



Greater Boca Raton Beach & Park District

300 South Military Trail, Boca Raton, Florida 33486
Telephone: (561) 417-4599 Telefax: (561) 347-3945
www.mybocaparks.org

Board of Commissioners

Craig F. Ehrnst
Steven M. Engel
Robert K. Rollins, Jr.
Susan Vogelgesang
Erin A. Wright

REGULAR MEETING of the BOARD OF COMMISSIONERS

March 6, 2017 ~ 5:15 P.M.

AGENDA

ROLL CALL:

CHANGES TO AGENDA:

PUBLIC REQUESTS:

APPROVAL OF MINUTES OF PREVIOUS BOARD MEETINGS:

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5. Patch Reef Park Update	

APPROVAL OF INVOICES: 39

REPORTS AND DISCUSSION ITEMS:

Executive Director
District Counsel
Commissioners

FUTURE AGENDA ITEMS:

ADJOURNMENT:

NOTICE: Anyone wanting to appeal an official decision made on any subject at the meeting must have a verbatim record of the meeting, and the appeal must include the testimony and evidence on which the appeal is based.

GREATER BOCA RATON BEACH & PARK DISTRICT
MINUTES OF A SPECIAL MEETING OF THE BOARD OF COMMISSIONERS
SUGAR SAND PARK - 300 SOUTH MILITARY TRAIL, BOCA RATON
February 13, 2017

The MEETING was called to order by CHAIRMAN Robert K. Rollins, Jr. at approximately 5:15 p.m.

COMMISSIONERS PRESENT: Craig F. Ehrnst
Steven M. Engel
Robert K. Rollins, Jr.
Susan Vogelgesang
Erin A. Wright

CHANGES TO AGENDA: - None

PUBLIC REQUESTS:

Mr. John Dalton
6200 NW 2nd Avenue, Boca Raton

Mr. Dalton, a Boca Teeca resident since 1995, gave a brief history of the various owners of the Ocean Breeze Golf Course. He looks forward once again to playing on the 27-hole course, commenting that "I won't have to keep my golf clubs in the trunk of my car; I'll just walk down the street."

Mr. Don Huber
360 NW 67th Street, Boca Raton

Mr. Huber is a long-time Boca Raton resident residing in San DeVance which is located at the northern end of the Ocean Breeze Golf Course property. He represents the Ocean Breeze Golf & Tennis Club Neighborhood Association (the "Association") consisting of 1,700 residential property owners in the Boca Teeca area. The mission of the Association is to enforce the existing Restrictive Deed Covenant which states that the golf course property is to remain a golf course in perpetuity. A lawsuit is in the process of being drafted and filed against Wells Fargo and Reduc LLC for violating the restrictive deed covenants; a lien will be placed on the property. Damages that have accrued will be assessed and adjudicated. The Association is not opposed to the District's plan to consider owning the property. He expressed concern over the purchase price being considered by the District.

Mr. Harold Chaffee
6200 NW 2nd Avenue, Boca Raton

Mr. Chaffee, President of Keep Golf in Boca, thanked the Board and the City for all of their efforts regarding the acquisition of the Ocean Breeze Golf Course; he hopes that the process is near completion. He commented that "this golf course will be the legacy we leave for our children and for generations to come".

No further Public Commentary was received

PURPOSE:

The purpose of the meeting is to discuss the acquisition of the Ocean Breeze Golf Course property. Mr. Arthur C. Koski, Executive Director responded to the five questions posed by Deputy City Manager George Brown in an e-mail dated December 1, 2016. He noted that the District obtained outside counsel to assist with issues relative to eminent domain proceedings to acquire the Ocean Breeze property.

Question #1 - Will the District consider/undertake eminent domain proceedings in order to acquire the Ocean Breeze Golf Course (assuming the City Council's concurrence or referendum approval, as required by the District's Enabling Legislation)?

Response:

The District has a power of eminent domain; however, the power is limited to the acquisition by eminent domain of recreational property. Outside counsel has concluded and advised that the District would not have eminent domain authority to acquire the hotel site, or the property that is appurtenant to the hotel. Since the acquisition of the hotel property is instrumental to the overall success of the 27-hole golf facility, Mr. Koski concluded that the District should pursue a Purchase and Sale Agreement to acquire the property directly from Lennar Homes without any conditions attached whatsoever.

Discussion focused on the issue of the value of the property. During the exchange process, a variety of appraisals were performed on the Ocean Breeze property that ranged from \$7 million to a high end appraisal of \$33 Million. Based upon the information that the District received from outside counsel, and given the variation of the prices of the appraisal valuations and the fact that the ultimate decision on the actual price to be paid under an eminent domain would be one that would be determined by a jury, it became quite apparent that if the District went the eminent domain route, the cost could exceed \$20 million without the hotel portion and appurtenant property. The District is not eligible to acquire this property through a "quick taking". The conclusion reached is that eminent domain is not the most prudent approach for the acquisition of the property.

Question #2 - If the District proceeds with the acquisition, would the District also seek to acquire the Inn/Social Center parcel (That parcel is not presently included in Lennar's proposal for purchase of the City's golf course in exchange for Ocean Breeze)?

Response: Yes, the District would seek to acquire the Inn/Social Center parcels. It is an essential part of making this project a success.

Question #3- If the District proceeds with acquisition (either directly or through the City), is the District able to acquire and operate the Ocean Breeze Golf Course within its existing budget and millage?

Response: Yes, based upon a financial analysis performed by the District's Financial Advisor, Mr. Merv Timberlake.

Question #4 – Will existing budgeted programs be maintained or will it be necessary to reallocate District funds in order to acquire/operate the Ocean Breeze Golf Course?

Response: No, it will not be necessary for the District to reallocate District funds for other projects. In fact, the District would like to receive consent from the City Council to develop construction drawings for DeHoernle Park Phase II.

Question #5 – Does the District have financial projections for the potential Greg Norman Golf Academy operation discussed in your letter of November 16, 2016?

No, currently negotiations are continuing with Greg Norman.

It was determined that the Ocean Breeze Golf Course would fit into a program that had an affiliation with Greg Norman. It is extremely difficult at this time to financially quantify the relationship, although the result will be positive.

Mr. Koski stated that the one thing Greg Norman felt was lacking at his facility in South Carolina was an on-site hotel. It has been represented to the District that a hotel chain may be willing to construct "at their expense" a hotel on the Ocean Breeze site.

Acquisition:

Mr. Koski stated that he a received a Purchase and Sale Agreement from Lennar Homes for the purchase of the entire Ocean Breeze property. It is an unconditional agreement, and not in any way conditioned upon the outcome of the sale of the City Municipal Golf Course [if Lennar is not the top bidder, the District can still purchase the Ocean Breeze property from Lennar]. The purchase price is \$24 million. The contract will have due diligence provisions and customary title insurance, presentations and warranties. Some edits are necessary relating to timing. Under its Enabling Legislation, the District does need the concurrence of the Boca Raton City Council to acquire the property.

The District will operate the property as a golf course and pro formas will be prepared to justify its operation. City staff concurs that the course can be profitable and that the Greg Norman affiliation will add to the success and revenue stream.

