

**RENEWABLE ENERGY, ENERGY EFFICIENCY, AND ENERGY  
SUSTAINABILITY AGREEMENT**

**BETWEEN**

**THE CITY OF SARASOTA, FLORIDA**

**AND**

**FLORIDA POWER & LIGHT COMPANY**

This Renewable Energy, Energy Efficiency, and Energy Sustainability Agreement (the “**Agreement**”), dated as of November 1, 2010 (the “**Effective Date**”), is entered into by the City of Sarasota, Florida (hereinafter, the “**City**”), located at 1565 1st Street, Sarasota, FL 34236, and Florida Power & Light Company (hereinafter, “**FPL**”), located at 700 Universe Boulevard, Juno Beach, Florida 33408 (Sarasota and FPL individually a “**Party**”, jointly the “**Parties**”).

**WITNESSETH**

**WHEREAS**, the City is a significant consumer of electric power with land and facilities that may be available for renewable energy projects;

**WHEREAS**, FPL is the electric power utility serving the City; and

**WHEREAS**, each of the City and FPL is committed to expanding the use of renewable energy resources, in creating energy efficiencies, and in promoting and implementing measures and practices that will improve energy sustainability and independence of the City of Sarasota, the Sarasota community generally, and the State of Florida as a whole, in compliance with respective Federal and State energy policies and directives;

**NOW, THEREFORE**, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, and good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, and subject to the terms and conditions hereinafter set forth, the City and FPL hereby covenant and agree as follows:

**A. Background**

The City and FPL are committed to providing clean, reliable and affordable energy to the citizens of Sarasota (the “**Citizens**”) and are interested in promoting energy efficiency and renewable energy through state-of-the-art pilot programs and projects. In furtherance of these objectives, this Agreement sets forth the framework pursuant to which the City and FPL shall jointly develop, install, manage and maintain the energy conservation projects (“**EC Projects**”) and renewable energy projects (“**RE Projects**”) identified herein (the EC Projects and RE Projects jointly referred to as the “**Energy Projects**”),

and also sets forth other measures and commitments of the Parties to promote, encourage, and implement energy conservation, energy efficiency, renewable energy, and energy sustainability measures as contemplated herein.

The Energy Projects and other energy sustainability measures set forth herein would be developed and designed to provide the City and the Citizens with energy efficiency and renewable energy benefits on a long-term basis. Further, the Energy Projects shall be developed and installed on land, or at facilities, owned by the City and will utilize equipment, services and labor contributed by the City and FPL, as appropriate.

As detailed in Section B, Scope of Energy Projects, the Parties will adopt a “phased” approach in developing and implementing the Energy Projects and in achieving the energy efficiency and renewable energy goals and objectives. As detailed below, Phase 1 would consist of Energy Projects that could be implemented, subject to the City’s support and cooperation, in the short term (i.e., six (6) to eighteen (18) months) and would require no (or limited) Florida Public Service Commission (“FPSC”), governmental or other regulatory approvals (the “**Required Approvals**”). Phase 2 would consist of Energy Projects that require more time to implement and would need, and be subject to, certain Required Approvals and/or the passage of enabling legislation.

**B. Scope of Energy Projects**

**1. Phase 1 Energy Projects:**

Phase 1 EC Projects and RE Projects will be implemented by FPL and the City in the short term and will be designed to provide the City with demonstrable, long-term energy efficiency and renewable energy awareness for its Citizens. FPL shall designate a liaison (the “**Liaison**”) to the City who shall be responsible for the start up of Phase 1 activities and coordinating FPL’s and the City’s efforts to implement efficiently and effectively the Phase 1 Energy Projects consistent with the terms herein. Specifically, the Liaison shall: (i) coordinate, schedule and support project development and implementation activities (as such are set forth in this Agreement) between the City and FPL; (ii) assist in implementing the energy audits and in attaining the efficiency goals (as such are set forth below); (iii) promote renewable project development and energy efficient programs in the City. Phase 1 will focus on energy education and on implementing specific pilot programs pursuant to which FPL would test at City sites and facilities energy conservation programs and clean energy equipment to determine if such programs and equipment are appropriate for deployment on the FPL utility system.

