



## SunSmart Schools Emergency Shelter School Agreement

This Agreement ("Agreement") made and entered into by and between the University of Central Florida ("UCF"), by and on behalf of its Board of Trustees, for the benefit of the Florida Solar Energy Center ("FSEC"), with an office located at the Office of Research and Commercialization, 12201 Research Parkway, Suite 501, Orlando, FL 32826-3246 and The School Board of Sarasota County, Florida "the School", a political subdivision of the State of Florida and a body corporate pursuant to § 1001.40, whose address is 1960 Landings Boulevard, Sarasota, Florida, 34231, hereinafter referred to as "Board" for and on behalf of Atwater Elementary School, 4701 Huntsville Avenue, Florida 34288.

Whereas, UCF has been awarded a grant from the Florida Energy and Climate Commission to facilitate Florida's SunSmart Schools Emergency Shelter Program;

Whereas, the UCF has awarded the installation of photovoltaic systems for emergency systems to various Florida public schools and various other educational institutions throughout the State of Florida; and

Whereas, the University of Central Florida by and on behalf of its Board of Trustees on behalf of the Florida Solar Energy Center, desires to enter into an agreement with The School Board of Sarasota County on behalf of Atwater Elementary School for the installation.

1. **Recitals:** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.
2. **Term of Agreement:** The initial term of this agreement shall be from September 21, 2010, through March 30, 2012, unless otherwise agreed or terminated by the parties.
3. **Scope of Work:** The School agrees to the following program requirements:
  - A. The School agrees to accept the installation of an FSEC approved Photovoltaic (PV) system, data collection system and appropriate signage (which will be no larger than 2' x 3') at the school.
  - B. The School agrees to cooperate with utility personnel, contractors and FSEC staff members to facilitate the installation of the PV system and understands they will be responsible for allowing access to school property.
  - C. The School agrees to provide school personnel to supervise and assist FSEC personnel while on school property.

- D. In the event that an electrician is required to install a service panel for the shelter critical loads, the school agrees to oversee said electrician and notify FSEC when the work is satisfactorily completed.
- E. The School understands that the PV system must be connected to the utility grid in accordance with all applicable Florida Public Service Commission interconnection tariff requirements, the national electrical code and all applicable local codes.
- F. The School agrees to coordinate with the installer to locate a suitable location for the inverter within 250 ft. of the PV array.
- G. The School agrees to provide Internet access (T1, cable, etc) with a dedicated network port located in close proximity (within 5 feet) to the PV system inverter. The School is responsible for making the connection as described above, including the cost of hardware and labor.
- H. The School will coordinate with district IT personnel to allow the data monitoring connection from the data monitoring system to penetrate the School computer network firewall.
- I. The School agrees to allow FSEC to track the performance of the PV system's output for a minimum of five (5) years and make this data available to the general public. The School furthermore agrees to release any rights to this collected data.
- J. The School agrees to send two faculty members to attend a regional six-hour orientation workshop hosted by FSEC. The faculty member(s) will then facilitate a district in-service or onsite training for other teachers in the school district about renewable energy education curriculum and the Energy Whiz website.
- K. The School agrees to send a minimum of one facility personnel to attend a regional seven-hour facility manager workshop hosted by FSEC.
- L. The School will provide documentation of its progress and efforts in incorporating renewable energy education content into the curriculum – i.e. lessons plans, photos, event flyer, etc.
- M. The School will promote the SunSmart Schools Emergency Shelter Program through appropriate outreach events (i.e. open house) to educate the general community about the PV system and how it works.

**4. Assumption of Liability:** UCF assumes any and all risks of personal injury and property damage attributable to the negligent acts or omissions of UCF and its officers, employees, servants, and agents thereof while acting within the scope of their employment by UCF. The School assumes any and all risks of personal injury and property damage attributable to the negligent acts or omissions of School's officers, employees, servants, and agents, or other persons acting or engaged to act by School in furtherance of the obligations of School under this agreement. UCF warrants and represents that it is self-funded for liability insurance, both public and property, with said protection being applicable to officers, employees, servants, and agents while acting within the scope of their employment by UCF. UCF and School further agree that nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida or its agents and agencies to be sued; or (3) a waiver of sovereign immunity

of the State Florida beyond the waiver provided in Section 768.28, Florida Statutes.

**5. Power Purchase Obligation:** School Board, as the owner of Atwater Elementary School, shall be responsible for obtaining any interconnection agreement with Florida Power & Light.

**6. Waiver of Damages:** In no event will either party be responsible for any incidental damages, consequential damages, exemplary damages of any kind, lost goodwill, lost profits, lost business and/or any indirect economic damages whatsoever regardless of whether such damages arise from claims based upon contract, negligence, tort (including strict liability or other legal theory), a breach of any warranty or term of this agreement, and regardless of whether a party was advised or had reason to know of the possibility of incurring such damages in advance.

**7. Governing Law:** This Agreement and the rights of the Parties will be governed and construed in accordance with the laws of the Florida.

**8. Independent Contractor:** The relationship between the parties established by this Agreement is that of independent contractors. Nothing contained in this Agreement shall be applied, interpreted or construed to give either party the power to direct and control the activities of the other. This agreement may be terminated without cause by either party by giving a minimum of 30 days written notice to the other.

**9. No Third Party Beneficiaries:** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

**10. Venue:** The sole and exclusive jurisdiction for any action shall be in the Circuit Court, Twelfth Judicial Circuit, Sarasota County, Florida.

**11. Non-Discrimination:** The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

**12. Records:** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

**13. Entire Agreement:** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

14. **Amendments:** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

15. **Preparation of Agreement:** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

16. **Waiver:** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

17. **Compliance with Laws:** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

18. **Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

19. **Assignment:** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including, without limitation, the partial assignment of any right to receive payments from SBSC.

20. **Force Majeure:** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

21. **Severability:** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not affect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

22. **Notice:** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBSC:

Superintendent of Schools  
The School Board of Sarasota County, Florida  
1960 Landings Boulevard  
Sarasota, Florida 34231

With a Copy to:

Ken Marsh, Director  
Long Range Planning  
The School Board of Sarasota County, Florida  
1960 Landings Boulevard  
Sarasota, Florida 34231

To UCF

Mary B. Stanley  
Assistant Director  
University of Central Florida  
12201 Research Parkway, Suite 501  
Orlando, FL 32826-3246

23. **Captions:** The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

24. **Authority:** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

25. **Counterparts:** This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document.

The School Board of Sarasota County, Florida

By: \_\_\_\_\_  
Shirley Brown, Chair

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Lori White, Superintendent

Date: \_\_\_\_\_

Approved for Legal Content  
October 26, 2010, by Matthews, Eastmoore,  
Hardy, Crauwels & Garcia, Attorneys for  
The School Board of Sarasota County, Florida  
Signed: \_\_\_\_\_ASH\_\_\_\_\_

University of Central Florida

By: \_\_\_\_\_  
Mary B. Stanley, Assistant Director

Date: \_\_\_\_\_