Valuation:

Mr. Koski stated that the 132 acre Sugar Sand Park property was acquired in 1988 for \$18 million. It would be difficult to put an accurate price on the worth of Sugar Sand Park today; but to the community the land and improvements are immeasurable. The same thought process applies to the 200 acres at Ocean Breeze.

Mr. Koski explained that the City of Boca Raton and this District are two separate entities, separated by law. No one should think that simply giving Lennar \$24 million gives them the

opportunity to increase their bid for the Municipal Golf Course - that is not the case. A great deal of the money that is going to Lennar under the Purchase and Sale Agreement has to go to Wells Fargo. Wells Fargo is on record in a letter to the City stating that the \$10 million that was part of the exchange is less than the amount of money that Lennar has to pay to Wells Fargo.

Mr. Koski stated that consideration should be given to what the property is worth to the community [200+ acres of open space/golf course, in addition to other amenities that could be put on the property]. In his opinion, he does not feel that the District is overpaying for the property as the property could be developed as a feature that will gain reputation throughout the country as one of the finest public golf facilities and recreational amenities in the U.S.

Mr. Koski recommends and requested that the Board consider the following **MOTION**:

MOTION was made by Commissioner Vogelgesang and seconded by Commissioner Engel to direct the Chairman to reply to the e-mail from Deputy Director George Brown dated December 1, 2016 that the District has evaluated the issues presented in the City's e-mail and requests the City's concurrence and support for the District to purchase the Ocean Breeze property for \$24 million.

Discussion:

Commissioner Vogelgesang inquired about securing financing for the acquisition.

Mr. Koski responded that he has been advised by Boca Raton City Manager, Leif Ahnell that the standard customary method that the District uses for obtaining funds for acquisitions of this type will be through an interlocal agreement. A draft of the interlocal agreement for the acquisition will be available for presentation at the joint City/District meeting scheduled for February 28th.

Commissioner Engel asked if the District looked into the cost to renovate the Ocean Breeze property.

Mr. Koski, who is also a professional civil engineer in the State of Florida since 1971, stated that he contacted the National Association of Golf Course Builders in Nebraska and obtained various necessary information. He reviewed the information with the Greg Norman Group after they visited the property, and everyone concurred that there is no need to "move dirt" or "reshape" the golf course; the layout of the 27 holes can remain "as is". The cost to renovate the course is estimated to be between \$8 to \$12 million which will include: a total re-do of all the "T" boxes and fairways; redoing all of the greens and sand traps; providing new cart paths and new landscaping. The planning process is estimated to take 15-18 months. The existing inn/social center, maintenance buildings, restroom areas and Pro Shop will all be demolished and rebuilt.

Commissioner Wright stated that one of her main concerns is parking and the morning and evening rush hour traffic on NW 2nd Avenue.

Mr. Koski offered that a tunnel underneath NW 2nd Avenue from the north side to the east side is a consideration as it would eliminate a great deal of the traffic and safety concerns.

Commissioner Vogelgesang asked about maintenance costs and if Greg Norman would be paying the District a flat fee.

Mr. Koski responded that negotiations are currently on-going with the Greg Norman Group, but most likely it would be a licensing agreement with Mr. Norman. Maintenance costs would be similar to those at the Municipal golf Course.

Commissioner Ehrnst asked if the community at Boca Teeca is ready to step up and help with any deed restrictions that may be needed to facilitate the vision outlined.

Mr. Koski advised that the Declaration of Restrictions of the Boca Teeca Country Club that were filed in September 1974, speaks to the land being utilized as a golf course facility. As long as the District intends to create this as a golf course facility, there will not be any objections from the Boca Teeca residents. In addition, the hotel site is a separate site which has the approved designation of a hotel.

MOTION UNANIMOUSLY APPROVED

ADJOURNMENT:

The meeting adjourned at 6:15 p.m.

Robert K. Rollins, Jr.

Chairman

Susan Vogelgesang

Secretary-Treasurer

GREATER BOCA RATON BEACH & PARK DISTRICT
MINUTES OF A REGULAR MEETING OF THE BOARD OF COMMISSIONERS
SUGAR SAND PARK - 300 SOUTH MILITARY TRAIL, BOCA RATON
Tuesday, February 21, 2017

The MEETING was called to order by CHAIRMAN Robert K. Rollins, Jr. at approximately 5:15 p.m.

COMMISSIONERS PRESENT: Craig F. Ehrnst
Steven M. Engel
Robert K. Rollins, Jr.
Erin A. Wright

CHANGES TO AGENDA: Due to the absence of Commissioner Vogelgesang, item number six under Regular Business "District Succession Planning" will be addressed at the March 6, 2017 Board meeting.

VIDEO OF SUGAR SAND PARK SCIENCE PLAYGROUND:

Ms. Briann Harms, Assistant Director, presented a video of the science playground which was made by Florida Current of South Florida.

Mr. Koski shared with the Commissioners an e-mail he received earlier today from Mr. Mike Fichera, District Project Inspector. The message assigned dates for various items that need to be accomplished for the completion of the project. A final walk-through and opening is envisioned for March 18th, 2017. Ms. Harms is scheduled to meet with City staff to discuss opening day activities.

Commissioner Rollins suggested placing an article in the newspaper to inform former volunteers who were involved in the initial build, and others who may want to volunteer at this time, to contact the District office.

PUBLIC REQUESTS:

Mr. Steve Finvar
787 Havana Drive, Boca Raton

Mr. Finvar, President of Boca Jets/Lacrosse, thanked the Commissioners for approving the installation of artificial turf at Patch Reef Park. He expressed interest in moving the project forward as expeditiously as possible and requested a project timeline.

Chairman Rollins advised that he would provide a project timeline when available.

Mr. Larry Portnoy
15758 Menton Bay Court, Delray Beach

Mr. Portnoy, representing G.L. Homes, advised that a second public records request has been made to the District regarding the Ocean Breeze property. He reviewed several of the items addressed at the February 13th meeting, questioning why the two appraisals provided by G.L. Homes for the Ocean Breeze property in the amounts of \$3.2 million and \$5 million were not mentioned. In

addition, why the appraisal performed by Callaway & Price at the request of the District was not mentioned or presented to the Board prior to the vote. He took issue with the justification for the purchase price of \$24 million. Noting that the inn could not be acquired under eminent domain proceedings, he submitted an appraisal from Aucamp, Dellenback and Whitney valuing the inn at \$2,150,000. He felt that the deed restrictions on the property are being ignored and that there are contingencies on the property that force the value of that property beyond any reasonable expectation.

Chairman Rollins asked Mr. Portnoy if he was a resident of Delray Beach (response: yes) and if he worked for G.L. Homes (response: yes) and what his interest was in the purchase transaction.

Mr. Portnoy stated that G.L. Homes is trying to buy the Boca Municipal Golf Course. The feeling is that a direct competitor is being rewarded unfairly by a gross overpayment to acquire a golf course they do not even own, and then that money will be used to increase their offer to match that of G. L. Homes.

Chairman Rollins advised Mr. Portnoy that the District has nothing to do with the sale of the Boca Municipal Golf Course.

APPROVAL OF MINUTES OF PREVIOUS BOARD MEETINGS:

MOTION was made by Commissioner Engel and seconded by Commissioner Wright to approve the minutes of the regular meeting of February 6, 2017.