Phase 1 Energy Projects shall consist of:

- (a) Educational resources and programs to inform and instruct the City and its Citizens on issues related to energy efficiency and conservations programs and on the benefits and technology associated with renewable energy. Specifically, the Liaison shall coordinate and schedule with the City performances by Captain Conservation and

Professor WHYS at mutually agreed to City, and other public, sites and venues (such as public schools, the Van Wezel Performing Arts Hall, or GWiz).

- Captain Conservation Saves the Day is a program that teaches children to be heroes by conserving energy through fun, original and interactive songs. Captain Conservation is the world's only singing, guitar-playing, nature-conscious, costumed superhero.
- Professor Whys Powerful Adventure is a program that brings science to life through fun and interactive demonstrations. The entertaining and educational program helps to prepare students for the science FCAT and offers an exciting way for students to get enthusiastic about science.

(b) Energy audits for City facilities and Citizens.

- The energy audits to be performed by FPL (as detailed herein) will be designed to identify the maximum, cost-effective energy savings per audit and will take into account: (i) the customer's reasonable expectations in identifying the maximum, cost-effective energy savings per audit; (ii) all incentives available from FPL; and, (iii) if available, those incentives from state or federal governments and private foundations, including tax credits and other tax benefits from the City (and any other source identified by the City or FPL). Such Energy Audits will be consistent with, and commence promptly following the approval by the FPSC of, each applicable FPL's demand side management ("DSM") plan.
- Within thirty (30) days of the Execution Date, FPL and the City will meet to develop an agreeable energy audit schedule (the "**Schedule**") for City facilities and for large energy users located within the City. The Schedule will provide that, prior to December 31, 2015, FPL shall perform energy audits on: (i) all of the City's electric accounts (the "**City Accounts**"), and (ii) subject to the receipt of a customer consent related to the performance of an energy audit, the 100 largest electricity-consuming accounts (excluding the City's accounts) located in the City (the "**Customer Accounts**"). FPL will cooperate and work with the City in its efforts to obtain the consent of all such customers. Notwithstanding the foregoing, pursuant to FPL's DSM Plan and applicable regulation, FPL will remain obligated to provide energy audits to other customers and accounts as may be requested (the "**Additional Energy Audits**").
- After the completion of the first cycle of energy audits (as provided for above) throughout the Term and promptly following the approval of each succeeding DSM plan, FPL and the City will meet to develop an agreeable Schedule of energy audits related to the City Accounts and the Customer Accounts. FPL will, within five (5) years following approval of such Schedule, perform

energy audits on the City Accounts and fifty (50) of the largest Customer Accounts in a manner consistent with the procedures set forth above.

