

## SOLAR LEASE AGREEMENT

THIS SOLAR LEASE AGREEMENT (“**Agreement**”) is made this \_\_\_\_ day of February, 2017 (“**Effective Date**”), by and between the City of Hollywood, a municipal corporation under the laws of the State of Florida (“**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 that certain real property located in Broward County, Florida, as more fully described on **Exhibit A** attached hereto and incorporated herein by this reference (“**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, 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.** 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.

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 7(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 tenth (10<sup>th</sup>) 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 be subject to renewal, upon agreement of the parties, for three (3) consecutive five (5) year periods. For each renewal, each party that wishes to renew shall so

indicate in writing not later than thirty (30) days prior to the expiration of the then applicable Term.

4. **Intentionally Deleted.**

5. **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.

6. **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.

7. **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. 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;

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

(f) 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 20 below, Lessee may elect to terminate this Agreement immediately upon delivering written notice to Lessor.

8. **Intentionally Deleted.**

9. **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 with the Equipment 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 temporarily 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. Permanent removal of the Equipment by Lessee shall be deemed a termination of this Agreement.

10. **Taxes.** Lessor hereby represents that it is exempt from paying real property taxes for the Property. Lessee shall pay any tax which is attributable to the Equipment or the Equipment's installation or placement on or within the Demised Premises. Lessor shall submit a copy of the annual statement for such taxes for the Property to Lessee within ten (10) business days after the date that Lessor receives such statement from the taxing authority. 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.

11. **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.

12. **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.

13. **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.

14. **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.

15. **Intentionally Deleted.**

16. **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.

17. **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 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.

18. **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 17(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 9(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 ejection, 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.

19. **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.

20. **Lessee's Remedies.** Upon an event of default by Lessor as set forth in Section 19 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 7 above, in addition to the remedies set forth in this Section 20, 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

21. **Intentionally Deleted.**

22. **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 7 and 20 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.

23. **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.

24. **Assignment; Leasehold Financing.**

(a) Except as permitted by Section 24(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 17 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 17 above.

25. **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.

26. **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 (3<sup>rd</sup>) business day after posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Lessor: City of Hollywood  
2600 Hollywood Boulevard, Suite 401  
PO Box 229045  
Hollywood, Florida 33020  
Attn: Office of the City Manager

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.

27. **Memorandum of Lease.** It is specifically understood and agreed by both Parties hereto that a Memorandum of Lease in substantially the form of the attached **Exhibit D** will be executed by the Parties and recorded in the Public Records of the county in which the 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.

28. **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 Broward County, Florida. EACH OF THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY

WAIVES THE RIGHT EITHER OF THEM MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT.

(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:**

CITY OF HOLLYWOOD

\_\_\_\_\_  
Print Name:\_\_\_\_\_

By:\_\_\_\_\_

Print Name:\_\_\_\_\_

\_\_\_\_\_  
Print Name:\_\_\_\_\_

Title:\_\_\_\_\_

Witness:

\_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_

**LESSEE:**

Florida Power & Light Company,  
a Florida corporation

\_\_\_\_\_

Timothy Oliver,  
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**

None.

## **EXHIBIT D**

### **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 the City of Hollywood, a municipal corporation under the laws of the State of Florida (“**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 Broward 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 fifteenth (15<sup>th</sup>) anniversary of the effective date of the Agreement, unless extended as provided for in the Agreement.

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:**

CITY OF HOLLYWOOD

\_\_\_\_\_  
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 the CITY OF HOLLYWOOD, a municipal corporation under the laws of the State of Florida, 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: Timothy Oliver  
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 Timothy Oliver, 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