MOTION UNANIMOUSLY APPROVED

REGULAR BUSINESS:

1. Patch Reef Park - Approval of Motre' Work Order

Mr. Koski stated that Motre' was retained by the District two years ago to do a master plan for the subject park. The master plan was presented, but no action was taken as there were some concerns about the cost of some of the improvements. During discussions of artificial turf, Motre' brought in Stantec Engineering as they had extensive local experience in that area. At a recent meeting, Motre' was asked to provide the District a work order with Stantec for them to work jointly on the artificial surface project. Motre' has advised the District that they are at an impasse in attempting to negotiate an arrangement with Stantec.

To avoid involvement in the Motre'/Stantec dispute, Mr. Koski recommends that the Board authorize District staff to immediately advertise an RFP for a consultant with a specific background in the field of artificial surfaces. Responses will be distributed to the Board. Based upon the number of responses received, the Board can then determine if it wants to short list from the paperwork, or have brief interviews with each of the firms. The Board can then rank the firms and select them under the Consultants' Competitive Negotiation Act. The anticipated timeframe is as follows: 60 days for design; 60 days for construction. A new consultant will be on board by April 15; construction drawings completed by May 15th; project completed July 15, 2017.

MOTION was made by Commissioner Ehrnst and seconded by Commissioner Engel to advertise an RFP for Architectural/Engineering Services for the installation of artificial surfaces at Patch Reef Park.

MOTION UNANIMOUSLY APPROVED

2. Field House - Approval of Engagement of Charles Putman and Associates-Land Planners

Mr. Koski, referencing the second Field House at Sugar Sand Park being designed by Barretta & Brewer, stated that the project requires a small amount of land planning. He furnished a proposal from Charles Putman and Associates who will be acting as a sub-contractor to Mr. Barretta, and recommends engaging the firm.

MOTION was made by Commissioner Ehrnst and seconded by Commissioner Engel to engage Charles Putman and Associates.

MOTION UNANIMOUSLY APPROVED

3. Capital Projects Update

Mr. Koski provided an updated priority list of District capital projects. He reviewed the current status of each project and the estimated costs and completion dates. This priority list will be updated on a monthly basis.

Sugar Sand Park Science Playground

The estimated completion date is March 18, 2017. Final estimated costs will be provided at the next update.

Swim & Racquet Center

Plans are in the City for permit review. Construction time is estimated at 15 months. Anticipate bidding the project in April 2017; contracts to be awarded in May 2017; estimated completion date is January 1, 2019; estimated cost is \$4, 500,000.

DeHoernle Park Phase II

Nothing new to report.

Sugar Sand Park Second Field House

The updated schematic design is approximately 50% complete. Schematic design plans should be completed by June 1st, at which time Mr. Barretta will make a presentation to the Board. Permitting will take approximately 60 days; the construction period will take 18 months. Commencement of project construction is based on priorities. Estimated project completion is based on the start date, and is up to the discretion of the District. The estimated cost is \$7,000,000.

Patch Reef Park

Artificial surface planning is complete. An RFP for design services is being prepared. Design for artificial surfaces should take approximately 60 days. No permitting is anticipated. Construction time of 90 days, but efforts will be made to try to lessen the time to meet the schedule with the completion dates announced today. The estimated cost is \$3,500,000.

Due to time constraints, Chairman Rollins felt that it would be prudent to have the contractor engage additional labor to accelerate and complete the project at an earlier date.

Ocean Breeze

Contract negotiations continue for the acquisition of the property.

Lake Wyman

A presentation on the subject project was made to the Board by the City on February 6, 2017. No further update at this time.

Ocean Strand

No direction has been given; project on hold.

Waterfront Study

The project will begin in March 2017. Ms. Jennifer Bistyga, City of Boca Raton Coastal Program Manager has advised that the District will be contacted to be a participant in the Waterfront Study.

4. Sugar Sand Park Science Playground- Approval of NuJak Construction Change Order

Mr. Koski furnished a Change Order from NuJak Construction for the construction of the Space Station in the amount of \$438,648.10. If the work on the Space Station is done, a March 18th opening is attainable. The space station is an above ground facility which was required to be rebuilt as a result of the need to rebuild certain posts and to replace the foundation. Mr. Koski recommends approval of the Change Order.

Commissioner Ehrnst stated that he met with Mr. Koski, Mr. Brewer and Mr. Barretta at the playground and realizes it is a complicated project. He fully supports the change order for the completion of the space station; however, he wants everyone to be aware that change orders now total \$2,382,000.

MOTION was made by Commissioner Ehrnst and seconded by Commissioner Wright to approve the NuJak Construction Change Order in the amount of \$438,648.10.

MOTION UNANIMOUSLY APPROVED

5. Ocean Breeze Update

Mr. Koski reviewed that on February 13, 2017, the Board voted on the proposed contract received from Lennar Homes which included a purchase price of \$24 million. He has since significantly edited the contract, and has forwarded it back to Lennar's Counsel, Greenburg Traurig. The changes he made were mostly related to "timing". He has spoken to Lennar representatives, and they do not have any problems with the changes; he expects to have the complete documents returned to him sometime this week.

Mr. Koski advised that for the completion of this acquisition, two legal issues have to be resolved: 1) The District needs the consent of the City of Boca Raton to make the acquisition [on February 14th, the City Council consented to the acquisition by resolution]; and 2) the City needs to make

the acquisition funds available to the District. In conversations with City staff, it was determined that, at this time, the City is unsure if it will provide the funds through a bond issue or through general reserves. In either case, the City of Boca Raton would have to pass an ordinance which would require an initial introduction and then final adoption (two meetings).

A joint City/District meeting is scheduled for February 28th, to discuss funding from the City to the District. Complicating the matter is the fact that the City Council is not scheduled to meet until March 28th [after the Elections]. Therefore, the earliest closing on the transaction would take place in late spring. Mr. Koski will adjust the purchase agreement to reflect those particular dates and to provide the appropriate protection to the District in the event the funds were unavailable.

There is some discussion about a resolution that would discuss an interlocal agreement between the City and the District which could be introduced at the February 28th meeting. If the interlocal agreement is acceptable to both parties, the resolution could be introduced at the February 28th meeting, thus making an interlocal agreement a binding document.

Commissioner Ehrnst stated that he was contacted by Mr. Howard Weiss who represents Lennar Homes. In addition, he received a copy of the legal notice from G.L. Homes which raises questions about the appraisal and valuation of the property.

Mr. Koski stated that the District asked its appraiser [Callaway & Price] for a letter of appraisal; not for a full appraisal. The letter states that in its current condition, the value of the property is approximately \$7 million.

Commissioner Wright asked if the purchase price could be negotiated. Mr. Koski advised that in conversations with Lennar, he has been advised that if the number is not \$24 million, there is no deal.

Commissioner Ehrnst felt that the Board has to consider whether it is urgent to purchase the property now, or just wait. There is no questions that the community wants to preserve the golf course. He inquired as to how the purchase would impact ad valorem taxes and the millage rate.

Mr. Koski responded that the purchase is not only an endeavor with an expense, but that there is a revenue component. Financial and usage information will be forthcoming from the City and the Greg Norman Group to try and project what the District can anticipate (revenue vs. expenses).

Mr. Merv Timberlake, District Financial Advisor, has advised that repayment of the purchase price to the City would not impact the District's current projects based upon the existing budget and millage.