- Energy audits performed by FPL related to the City Accounts and Customer Accounts shall be without charge to the City or customers whose usage and facilities are audited. Additional energy audits shall be conducted pursuant to FPL's then-currently-approved energy conservation programs or tariffs, as applicable, including any charges to customers provided for in such program or tariffs. Subject to and within the overall time frames specified above, FPL and the City will cooperate to develop an agreeable energy audit schedule for City facilities and large energy users located within the City.
- FPL will offer energy savings strategies for Citizens to promote additional energy savings for residential, business, and institutional energy users and FPL incentives will be applied to such strategies where applicable. The City: (i) will develop and offer to Citizens additional incentives related to services not covered by FPL, and (ii) may offer additional incentives to supplement FPL's incentives for energy efficiency, energy conservation, and renewable energy measures and technologies identified as being appropriate by the City; provided, however, FPL will continue to make its incentives available without regard to whether the City is offering supplemental incentives to promote designated measures and technologies.
- FPL and the City will encourage Citizens to participate in the FPL Home Energy Survey, online, over the phone or in person. The Home Energy survey shall include the following: (i) a personalized, convenient and expert energy-saving analysis of a Citizen's energy use; (ii) specific ways to save money on electric bill and energy-saving recommendations; (iii) a convenient method to ascertain what home appliances have the highest operating costs and how much such appliances contribute to a household's electric bill; (iv) the ability to test energy efficiencies by using different thermostat settings; (v) an overall guide for an energy-efficient home; and (vi) a printable report detailing specific ideas on how to manage individual electric consumption.
- The City will facilitate the implementation of the energy audits by disseminating relevant information regarding the energy audit program and energy efficiency to the Citizens through its "conservation" page on the City's web site. Further, the City will cooperate with FPL in promoting the energy audits contemplated by this Agreement and by FPL's DSM Plan, including to the extent applicable, by making available to FPL the assistance of the City's Sustainability Manager or similar personnel with energy conservation responsibilities to assist in the efforts contemplated by this Agreement.

(c) "Green" buildings and design. FPL shall support the construction of energy efficient, sustainable buildings within the City by sponsoring and paying for complete LEED "Existing Building" certification classes for a City employee or, at the

City's option, the Green Building Basic course of study; provided, the cost of such sponsorship shall not exceed \$2,000.00. Such instruction would assist the City in understanding the requirements in the various categories leading to LEED certification and could facilitate the adoption by the City of LEED construction standards for new or retrofitted City buildings.

(d) Establishing an educational testing facility (the "ETF") on a site approved by the City and reasonably acceptable to FPL, in which FPL shall test and demonstrate new renewable energy products and technology. Examples of such "tested" technology would be:

- New solar photo voltaic ("PV") panels
- Solar technology
- Energy efficiency product testing for DSM plan development

As part of the ETF, FPL would also provide within the City a demonstration facility utilizing electrical pole mounted solar panels incorporating "Smart Grid" technology. Specifically, FPL would install five (5) Petra Solar pole-mounted panels with Smart Grid capability. This demonstration project would be a precursor to the installation of Smart Grid technology throughout the City, which is anticipated to occur in a 2012 – 2013 timeframe. The City shall own, and be responsible for, all energy, and associated green attributes, generated by the ETF, except that FPL shall own, and be responsible for, the energy, and associated green attributes, generated by the Petra Solar pole-mounted panels.

(e) The development of a "Solar School". FPL would cause the installation of solar PV array (2 – 5 kW) at Booker High School (or such other, appropriate public school identified by the City and reasonably acceptable to FPL). The Solar School project would include a curriculum and training for teachers related to solar PV technology. Also, a website would be developed that would track and monitor the energy generated by the solar array. The City (or the appropriate governmental entity) shall own, and be responsible for, all energy, and associated green attributes, generated by the Solar School.

(f) The installation of five (5) Electric Vehicle ("EV") charging stations (the "Original Stations") and, on that date five (5) years from the original installation date, the installation of an additional ten (10) EV charging stations (the "Additional Stations"), at a parking garage or alternative site approved by the City and reasonably acceptable to FPL; provided, prior to the installation of the Additional Stations the City shall demonstrate to FPL's reasonable satisfaction that the demand for, and use of, the Original Stations warrants the installation of the Additional Stations. The EV charging stations would be designed to promote and educate the Citizens on the benefits of EVs. The initial installation would be the first deployment of an EV product of this type by FPL. FPL would also install solar panels associated with the EV charging

stations. This installation would utilize state of the art PV panels and be the "first of its kind" installed by FPL. FPL shall own, and be responsible for, all energy, and associated green attributes, generated by the EV charging stations; provided, the energy, and associated green attributes, generated by the PV panels installed as part of the EV charging stations will be contributed by FPL to the City and, provided, further, the City shall have the discretion to charge and collect a usage fee related to the EV charging stations.

