

EXCLUSIVE LICENSE AND RIGHT TO NEGOTIATE AGREEMENT

THIS EXCLUSIVE LICENSE AND RIGHT TO NEGOTIATE AGREEMENT (this “**Agreement**”) is made as of March 2, 2011 (the “**Effective Date**”) by and between the School Board of Sarasota County whose address for purposes of notices is: 1960 Landings Boulevard, Sarasota, Florida, 34231 (“**Owner**”), and Florida Power & Light Company, a Florida corporation, whose address for purposes of notices is: 700 Universe Blvd., Attn: Development, Juno Beach, FL 33408 (“**Operator**”). Each of Owner and Operator shall hereinafter be referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. Owner owns real property in Sarasota County, Florida, described in the attached **Exhibit A (“Property”)**.

B. Operator desires to potentially license space on the rooftop of the Owner’s Premises located on the Property for the installation of solar panels, which will generate clean electrical power for delivery to the power grid (“**Solar Project**”).

C. Operator wishes to hold an exclusive license to investigate the feasibility of developing a Solar Project on the Property and to hold exclusive rights to negotiate a license with Owner for a Solar Project on the Property.

C. Owner is willing to grant Operator an exclusive license for use of the Property and an exclusive right to negotiate a solar rooftop license for the Property with Owner upon the terms and conditions set forth in this Agreement.

AGREEMENT

1. **Exclusive License.** Owner grants Operator an exclusive license to come upon the Property and to use the Property for any and all purposes necessary or convenient to study the feasibility of solar energy conversion on the Property. This exclusive license includes, but is not necessarily limited to, the right to construct, use, repair, replace, relocate, and remove equipment, machines, and vehicles upon the Property, and the right to perform wildlife, archaeological or any other analysis or studies on the Property. Operator will submit for written permission to Owner prior to commencing activities described herein which require ANY attachment to, or penetration of, roof coverings and/or building envelope. Operator shall have the right of ingress to and egress from the Property by means of roads and lanes thereon if existing, or otherwise by such route or routes as Operator determines are necessary on the Property. Operator shall be responsible for all expenses associated with its activities on the Property. This exclusive license may be exercised by Operator and by Operator’s employees, agents, contractors, and invitees. Operator will exercise its rights under this Section in a way that will minimize interference with Owner’s existing use of the Property. Operator will indemnify Owner from any claims, loss, or damage suffered by Owner because of Operator’s exercise of its rights under this Section.

2. **Term.** The rights granted in this Agreement begin on the Effective Date and end on the earlier of (a) 7/1/13, or (b) the date Owner and Operator execute a solar rooftop license agreement as provided in Section 3 of this Agreement.

3. **Exclusive Right to Negotiate License.** In consideration of the time and expense to be incurred by Operator in evaluating the solar resources on the Property, Owner grants Operator an exclusive right to negotiate a solar rooftop license for the Property with Owner during the term of the Agreement. During the term of this Agreement, Owner will not sell, contract to sell, assign, license, or otherwise transfer or encumber the Property, unless it is transferred subject to Operator's rights under this Agreement. In no event will Owner, during the term of this Agreement, grant a license, license, option, licensehold, or other rights to the Property to any other utility or entity seeking, directly or indirectly, to develop the Property for solar energy conversion, or negotiate with any other party with respect to such rights, nor permit any third party to undertake activities on the Property to evaluate the solar resources of the Property.

4. **Miscellaneous Provisions.**

4.1 **Notices.** All notices, payments, and other communications to the Parties under this Agreement must be in writing and be delivered by (a) certified or registered mail (return receipt requested), or (b) personal delivery, or (c) telecopier to the addresses set forth in the Preamble, or to such other addresses as the Parties may, by such notice, specify from time to time.

4.2 **Waiver.** The failure of a Party to insist on the strict performance of any provision of this Agreement or to exercise any right, power, or remedy upon a breach of any provision of this Agreement will not constitute a waiver of any provision of this Agreement or limit the party's right to enforce any provision or exercise any right in the future.

4.3 **Modification.** No modification of this Agreement is valid unless made in writing and executed by the Parties.

4.4 **Successors and Assigns.** Except as otherwise provided in this Agreement, 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, including any estate, guardian, conservator, personal representative, or transferee of a Party.

4.5 **Time of the Essence.** Time is of the essence of this Agreement. If either Party neglects or refuses to carry out the terms and provisions of this Agreement, the other Party shall be entitled to such remedies for breach of contract as may be available under applicable law, including the remedy of specific performance.

4.6 **Attorneys' Fees.** If either Party commences litigation to enforce or interpret its rights under this Agreement, the prevailing party will recover, in addition to all other costs and damages, reasonable attorneys' fees as determined by the judge at trial or upon any appeal or petition for review.

4.7 **Owner's Authority.** Owner is the sole owner of the Property and has the unrestricted right and authority to execute this Agreement and to grant to Operator the rights granted hereunder. Each person signing this Agreement on behalf of Owner is authorized to do so, and all persons or entities having any ownership interest in the Property are signing this Agreement as Owner. When signed by Owner, this Agreement constitutes a valid and binding agreement enforceable against Owner and Owner's successors and assigns in accordance with its terms.

4.8 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument.

4.9 **Recording.** At Operator's request, Owner and Operator will execute a memorandum of this Agreement, and Operator may, at its expense, record such memorandum in the County Real Estate Records.

4.10 **Entire Agreement.** This Agreement, including attached Exhibits, contains the entire and final understanding of the parties and supersedes all prior agreements and understandings between the parties related to the subject matter of this Agreement.

4.11 **Governing Law.** This Agreement shall be governed and interpreted by, and construed in accordance with, the laws of the State of Florida. Sole and exclusive jurisdiction to enforce this Agreement shall be in the Twelfth Judicial Court in and for Sarasota County, Florida.

4.12 **Background Screening Requirements.** Operator agrees that before any of its employees or agents will be permitted on school grounds while students are present, it will coordinate with Owner to ensure that it will be in compliance with the requirements of Sections 1012.467 and 1012.468, Florida Statutes.

The Parties have executed this Agreement as of the Effective Date.

Owner:

School Board of Sarasota County
1960 Landings Boulevard
Sarasota, Florida 34231

By: _____
Name: _____
Title: _____

Approved for Legal Content
February 28, 2011, by Matthews, Eastmoore,
Hardy, Crauwels & Garcia, Attorneys for
The School Board of Sarasota County, Florida
Signed: _____ASH_____

Operator:

Florida Power & Light Company,
A Florida corporation

By: _____

EXHIBIT A

Real Property Description