Commissioner Wright inquired about the deed restrictions on the property. Mr. Koski stated that he was in agreement with the conclusions reached by the City Attorney regarding the deed restrictions on the property.

APPROVAL OF INVOICES:

MOTION was made by Commissioner Engel and seconded by Commissioner Wright to approve the invoices as presented totaling \$577,824.25

MOTION UNANIMOUSLY APPROVED

REPORTS AND DISCUSSION ITEMS:

Executive Director- None

District Counsel-None

Commissioners

Ocean Strand

Commissioner Wright inquired if there was any possible way to open Ocean Strand to the public, specifically, walkers or bicyclists.

Commissioner Rollins advised that from an insurance standpoint, there needs to be some type of regulation on the use of the property to protect individuals and avoid personal injury. Mr. Koski will discuss the matter with Mickey Gomez to see what can be accomplished.

Beach Clean-up

Commissioner Ehrnst stated he was contacted by Ms. Rachel Wellman of Boca High School who would appreciate the opportunity to partner with the District or City to participate in some type of activity for Earth Day in April. Ms. Harms will follow-up on the matter

FUTURE AGENDA ITEM

February 28 - Joint meeting with Boca Raton City Council

ADJOURNMENT:

MOTION was made by Commissioner Engel and seconded by Commissioner Ehrnst to adjourn the meeting at 6:32 p.m.

MOTION UNANIMOUSLY APPROVED

Robert K. Rollins, Jr.

Chairman

Susan Vogelgesang

Secretary-Treasurer

MASTER SOLAR LEASE AND EASEMENT AGREEMENT

THIS MASTER SOLAR LEASE AND EASEMENT AGREEMENT (“**Agreement**”) is made this ____ day of _____, 20____ (“**Effective Date**”), by and between [REDACTED] (“**Lessor**”) and Florida Power & Light Company, a Florida corporation (“**Lessee**”). Lessor and Lessee are sometimes individually referred to herein as a “**Party**” or collectively as the “**Parties**”.

WITNESSETH:

WHEREAS, Lessor is the fee simple owner of those certain real properties located in [REDACTED] County, Florida, as more fully described on **Exhibit A** attached hereto and incorporated herein by this reference (singularly and collectively referred to as, “**Property**”);

WHEREAS, in the future, upon their mutual agreement, the Parties may desire to amend **Exhibit A** to include additional Property within the scope of this Agreement;

WHEREAS, within each Property, on the terms and conditions set forth in this Agreement, Lessor desires to permit Lessee to utilize the areas depicted on the attached **Exhibit B** for the purposes described in this Agreement (each site singularly and collectively referred to as “**Demised Premises**”);

WHEREAS, to the extent the Parties agree to add additional Property to the scope of this Agreement, the Parties also desire to amend **Exhibit B** to specify what shall constitute the Demised Premises in any Property subsequently added to the scope of this Agreement; and
and

WHEREAS, Lessee desires to lease the Demised Premises from Lessor and Lessor desires to lease the Demised Premises to Lessee for the installation of certain renewable energy generating equipment, including, without limitation, solar panels, solar canopy structures, electrical power inverters, interconnection equipment, electrical wiring, underground conduit, collection lines, wire management systems, charging stations, electric meters, metering and switch cabinets, power distribution boxes and racking systems (individually and collectively, the “**Equipment**”) upon the terms and conditions 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. **Demised Premises; and Addition of Property and Demised Premises.**

(a) **Demised Premises.** Lessor hereby demises and leases the Demised Premises to Lessee, and Lessee hereby leases the Demised Premises from Lessor, upon the terms, covenants and conditions set forth in this Agreement.

(b) **Addition of Property and Demised Premises.** Upon the mutual agreement of each of the Parties, including as to the type of Equipment that will be installed, **Exhibits A and B** may be amended to include additional Property and Demised Premises. In such case, all terms and conditions set forth in this Agreement shall apply to such additional Property and Demised Premises, provided that the Construction Term and Operating Term, as hereunder defined, shall be calculated from the date the Parties agree in writing to the addition of specific Property and Demised Premises and, in the case of the Operating Term, six (6) months thereafter.

2. **Use.** The Demised Premises may be used by Lessee for the purposes of constructing, installing, operating, inspecting, maintaining, repairing, enlarging, modifying, removing, testing and replacing the Equipment and any additional equipment required to generate, measure, and transmit solar power, together with the following rights:

(a) **Access.** The right of ingress and egress to and from the Demised Premises over the Property necessary to access the Demised Premises.

(b) **Signage.** The right, at Lessee's sole cost and expense, to install signage on and around the Equipment and on, over, under, through and across the Demised Premises at the point of access to the Equipment (to the extent allowed by applicable law) 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 and all structures supporting the Equipment; (ii) describing the Equipment and its purpose and operation to interested parties accessing the Demised Premises (i.e. telling the distributed solar generation story); (iii) instructing parties accessing the Demised Premises 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 Demised Premises in accordance with the terms of this Agreement. Subject to **Section 6(a)** below, Lessor shall have the right, at Lessor's sole cost and expense to co-brand on Lessee's signage, provided that Lessor first obtains Lessee's prior written consent, which Lessee may approve or withhold such consent in its absolute and sole discretion.

(c) **Power Monitoring.** The right to incidental access and use of Lessor's electrical systems for purposes of powering Lessee's computer equipment used in monitoring the power generated from the Equipment at the Demised Premises. Additionally, if, and so long as, Lessor provides an internet access system for use by guests and other visitors to the Property, Lessor will permit Lessee to use, at no cost to Lessee, such internet access system in connection with Lessee's power monitoring system described in the preceding sentence, and Lessor shall provide Lessee with the necessary access codes and other necessary information to use such internet access system; provided, however, Lessor does not warrant the stability, security or continuous operation of any such internet access system.

3. **Term.**

(a) **Construction Term.** The construction term of this Agreement shall commence on the Effective Date and continue for six (6) months (“**Construction Term**”). The Construction Term shall end six (6) months after the Effective Date unless before that date Lessee notifies Lessor that Lessee elects to terminate this Agreement or that the Commercial Operations Date has occurred. For purposes of this Agreement, “**Commercial Operations Date**” shall mean the date on which the Equipment becomes operational as determined by FPL. For the purposes of this section, “operational” means the date on which Lessee has (i) received any and all approvals, licenses, and permits necessary to operate the Equipment, (ii) the Equipment is installed on the Demised Premises and is connected to the electric transformer, and (iii) the Equipment is generating solar power

(b) **Operating Term.** The “**Operating Term**” of this Agreement shall commence on the day immediately following the last day of the Construction Term, and continue for a term ending on the fifteenth (15th) anniversary of the Commercial Operations Date. The Operating Term and the Construction Term are collectively referred to herein as the “**Term**”. The Term of this Agreement shall automatically renew for three (3) consecutive five (5) year periods unless Lessee provides Lessor with written notice of its intention to terminate this Agreement within thirty (30) days prior to the expiration of the then applicable Term.

4. **Installation and Location of Equipment.** From and after the Effective Date, Lessee, as well as 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**”), have ingress, egress and access to the Demised Premises at all times during the Term, for and 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. Except as otherwise expressly set forth herein, Lessee shall have no right to access or utilize any other portion of Lessor’s Property other than the Demised Premises. Lessee may locate and install the Equipment on the Demised Premises 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 Demised Premises.