(g) Home Energy Makeovers and Nonprofit Energy Makeovers. During the Term, FPL will provide to the City: (i) 1500 home energy makeovers pursuant to FPL's Home Energy Makeover Initiative ("**HEMI**"); and (ii) 15 nonprofit energy makeovers pursuant to FPL's Nonprofit Energy Makeover Initiative ("**NEMO**") ((i) and (ii) the "**Makeover Services**"). The Makeover Services will be provided to the City, and Citizen-recipients of the Makeover Services will be selected, in a manner consistent with the HEMI or NEMO programs (as applicable). Commencing in year 2011 and during the Term, FPL will schedule and complete (i) 1500 HEMI Makeover Services; and, (ii) fifteen (15) NEMO Makeover Service. FPL will consult with the City, and the City shall cooperate reasonably with FPL, regarding the scheduling of and the recipients receiving the Makeover Services.

During the Term and with regard to the ETF, the Solar School and the EV charging stations (the "**Identified Projects**"), FPL will, promptly at the end of the "useful life" of the renewable energy technology installed at the Identified Projects (the "**Upgrade Date**"), upgrade and replace such renewable energy technology (the "**Upgrade Service**"). Such Upgrade Service will consist of replacing or supplementing (as applicable) the installed renewable energy technology with then-current "state of the art" technology. Additionally, as part of the Upgrade Service, FPL will double the amount of renewable energy technology installed at the Identified Projects (the "**Additional Units**") or will install such Additional Units at an alternative site approved by the City and reasonably acceptable to FPL; provided, prior to the installation of the Additional Units the City shall demonstrate to FPL's reasonable satisfaction that the demand for, and use of, the Identified Projects warrants the installation of the Additional Units. The useful life of the renewable energy technology installed at the Identified Projects will be determined by FPL based on prudent utility practice and the original equipment manufacturers' representations and warranties regarding the useful life of the applicable installed technology; provided, the Parties acknowledge and agree that the useful life of the Original Stations will be ten (10) years.

For illustrative purposes only, a schedule related to the Phase 1 Energy Projects, the Upgrade Services, the installation of the Additional Units and the Makeover Services is attached at Exhibit A.

**2. Phase 2 Energy Projects:**

Phase 2 EC Projects and RE Projects will be longer term projects and subject to the receipt by FPL and the City of necessary Required Approvals and/or the passage of enabling legislation. Phase 2 projects would include:

(a) The development of a roof-top solar facility (the “**Solar Roof**”). FPL would cause the installation of large-scale roof-top solar PV array at a site appropriate for such solar technology, such installation and site as mutually agreed to by the Parties.

(b) The development and installation of a demonstration “LED” streetlight pilot program designed to facilitate the adoption by the City (and by the Citizens, as applicable) of energy efficient street and area lighting.

(c) The development of a “utility scale” solar generation project. FPL would seek to develop a five (5) to ten (10) MW solar generation facility (the “**SGF**”) on a site owned by the City and appropriate for the development and operation of the contemplated SGF. The City and FPL would negotiate in good faith toward a long-term agreement for the purchase or lease by FPL of the site, including a purchase price or lease payment from FPL to the City reflecting the fair market value of the site. FPL would conduct due diligence on and consider the Verna Wellfield property as a possible site for the SGF. The Parties recognize and agree that any site related to the SGF must be suitable for the development of such a facility, have the necessary solar resource and that the arrangements must be otherwise competitive, from each Party's perspective, with alternative sites and solar projects that may be developed by either the City or FPL. Nothing herein shall preclude the City from developing a similar solar generation facility, including such a solar facility at the Verna Wellfield property, at the City's expense, to be owned by the City. Further, the City shall have the right to develop a solar generation facility independent of FPL if the City, in its sole discretion, determines that the independent development of such a solar facility is in the best interests of the City and the Citizens.

