW of installed capacity per year

EXHIBIT D
to Agreement

Memorandum of Lease

This instrument was prepared
by and after recording return to:

Patricia Lakhia, Esquire
Florida Power & Light Company
700 Universe Boulevard LAW/JB
Juno Beach, Florida 33408-2657

(This space reserved for recording information)

MEMORANDUM OF SOLAR LEASE AND EASEMENT AGREEMENT

This Memorandum of Solar Lease and Easement Agreement is executed and effective this _____ day of _____, 2015 by and between the City of Venice, Florida, a Florida municipal corporation (“**Lessor**”), with an address of 401 West Venice Avenue, Venice, FL 34285 and Florida Power & Light Company, a Florida corporation (“**Lessee**”) with an address of 700 Universe Boulevard, Juno Beach, FL 33408.

Witnesseth

1. **Lease.** Pursuant to that certain Solar Lease and Easement Agreement between Lessor and Lessee dated _____, 2015, Lessee has leased from Lessor in accordance with the provisions specified in the Lease, that certain real property situated in Sarasota County, Florida, and more particularly described in **Exhibit A** attached hereto and incorporated by reference (the “**Leased Area**”), for the purpose of constructing, installing, operating, inspecting, maintaining, repairing, testing, enlarging, modifying, removing, and replacing the solar Equipment (as defined in the Lease) and any additional equipment required to generate, measure, and transmit solar power.

2. **Lease Term.** The term of the Lease commences upon the Effective Date of the Lease and continues for up to twelve (12) months (the “**Initial Construction Term**”), and shall automatically renew upon the same term and conditions as set forth herein for up to an additional twelve (12) months (the “**Extended Construction Term**”) unless and until such time as Lessee delivers written notice to Lessor of Lessee’s desire to either terminate the Agreement or commence the Operating Term of the Agreement. The

“**Operating Term**” of the Agreement shall commence, on the Commencement Date (which means the date upon which the Equipment becomes operational as confirmed in writing by Lessee), and continue for a term ending on the thirtieth (30th) anniversary of the Commencement Date. The Operating Term, Initial Construction Term and the Extended Construction Term, if any, are collectively referred to herein as the “**Term**”.

3. **Notice.** This Memorandum is prepared for the purpose of recordation in order to give notice of the existence and Term of the Lease.
4. **Counterparts.** This Memorandum may be executed in one or more counterparts, each of which is an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Memorandum as of the Effective Date set forth above.

Lessor:

Attest:

CITY OF VENICE

City Clerk

By: _____
John Holic, Mayor

Lessee:

Witness:

Florida Power & Light Company

Hether P. Melgones

By: *Pamela Rauch*
Pamela Rauch
Vice President,
Development and External Affairs,
Office of Clean Energy

Approved as to Form and Correctness:

David Persson, City Attorney

Acknowledgment

STATE OF FLORIDA

) Palm Beach

COUNTY OF PALM BEACH

)

On this, the 14th day of Sept., 2015 before me, the undersigned notary public, personally appeared **Pamela M. Rauch, Vice President of Development and External Affairs, of Florida Power & Light Company**, personally known to me, to be the person who subscribed the foregoing instrument and acknowledged that she executed the same on behalf of said corporation and that she was duly authorized to do so.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Heather P. Meligonis
Print Name: Heather P. Meligonis
Notary Public, State of Florida
Notary Commission No.: FF042785
My Commission Expires: 12/6/17

EXHIBIT A
To Memorandum of Lease

LEASED AREA

A portion of the Property more commonly known as 200 Turin Street and 351 Turin Street, Venice, FL, more particularly described below, being a Portion of Block 91-A, Venice-Venizia Park Section, according to the Plat thereof, as recorded in Plat Book 2, page 168, of the Public Records of Sarasota County, Florida, being more particularly described as:

COMMENCE AT THE SOUTHWEST CORNER OF SAID BLOCK 91-A, AS SHOWN ON SAID PLAT OF VENICE - VENIZIA PARK SECTION; THENCE NORTH 1 DEGREES 01 MINUTES 50 SECONDS EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID NASSAU STREET SOUTH A DISTANCE OF 125.00 FEET; THENCE SOUTH 88 DEGREES 58 MINUTES 10 SECONDS EAST A DISTANCE OF 32.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 1 DEGREES 01 MINUTES 50 SECONDS EAST A DISTANCE OF 50.00 FEET; THENCE SOUTH 88 DEGREES 58 MINUTES 10 SECONDS EAST A DISTANCE OF 180.00 FEET; THENCE SOUTH 1 DEGREES 01 MINUTES 50 SECONDS WEST A DISTANCE OF 50.00 FEET; THENCE NORTH 88 DEGREES 58 MINUTES 10 SECONDS WEST A DISTANCE OF 180.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT E
to Agreement