5. **Access.** At all times during the Term, Lessee, Lessee Parties and/or any persons specifically designated by Lessee shall have access to the Demised Premises twenty-four (24) hours-a-day, seven (7) days-a-week. Lessee Parties will use commercially reasonable efforts to minimize any interference with Lessor’s use and operations on the Property.

6. **Interference.** During the Term, Lessor shall not directly or indirectly Interfere, or cause or permit to be caused any Interference, with the Equipment. For purposes of this Agreement “**Interfere**” and “**Interference**” shall mean interference with Lessee’s use, operation, access, maintenance or repair of the Equipment on a sustained basis as a result of Lessor’s direct or indirect actions, including without limitation the following:

(a) Placement of any equipment, sign, logo, structure, or improvements on, across, under or over any portion of the Equipment without the prior written consent of Lessee, which Lessee may approve or withhold such consent in its absolute and sole discretion;

(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 not caused by Lessee;

(e) Any portion of the Demised Premises 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 impaired, as determined by Lessee in its sole discretion;

(f) Disruption with Lessee's access to any portion of the Demised Premises; and/or

(g) Sale, transfer, assignment, lease or sublease any portion of the Demised Premises, other than subject to Lessor's obligations under this Agreement.

In the event of that Lessor Interferes or causes Interference, Lessee will provide Lessor with a written summary documenting such Interference ("**Interference Notice**"). In the event Lessor is in violation of any of the above-listed items in this section, and such violation continues for fifteen (15) days or more following Lessee's delivery of an Interference Notice, then in addition to the rights granted Lessee under Section 19 below, Lessee may elect to terminate this Agreement immediately upon delivering written notice to Lessor.

7. **Mechanics' Liens.**

(a) **Lessee's Actions.** Installation of the Equipment shall not result in the imposition or creation of a lien against any portion of the Property. If any mechanic's, contractor's or material supplier's lien is asserted against all or any part of the Property in connection with Lessee's installation, construction or operation of the Equipment or any related activities, Lessee shall indemnify Lessor against any loss, claim, damage or expense, including attorneys' fees, that Lessor may incur in connection with such assertion of such lien, and, if any notice or statement of lien is filed or recorded in any public office in connection with Lessee's installation, construction or operation of the Equipment or any related activities, Lessee shall cause such notice or statement of lien to be released or bonded off, within thirty (30) days from the date Lessor gives written notice of such lien. Lessee's obligations under this section shall survive the expiration or earlier termination of this Agreement.

(b) **Lessor's Actions.** If any mechanic's, contractor's or material supplier's lien is asserted against all or any part of the Demised Premises or Property by anyone having provided labor, services, material or equipment at the request of Lessor, and if Lessee is made a party to any action or proceeding to foreclose any such asserted lien, Lessor shall indemnify Lessee and hold it harmless against any loss, claim, damage or expense, including attorneys' fees, that Lessee may incur in connection with such action or proceeding, including paying any judgment that may be entered therein.

8. **Maintenance; Repair; Replacement; Reinstallation.**

(a) During the Term, Lessee shall, at Lessee's sole cost and expense, operate and maintain the Equipment in good working order and in a safe, clean manner.

(b) In the event the Equipment or any portion thereof 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 Demised Premises.

(c) Lessor shall conduct, or cause to be conducted, all routine and necessary maintenance of the Demised Premises and shall ensure that the Demised Premises shall remain able to support the Equipment for the duration of the Term. If Lessor has to replace or engage in widespread repair of the paving or other improvements located on or near the Demised Premises during the Term, then Lessor shall provide Lessee with at least ninety (90) days prior written notice and Lessee will coordinate protection of the Equipment with Lessor as appropriate in order to accommodate Lessor's construction schedule.

(d) If the Demised Premises are substantially destroyed by fire or other casualty, Lessee may by written notice, given not later than thirty (30) days after the date of such destruction, terminate this Agreement, in which event, any insurance proceeds received by Lessor in connection therewith shall be paid to Lessee.

(e) Lessee shall have the right, at Lessee's sole cost and expense, to repair, replace or reinstall any affected Equipment on the Demised Premises following complete or partial destruction of Lessor's improvements to the Demised Premises and/or Lessee's Equipment thereon. Following complete destruction of Lessor's improvements to the Demised Premises, Lessor may provide Lessee with a mutually acceptable alternative location on or off the Property approved by Lessee on which Lessee may install the Equipment. If, however, Lessor is unable to provide an alternative location for the Equipment that meets such standard, and Lessee does not approve such alternate site, Lessee shall have the right, upon written notice to Lessor, to terminate this Agreement. If such new location is acceptable to Lessee, **Exhibit B** (and, if necessary, other exhibits) to this Agreement will be amended to reflect the new location of the Demised Premises.

(f) 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.

9. **Taxes.** Lessor shall submit a copy of the annual statement for real property taxes for the Property to Lessee within ten (10) business days after the date that Lessor receives such 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 recover the amount so paid from Lessor 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 Demised Premises. 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 Demised Premises 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 if a right to challenge the assessment is then available under applicable law. 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, provided that Lessor shall not be required to incur any expense or any risk of material liability.

10. **Insurance.** Lessee will maintain at all times during the Term, the insurance designated in this section in accordance with the terms and conditions required by this section. 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".

(a) Commercial General Liability Insurance with limits of Three Million Dollars (\$3,000,000) per occurrence combined single limit for bodily injury and property damage.

(b) Business Automobile Liability Insurance with limits of Two Million Dollars (\$2,000,000) per occurrence combined single limit for bodily injury and property damage.

(c) 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 section through any combination of self-insurance, primary or excess coverage. Should Lessee self-insure, then prior to accessing the Demised 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.

Lessor and Lessee, for themselves and their respective insurers, waive any right to assert any claim against the other Party, to the extent such claim is covered by the waiving party's insurance. Each Party shall waive all rights of subrogation of their respective insurers.

11. **Indemnification.** Lessee shall indemnify Lessor from and against all losses, claims, damages or expenses, including attorneys' fees, incurred by Lessor in connection with any third party claims for personal injury or death to persons and damage to Lessor's personal property arising during the Term, 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). Lessor shall indemnify Lessee from and against all losses, claims, damages or expenses, including attorneys' fees, incurred by Lessee in connection with any third party claims for personal injury or death to persons and damage to Lessee's personal property arising during the Term, 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). 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. Neither Lessor nor Lessee, nor their respective insurer, shall, without the prior written consent of the other Party, which consent will not be unreasonably withheld, enter into the settlement or compromise of any claim brought against the indemnified Party which is the subject of indemnification under this Agreement. This section shall survive the expiration or earlier termination of this Agreement.

12. **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 Demised Premises. 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 Demised Premises. 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.

13. **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 Demised Premises. If Lessor hereafter determines to mortgage all or any part of the Property and the proposed mortgage document does not acknowledge the priority of this Agreement, then prior to execution of such mortgage Lessor will secure a subordination and non-disturbance agreement or non-disturbance agreement in commercially reasonable form from the mortgagee, which provides that such mortgagee or lienholder 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 interest in the Demised Premises.