(d) The development of a downtown transportation connector. FPL would support reasonably the City's efforts in applying for a federal grant to provide electric rail service (or other appropriate transportation circuit) in the downtown area.

For illustrative purposes only, a schedule related to the Phase 2 Energy Projects is attached at Exhibit B.

**C. Responsibilities.**

Pursuant to the terms of this Agreement, the Parties will jointly develop and implement the Energy Projects identified in Section B. In furtherance of this objective, FPL and the City, to the extent their interests are aligned, agree to support and not obstruct the advancement of statewide renewable energy legislation and conservation efforts and to cooperate in the advancement of the Phase I and Phase II Energy Projects.

**1. Phase 1 Energy Projects.**

Subject to the receipt by FPL (or, if applicable, the City) of any Required Approvals, FPL shall develop and implement the Phase 1 Energy Projects in accordance with (i) the standards of care, diligence, skill and judgment normally exercised by professional firms and individuals with respect to services of a similar nature; (ii) recognized and sound renewable energy practices, procedures and techniques; (iii) the terms of this Agreement; and (iv) all applicable laws and regulations (collectively "**FPL's Performance Standard**"). The City will (i) cooperate reasonably with FPL in the developing and implementing the Phase 1 Energy Projects; (ii) provide promptly to FPL any relevant data, information regarding Citizen interest in energy conservation, efficiency, renewable energy, and energy sustainability measures and projects, information regarding incentives that the City makes available to the Citizens (if applicable), access (including, if necessary, access to appropriate project sites), and City personnel (including labor) necessary to fulfill the City's responsibilities that are necessary for FPL to effectively carry out its Phase 1 responsibilities under this Agreement; (ii) collect and provide to FPL data produced by, and related to, the Energy Project (e.g., Citizen participation and energy usage data); and, (iii) promote FPL's participation in the program by allowing appropriate signage and acknowledgement (the "**City's Contribution**"). The Parties shall use commercially reasonable efforts to have the Phase 1 Energy Projects developed and implemented within eighteen (18) months of the Effective Date of this Agreement.

**2. Phase 2 Energy Projects.**

The Parties shall develop and implement the Phase 2 Energy Projects consistent with FPL's Performance Standard and the City's Contribution; however, the Parties acknowledge and agree that successful implementation of the Phase 2 Energy Projects will require, be contingent upon the receipt of, and be subject to: (i) certain Required Approvals; (ii) enabling legislation favorable to the development of renewable energy projects; and, (iii) increased capital and resource commitment from each Party. Further, with regards to the development of the SGF, FPL and the City shall jointly study the technical and financial requirements of the SGF Energy Project including, without limitation: (i) the scope and potential site locations of the SGF; (ii) design and construction costs, and operations and life cycle requirement costs; and (iii) the amount of renewable energy that will be produced and the proposed disposition of any renewable energy credits. In order to undertake these studies, the Parties shall have the following responsibilities:

A. FPL shall use commercially reasonable efforts to perform the following tasks, and other such reasonable tasks that may be required to develop and implement the SGF Project:

(i) Participate in joint technical exchanges with the City, on a schedule and at locations as may be mutually agreeable, for the purpose of developing and implementing the SGF Project.



(ii) Provide to the City a plan describing the proposed SGF Project site plan (e.g., land and/or facilities required, access requirements, power distribution system interconnection), the proposed approach for designing, constructing, operating, and maintaining the SGF Project throughout its lifecycle, the project schedule and estimated costs, the responsibilities of each of the Parties for meeting project schedule milestones and for funding the costs of the project, an estimate of the amount of renewable energy that will be produced, and the proposed disposition of any renewable energy credits (the “**Project Plan**”).

B. The City will use commercially reasonable efforts to perform the following tasks, and other such tasks as may be necessary to develop and implement the SGF Project:

(i) Participate in joint technical exchanges with FPL, on a schedule and at locations as may be mutually agreeable, for the purpose of developing and implementing the SGF Project.