Preliminary Plan for the Venice Museum Building

That certain area North of the Southern Parking lot / Leased Area of the Property more commonly known as 200 Turin Street and 351 Turin Street, Venice, FL, being a portion of the property more particularly described below:

All of Block 91A, VENEZIA PARK SECTION OF VENICE, according to the Plat thereof, as recorded in Plat Book 2, Page 168, of the Public Records of Sarasota County, Florida.

as shown in the attached sketch.



Google earth

feet 800
meters 200



EXHIBIT F
to Agreement

Access, Transmission and Distribution Easement Form

Prepared by and Return to
Following recording:
Patricia Lakhia, Esquire
Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, Florida 33408

Parcel ID# _____

EASEMENT
(Corporate)

KNOW ALL MEN BY THESE PRESENTS that The City of Venice, Florida, a Florida municipal corporation of the County of Sarasota and State of Florida in consideration of the sum of One Dollar and No Cents (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, does hereby grant to the FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of the State of Florida, whose address is P.O. Box 14000, Juno Beach, Florida 33408-0420, and to its successors and assigns (the term "assigns" meaning any person, firm or corporation owning by way of assignment all rights under the Agreement or a portion of such rights with the Grantee or its other assigns retaining and exercising the other rights), an easement forever for a right-of-way, ten feet (10') in width, to be used for the construction, operation and maintenance of one or more overhead and underground electric transmission and distribution lines, including but not limited to, wires, poles, "H" frame structures, towers, cables, conduits, anchors, guys, roads, trails and equipment associated therewith, attachments and appurtenant equipment for communication purposes and one or more pipelines, and appurtenant equipment for the transmission of substances of any kind (all of the foregoing hereinafter referred to as "facilities"), over, under, in, on, upon and across the lands of the Grantor situated in the County of Sarasota and the State of Florida and being more particularly described as follows:

See Exhibit "A" attached hereto and made a part hereof

together with the right and privilege from time to time to reconstruct, inspect, alter, improve, enlarge, add to, change the voltage, as well as the nature or physical characteristics of, replace, remove or relocate such facilities or any part of them upon, across, over or under the above-described right-of-way with all rights and privileges necessary or convenient for the full enjoyment or the use thereof for the herein described purposes, including, but not limited to, the right to cut and keep clear all trees and undergrowth and other obstructions within said right-of-way and on lands of Grantor adjoining said right-of-way that may interfere with the proper construction, operation and maintenance of such facilities or any part of them, the right to mark the location of any underground facilities by above ground and other suitable markers and the right of ingress and egress for personnel and equipment of Grantee, its contractors, agents, successors or assigns over the adjoining lands of the Grantor, for the purpose of exercising and enjoying the rights granted by this easement and any or all of the rights granted hereunder.

The Grantor, however, reserves the right and privilege to use the above-described right-of-way for agricultural and such other purposes except as herein granted or as might interfere or be inconsistent with the use, occupation, maintenance or enjoyment thereof by Grantee or its successors or assigns, or as might cause a hazardous condition; provided, however, and by the execution and delivery hereof Grantor so expressly agrees that no portion of the right-of-way shall be excavated, altered, obstructed, improved, surfaced or paved without the prior written permission of the Grantee, or its successors or assigns, and no building, well, irrigation system, structure, obstruction or improvement (including any improvements for recreational activities) shall be located, constructed, maintained or operated over, under, upon or across said right-of-way by the Grantor, or the heirs, personal representatives, successors or assigns of Grantor.

By the execution hereof, Grantor covenants that it has the right to convey this easement and that the Grantee and its successors and assigns shall have quiet and peaceful possession, use and enjoyment of this easement and the rights granted hereby.

IN WITNESS WHEREOF, the Grantor has executed this Agreement this ____ day of _____, 20____.

Grantor :

CITY OF VENICE

By: _____
John Holic, Mayor

Attest:

City Clerk

Grantee:

Florida Power & Light Company

By: _____
Pamela Rauch

Witness:

Exhibit “A” to Access, Transmission and Distribution Easement

(Legal description to be determined by the parties and provided following survey)