14. **Quiet Enjoyment.** Lessor represents and warrants to and covenants with Lessee that: (a) Lessor has full right, power and authority to execute this Agreement; (b) Lessor has good and unencumbered title to the Demised Premises free and clear of any liens, mortgages or

other encumbrances, except those set forth on the attached **Exhibit C**; (c) Lessor's 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; (d) there are no agreements with any third parties that may adversely affect the Equipment or the Equipment's exposure to sunlight, (e) during the Term, Lessor will not enter into any agreements with any third parties that may adversely affect the Equipment or the Equipment's exposure to sunlight, and (f) all times during the Term, Lessee's quiet enjoyment of the Demised Premises or any part thereof shall not be disturbed.

15. **Default by Lessee.** The happening of any one or more of the following events, upon the expiration of any applicable notice and cure period, shall be events of default under this Agreement:

(a) The failure of Lessee to fully perform any other of its covenants under this Agreement within sixty (60) calendar days after Lessee receives written notice of such default from Lessor; provided, however, if such non-monetary default cannot reasonably be cured within such sixty (60) day time period, Lessee shall not be deemed in default hereunder if Lessee has commenced to cure such default within said sixty (60) day time period and thereafter continues with diligence to complete the cure of such default.

16. **Lessor's Remedies.** Lessor's exclusive remedies for events of default by Lessee shall be limited to the following:

(a) Upon an event of default as set forth in Section 16(a) above, and after the expiration of the applicable notice and cure period, Lessor may perform, or cause to be performed, on behalf and at the expense of Lessee, any or all of the undertakings or obligations as to which Lessee remains in default, in which event Lessee will reimburse Lessor for such actual reasonable costs and expenses, within forty-five (45) days following Lessee's receipt of Lessor's invoice and supporting documentation. Notwithstanding the preceding sentence, Lessor may not perform any obligation of Lessee under Section 8(a) or take any other action that relocates or physically alters any of the Equipment that at the time is in operable condition.

(b) Lessor may exercise any other remedy available at law or in equity except for ejectment, termination or rescission of this Agreement, all of which are expressly excluded.

In any action or proceeding to enforce any of Lessee's obligations under this Agreement, Lessor may recover all costs and expenses, including reasonable attorneys' fees, incurred by Lessor in connection with such action or proceeding or any appeal therefrom or review thereof.

17. **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; provided, however, that if such default cannot reasonably be cured within such sixty (60) day time period, Lessor shall not be deemed in default hereunder if Lessor has commenced to cure such default within said sixty (60) day time period and thereafter continues with diligence to complete the cure of such default.

18. **Lessee's Remedies.** Upon an event of default by Lessor as set forth in Section 18 above, and after the expiration of the applicable notice and cure period, 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 may: (a) cure the default and be reimbursed by Lessor within thirty (30) days following Lessor's receipt of Lessee's invoice and supporting documentation of costs and expenses associated with curing the default; (b) terminate this Agreement; and/or (c) exercise any remedy Lessee may have at law or in equity. In any action or proceeding to enforce any of Lessor's obligations under this Agreement, Lessee may recover all costs and expenses, including reasonable attorneys' fees, incurred by Lessee in connection with such action or proceeding or any appeal therefrom or review thereof.

Notwithstanding the foregoing, in the event that Lessor Interferes or causes Interference with the Equipment within the first five (5) years of this Agreement, and such Interference is not cured within the fifteen (15) day time period set forth in Section 6 above, in addition to the remedies set forth in this Section 19, Lessor shall also be required to reimburse Lessee any and all costs incurred or expended by Lessee in connection with the removal of the Equipment from the Demised Premises, together with any and all costs incurred or expended by Lessee in connection with either, at Lessee's sole option, (i) the disposal of the Equipment, or (ii) the relocation of the Equipment to another part of the Demised Premises, Property or other real property, as applicable, whether or not such replacement real property is owned by Lessor

19. **Termination.** Either Party may terminate this Agreement at any time and for any reason, upon delivery of at least thirty (30) days prior written notice to the other Party; provided however, in the event that Licensor terminates this Agreement within the first ten (10) years of this Agreement, Licensor shall pay Licensee an amount equal to Twenty Thousand and No/100 Dollars (\$20,000.00) per each individual unit of Equipment on the Leased Premises at the time of termination in order to reimburse Licensee for a portion of Licensee's removal and relocation costs associated removing and relocating such Equipment from the Licensed Premises.

20. **Removal.** Upon the expiration or earlier termination of the Term by Lessee, Lessee shall continue to have the right of reasonable access to the Demised Premises in order to remove the Equipment, and repair and restore the affected portions of the Demised Premises to substantially the same condition as practical as existed immediately prior to Lessee's installation of the Equipment, at Lessee's sole cost and expense; except as expressly set forth otherwise in Sections 6 and 19 above, where the removal and disposal or relocation costs of the Equipment, and repair and restoration of the Demised Premises, shall be at Lessor's sole cost and expense.

21. **Tax Credits, Financial Incentives, Sale of Energy.** Installation and operation of the Equipment on the Demised Premises 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 same, shall be for the sole benefit of Lessor. Any Energy consumed by Lessor shall not impact

Lessor's retail electric bill from Lessee. Lessor shall have no right to sell the Energy, or to engage in any "net metering" involving the Energy. In consideration for entering into this Agreement, Lessor shall be billed for the solar power generated by the Equipment on the Demised Premises at the customer's existing rate for the sole and exclusive use of the Lessor at the applicable Demised Premises and is not to be sold or used by any other party or for any other use whatsoever.

22. **Assignment; Leasehold Financing.**

(a) Except as permitted by Section 23(b) below, Lessee shall not assign this Agreement or any interest herein without the prior written consent of Lessor. Lessor shall not assign its interest in this Agreement to anyone other than a purchaser or Lessee of the Demised Premises without the prior written consent of Lessee. Neither Party will unreasonably withhold, condition or delay its consent to an assignment by the other Party. The terms and conditions of this Agreement will bind and benefit the respective successors and permitted assigns of the Parties. Following any permitted assignment or transfer by operation of law, the terms "Lessor" and "Lessee" shall be deemed to refer to the relevant transferee or successor, unless the context clearly indicates that the term refers only to the original Party so identified.

(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 16 above. 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 16 above.

23. **Condemnation.** In the event of condemnation of some or all of the Demised Premises, 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 for purposes of this Agreement.

24. **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 on the third (3rd) business day after posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Lessor: _____

Attn: _____

To Lessee: Florida Power & Light Company
700 Universe Boulevard, CEA/JB
Juno Beach, Florida 33408
Attn: Vice President of Corporate Real Estate

With copy to: Florida Power & Light Company
700 Universe Boulevard, LAW/JB
Juno Beach, Florida 33408
Attn: General Counsel

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.

25. **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 E** will be executed by the Parties and recorded in the Public Records of the county in which the Demised Premises 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.

26. **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 this 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. 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.

(c) **Severability**. Should any provision of this Agreement be held, in a final and un-appealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, and the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling.

(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 counterparts, each of which, upon execution of a substantively identical counterpart by each Party, shall be deemed an original, but all of which together shall constitute a single instrument.

(f) **Binding Effect**. This Agreement shall bind and benefit the Parties and their respective successors and assigns.