(ii) Review and comment on each submitted Project Plan and, subject to the City’s acceptance of a final Project Plan, perform required site assignment coordination, environmental determinations, and preparation of appropriate implementing agreements governing land and facility use, SGF Project operation and maintenance.

(iii) Provide available, relevant data to assist FPL in carrying out its responsibilities with respect to the SGF Project.

C. Once it is determined that a SGF Project is viable from a regulatory, legislative, technical and financial perspective, the structure, final configuration, and binding terms and conditions applicable to the SGF Project shall be reflected in a mutually acceptable, definitive agreement (the “**Definitive Agreement**”) among the City and FPL. A Definitive Agreement would contain terms and conditions customary for a transaction of this type, including covenants, representations and warranties, and other mutually agreeable terms.

**D. Work Product; Financial Arrangements; Responsibilities; Cooperation**

1. FPL shall own and maintain the Energy Projects funded and provided by FPL pursuant to this Agreement (and, except as specifically provided for herein, the products generated thereby) and own all rights (including all intellectual property rights), title and interest to any and all work products resulting from the renewable energy and energy efficiency services or Energy Project development and implementation activities performed by FPL pursuant to this Agreement; provided, that FPL hereby grants the City a non-exclusive, royalty-free license to use such work products in connection with the applicable Energy Project, which license shall survive beyond the termination of this Agreement.

2. The City and FPL will each be solely responsible for and bear all of their own respective internal and external costs, including without limitation, expenses of legal counsel, consultants, accountants and other advisors, incurred at any time in connection with pursuing the Energy Projects set forth in this Agreement.

3. The City and FPL shall each be responsible for its own facilities, for protection of its own systems, and for ensuring adequate safeguards for FPL customers, the Citizens, and the personnel and equipment of the City and FPL.

4. To further its commitment to expanding the use of renewable energy resources, in creating energy efficiencies, and in promoting and implementing measures and practices that will improve energy sustainability, the City commits to cooperate with and support (and not oppose or disparage) FPL or FPL's efforts to have enacted legislation and related regulatory procedures enabling the development, ownership and operation of renewable energy projects in the state of Florida.

#### **F. Default; Remedies**

1. An "**Event of Default**" shall mean the failure by a Party (the "**Defaulting Party**") to perform any material covenant or obligation set forth in this Agreement, which failure has a material adverse effect on a the other Party's (the "**Non-Defaulting Party**") ability to perform its obligations under this Agreement, if such failure is not remedied within thirty (30) days after notice of such failure, which notice sets forth in reasonable detail the nature of the failure; provided, however, that if such failure is not reasonably capable of being remedied within the thirty (30) day cure period specified above, the Defaulting Party shall have such additional time (not exceeding an additional ninety (90) days) as is reasonably necessary to remedy such failure (the "**Cure Period**"), so long as the Defaulting Party advises the Non-Defaulting Party of its plan for such cure and promptly commences and diligently pursues such remedy.

2. If an Event of Default has occurred and is continuing (and after the expiration of the Cure Period) the Non-Defaulting Party may, at its option: (i) terminate this Agreement without penalty or further obligation by written notice to the Defaulting Party; and (ii) exercise any other right or remedy available to the Non-Defaulting Party under generally applicable law, under this Agreement or in equity. Further, the Parties acknowledge and agree that money damages may not be a sufficient remedy for any breach of this Agreement and that the Non-Defaulting Party shall be entitled to seek injunctive or other equitable relief, including specific performance, to remedy or prevent any breach or threatened breach of this Agreement. Such remedy shall not be the exclusive remedy for any breach of this Agreement, but shall be in addition to all other rights and remedies available at law or in equity. Notwithstanding anything contained in this Agreement, a Defaulting Party's liability to the Non-Defaulting Party in connection with this Agreement and any activities undertaken in connection with the Energy Projects shall be limited to direct damages and shall exclude any other liability, including without limitation liability for special, indirect, punitive or consequential damages in contract, tort, warranty, strict liability or otherwise.