(g) **Publicity; Tours**. The Parties acknowledge that each of them has a legitimate business interest in receiving public recognition of their participation in the transaction contemplated by this Agreement. In order to coordinate the timing, tone and content of any publicity, however, each Party agrees that neither of them shall issue any press release or otherwise publicize the existence or the terms of this Agreement without the prior written approval of the other Party, which approval will not be unreasonably withheld or delayed, provided that general advertising that refers to a “partnering” (or other terminology of similar import) of either Party with the other Party for the purposes of any of the transactions contemplated hereby, but does not expressly reference this Agreement or disclose any of the terms hereof, shall not be subject to the provisions of this subsection. No filing that Lessee is required by applicable law to make with any regulatory authority shall, by itself, be deemed to violate the preceding sentence. Lessee shall have the right to give site tours of the Equipment on the Demised Premises for visitors and other interested parties.

(h) **Construction**. This Agreement shall not be construed more strictly against one Party than against the other, merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that both Lessor and Lessee have contributed substantially and materially in the negotiation and preparation of this Agreement, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits, schedules, addendums or amendments hereto.

(i) **Headings**. All headings in this Agreement are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement. In construing this Agreement, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders.

(j) **Force Majeure**. Lessor and Lessee (except with respect to the payment of any monetary obligation) shall be excused for the period of any delay in the performance of any obligation hereunder when such delay is occasioned by causes beyond its control, including

but not limited to work stoppages, boycotts, slowdowns or strikes; shortages of materials, equipment, labor or energy; unusual weather conditions; or acts or omissions of governmental or political bodies.

[Remainder of page intentionally blank; Signature pages follow]

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.

Witness:

LESSOR:

[REDACTED]

Print Name: _____

By: _____

Print Name: _____

Title: _____

Print Name: _____

Witness:

Print Name: _____

Print Name: _____

LESSEE:

Florida Power & Light Company,
a Florida corporation

Alex Rubio,
Vice President of Corporate Real Estate

EXHIBIT A

Description of the Property

EXHIBIT B

Depiction of Demised Premises

EXHIBIT C

List of Liens, Mortgage and Encumbrances

EXHIBIT D

Form Easement

This Instrument has been prepared by or under the supervision of (and after recording return to):

Seth S. Sheitelman, Esq.
Florida Power & Light Company (LAW/JB)
700 Universe Boulevard
Juno Beach, Florida 33408

EASEMENT

The undersigned, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to Florida Power & Light Company, a Florida corporation, its affiliates, licensees, agents, successors, and assigns (collectively, “**FPL**”), a non-exclusive easement forever for the construction, operation and maintenance of overhead and underground electric utility facilities (including wires, poles, guys, cables, conduits and appurtenant equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the voltage as well as the size of, and remove such facilities or any of them within an easement described as follows:

See Exhibit “A” (“**Easement Area**”)

Together with the right to permit any other person, firm, or corporation to attach wires to any facilities hereunder and lay cable and conduit within the Easement Area and to operate the same for communications purposes; the right of ingress and egress to the Easement Area at all times; the right to clear the land and keep it cleared of all trees, undergrowth and other obstructions within the Easement Area; the right to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the Easement Area, which might interfere with or fall upon the lines or systems of communications or power transmission or distribution; and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereinabove granted on the Easement Area heretofore described, over, along, under and across the roads, streets or highways adjoining or through said Easement Area.

[Signature appears on following page]

EXHIBIT E

Form Memorandum of Lease

This Instrument has been prepared by or under the supervision of (and after recording return to):

Seth S. Sheitelman, Esq.
Florida Power & Light Company (LAW/JB)
700 Universe Boulevard
Juno Beach, Florida 33408

MEMORANDUM OF SOLAR LEASE AND EASEMENT AGREEMENT

This Memorandum of Solar Lease and Easement Agreement (“**Memorandum**”) is executed and effective this ____ day of _____, 20__ by and between [REDACTED] (“**Lessor**”) and Florida Power & Light Company, a Florida corporation (“**Lessee**”).

RECITALS

WHEREAS, on event date herewith, Lessor and Lessee entered into a written Solar Lease and Easement Agreement (“**Agreement**”) related to certain property situated in [REDACTED] County, Florida more particularly described in Exhibit A attached hereto and made a part hereof (“**Property**”); and

WHEREAS, Lessor and Lessee desire to provide record notice of the Agreement pursuant to this Memorandum.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee hereby give record notice of the following:

1. **Recitals**. The foregoing recitals are true and correct and incorporated herein by reference.
2. **Lease**. In accordance with the terms and conditions of the Agreement, Lessor has leased that certain portion of the Property to Lessee more particularly described in Exhibit B attached hereto and made a part hereof (“**Demised Premises**”) for the purpose of constructing, installing, operating, inspecting, maintaining, repairing, testing, enlarging, modifying, removing, and replacing the solar Equipment (as defined in the Lease)
3. **Term**. The term of the Agreement commenced on the effective date of the Agreement and continues for a term ending on the thirty-second (32nd) anniversary of the effective date of the Agreement, unless extended.

4. **Notice.** This Memorandum is being executed by the parties solely to give public notice of the interest of Lessee in the Demised Premises and is not intended to modify, amend or alter in any respect whatsoever, the terms, covenants and agreements contained in the Agreement.

5. **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.

[Signatures and Acknowledgements Appear on Following Pages]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum on the date hereinabove written.

Executed in the presence of:

Lessor:

[Redacted]

Name: _____

By: _____
Name: _____
Title: _____

Name: _____

ACKNOWLEDGEMENT

STATE OF FLORIDA)
)ss:
COUNTY OF _____)

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, as _____ of _____, personally known to me to be the person who subscribed to the foregoing instrument or who has produced _____, as identification, and acknowledged that he/she executed the same on behalf of said _____ and that he/she was duly authorized so to do.

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

NOTARY PUBLIC, STATE OF FLORIDA

Executed in the presence of:

Lessee:

Florida Power & Light Company,
a Florida corporation

Name: _____

By: _____
Name: Alex Rubio
Title: Vice President of Corporate Real Estate

Name: _____

ACKNOWLEDGEMENT

STATE OF FLORIDA)
)ss:
COUNTY OF PALM BEACH)

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared Alex Rubio, as Vice President of Corporate Real Estate of Florida Power & Light Company, a Florida corporation, personally known to me to be the person who subscribed to the foregoing instrument or who has produced _____, as identification, and acknowledged that he executed the same on behalf of said corporation and that he was duly authorized so to do.

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

NOTARY PUBLIC, STATE OF FLORIDA

616 E. Walnut Ave. PO Drop 2128
Dalton, GA 30722



Phone: (770) 276-7505
Fax: (706) 428-3293

A Berkshire Hathaway Company

Proposal Submitted To Greater Boca Raton Beach & Park Dis		Attention Briann Harms		Phone (561) 347-3941		Fax () -		Date 02/03/17	
Proposal Name Oak Room LVT-Sugar Sand Park				Job Name Greater Boca Raton Beach&Park District				Job # 69014	
Street Greater Boca Raton Beach & Park Dist 300 S. Military Trail				Job Street 300 S. Military Trail				Proposal ID 78329	
City, State and Zip Boca Raton, FL 33486		Architect NJPA	Date of Plans	Add #	Job City, State and Zip BOCA RATON, FL 33432		Customer Job # 20750	Customer PO None	

We hereby submit specifications and estimates for:

Item Description	Color	Qty	UOM	Unit Price	Extended Price
Wood Mix-Luxury Vinyl Tile	00654/Hickory	2,660.30	SF	\$2.49	\$6,624.15
Shaw Patcraft LG4100 4G Resilient Floor Adhesive 4 Gallon		3.00	4 Gal	\$162.91	\$488.73
Floor Prep(hourly rate excludes materials)		38.00	Hour	\$55.00	\$2,090.00
Open Market- Furnish Floor Prep Materials		38.00	Each	\$42.61	\$1,619.18
Open Market- P-51 Primer		5.00	Each	\$85.22	\$426.10
Transitions Installation(excludes materials)		24.00	LF	\$1.04	\$24.96
Open Market- Furnish Transition		24.00	LF	\$2.83	\$67.92
LVT Installation(no pattern;excludes materials)		2,660.30	SF	\$2.44	\$6,491.13
Freight		1.00	Each	\$86.38	\$86.38
Base Bid Total:					\$17,918.55

Proposal Inclusions and Exclusions:

1. This proposal contains overtime hours
2. NJPA Contract# 121715
3. Local Contact: William Sanchez
4. 52100000-12-ACS
5. Price is based on a consecutive installation period without delays and is based on the customer allowing installation crews access to work a minimum of 8 consecutive hours a day until completion. Delays other than "acts of God" will result in charges for down-time.
6. Exclusions: attic stock, major floor prep, furniture moving unless specified in proposal, disconnecting and moving of computers and electronic equipment, vacuuming and protection of finished products.
7. All pricing is based on work being completed during normal working hours.
8. Price includes work as specifically stated in the above description for the quantities stated. Any circumstances that require additional labor will be handled through the change order process.
9. Material title and risk of loss passes to the purchaser at the time of material delivery to owner provided address.
10. Extensive floor prep is not included in the price but may be necessary due to unforeseen conditions of the sub-floor. This work may include, but is not limited to, leveling or grinding, encapsulation or sealing, or extensive scraping of the sub-floor. Should extensive floor prep be required, you will receive a change order for the necessary work.
11. Please fax your Purchase Order to Shaw Integrated Solutions at fax # 770-387-8217 to initiate the order process. A purchase order is required before materials can be shipped.
12. SII License Numbers: AL 50787, AK 40319, AZ ROC300955/ROC300956, CA 1007317, ID RCE-39577/022829-AA-4, MT 216017, NV 0080544/0080545/0080546/0080547, NC 75663, NM 385848, ND 53106, NY 58-2240471C, OR 205839, RI 38919, TN 69109, UT 9531877-5501, VA 2705157974, WA SHAWIII853DO, WV WV054222

616 E. Walnut Ave. PO Drop 2128
Dalton, GA 30722
Proposal ID: 78329



Phone: (770) 276-7505
Fax: (706) 428-3293

A Berkshire Hathaway Company

We PROPOSE to perform the work complete in accordance with the specifications and as described above for the SUM of:

Signature: _____ Farrah Finley \$17,918.55
Email: Farrah.Finley@shawinc.com

Conditions of Proposal:

1. This proposal may be withdrawn if not accepted within 30 days of its issuance. Shaw will consider reasonable requests to engage in negotiations for revisions to this Proposal, including signing a subcontract that incorporates the terms of this Proposal.
2. This proposal is subject to credit review and approval. Payment terms are net 30. Past due invoices are subject to service charges of 1.5% per month (18% per annum). In the case of any default, Customer shall pay Shaw's reasonable attorney fees and costs, including those on any appeal, even if no suit or action is filed.
3. All work shall be performed in a workmanlike manner according to industry standards. Areas to receive flooring shall be free and clear of debris. Any changes to the work shall be performed only after execution of a written change order.
4. Prior to commencement of Shaw's work: (a) Customer shall test all concrete sub floors receiving flooring for vapor emission levels and alkalinity per manufacturers' recommendations utilizing ASTM F2170 and/or F1869 and provide written results to Spectra, including a list of any sealers applied to the concrete sub floor; (b) If Customer does not provide such reports at least 10 days prior to commencement of Shaw's work, then Customer shall provide Spectra with access to all concrete sub floors for appropriate testing and Customer shall be responsible for the costs of such testing; and (c) Any concrete sub floors not meeting manufacturers' requirements for installation will require correction or the execution of a separate waiver agreement.
5. All work is contingent upon strikes, accidents or delays beyond Shaw's control. Customer shall carry insurance for all hazards, including fire. Shaw's workers are fully covered by Worker's Compensation and Liability Insurance.
6. Customer represents and warrants that: (a) the project site contains no hazardous or other dangerous substances, either exposed or concealed; or (b) Customer has given written notice to Shaw of all such substances and their location(s). To the fullest extent permitted by law, Customer shall indemnify, defend and hold Shaw harmless from any damage, claim, loss, expense and attorney fees related to Shaw's liability, if any, including any federal or state statute related to hazardous or other dangerous substances.

ACCEPTANCE OF PROPOSAL: The above prices, specifications, and conditions are satisfactory and are hereby ACCEPTED. You are authorized to do the work as specified.

Customer: Greater Boca Raton Beach & Park D Signed: _____ Date: _____

Proposal 2/23/17

To: City of Boca Raton SSPCC ph 561-347-3900
Attn: Jose Pineda jpineda@myboca.us
From: Devin Burress
Re: Oak Room Partitions

HUFCOR proposes the following:

- Remove track trim and drywall soffit on both sides of track.**
- Raise existing track and panels approx. 2"**
- Level all panels.**
- Reinstall drywall soffit and track trim.**
- Finishing and paint (black) included.**
- Lift rental included.**

Total Price \$ 6,325.00

Notes: This price is valid for 30 days. Any additional repairs not stated above will be approved prior to work being performed.

Acceptance of Approval: Any balances not paid within thirty (30) days of the date of the invoice shall accrue interest at the rate of 18% per annum. Any action to construe, declare or enforce this contract shall only be brought in a court of competent jurisdiction with venue lying solely and exclusively in Seminole County, Florida. The prevailing party in any action brought to construe, declare or enforce this contract shall be entitled to recover its actual attorney's fees, attorney's travel time charges and expenses, paralegal fees, computer access and utilization charges, expert witness fees and expenses, costs, expenses and expenses of investigation, discovery, and litigation. The parties to this contract expressly waive the right to trial by jury of any cause of action or defense pertaining to this contract. The above prices, specifications, and conditions are satisfactory and accepted. You are hereby authorized to provide all items described above.

Date: _____ **Signature:** _____
Prepared by Devin Burress • Hufcor Florida Group • dburress@hufcorfl.com

North and East Florida 1301 Central Park Dr. Sanford, FL 32771 Phone: 407-302-2286 Fax: 407-302-2890	Western Florida 11527 Pyramid Dr., Unit 101 Odessa, FL 33556 Phone 727-376-1909 Fax: 727-376-1948	Southeastern Florida 3600 S. Congress Avenue, Suite 1 Boynton Beach, FL 33426 Phone: 561-790-6882 Fax: 561-790-4330	Georgia Service and Repair HUFCOR RPM Service 404-274-9680	Caribbean Sales and Service Hufcor Caribbean 305-968-6284
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