**G. Notice**

All notices required under this Agreement shall be in writing unless expressly specified otherwise herein, and shall be delivered in person, by certified mail or by a nationally recognized overnight courier, return receipt requested, or by facsimile transmission with confirmation by voice or automatic answer-back service, as specified below:

SARASOTA:

FPL

Robert J. Bartolotta  
City Manager  
The City of Sarasota, Florida  
1565 1<sup>st</sup> Street  
Sarasota, FL 34236  
(941) 954-4102 (voice)  
(941) 954-4129 (fax)  
E-mail: Robert.Bartolotta@sarasotagov.com

Vice President, External Affairs  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
(561) 691-7114 (voice)  
(561) 691-7786 (fax)  
E-mail: Pamela\_M\_Rauch@fpl.com

With Copies to:

With Copies to:

Fournier and Connolly, P.A.  
City Attorney  
The City of Sarasota, Florida  
1 South School Ave., Suite 700  
Sarasota, FL 34237

Florida Power & Light Company  
Law Department (Law/JB)  
700 Universe Boulevard  
Juno Beach, Florida 33408  
Facsimile: (561) 691-7305  
Attention: Managing Attorney

**H. Miscellaneous**

1. Term. The term of this Agreement shall be thirty (30) years from the Effective Date, subject to the termination rights set forth herein (the "**Term**").

2. Modifications. Any modification to this Agreement shall be executed in writing and signed by an authorized representative of each Party. Any modification that creates an additional commitment of City resources must be signed by the original City signatory authority or successor or a higher-level City official possessing original or delegated authority to make such a commitment.

3. News Releases and Publications. Any public notices to third parties and all other publicity concerning this Agreement, activities relating to this Agreement and to the Energy Projects, shall be jointly planned and coordinated by the Parties and neither Party shall act unilaterally in this regard without the prior approval of the other Party (such approval not to be unreasonably withheld), except where required to do so by law

or by the applicable regulations or policies of any governmental or other regulatory agency of competent jurisdiction or any stock exchange in circumstances where prior consultation with the other Party is not practicable.

4. Use of the City's or FPL's Name, Initials and Devices. FPL agrees to submit to the City for its written approval all promotional and advertising material that uses the City's names, initials, insignia, seal, or logotype prior to publication. The City agrees to submit to FPL for its written approval all promotional and advertising material that uses the FPL names, initials, insignia, seal, or logotype prior to publication. The Parties agree to work cooperatively with regard to news releases, publicity, signage, and other public announcements and materials to ensure that both FPL and the City receive fair and appropriate credit for their contributions to the mutual energy conservation, renewable energy, and energy sustainability measures contemplated by this Agreement.

5. Assignment. Neither Party may: (i) assign any of its rights or obligations under this Agreement, or (ii) sell, lease, assign, transfer or otherwise dispose of all or a portion of an Energy Project without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed. Any attempt by a Party to make any assignment, sale, lease, transfer or other disposition described herein in violation of this provision shall be void ab initio and shall not be effective.

6. Disputes. In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a "**Dispute**"), the Parties shall attempt in the first instance to resolve such Dispute through friendly consultations between the Parties. If such consultations do not result in a resolution of the Dispute within fifteen (15) days after notice of the Dispute has been delivered to either Party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within ten (10) business days after such referral to the senior management of the Parties, then either Party may pursue all of its remedies available hereunder. The Parties agree to attempt to resolve all Disputes promptly, equitably and in a good faith manner.

7. Governing Law; Waiver. This Agreement shall be governed by, and construed in accordance with the laws of the State of Florida without regard to its conflict of laws provisions. All actions or proceedings relating to this Agreement (whether to enforce a right or obligation or obtain a remedy or otherwise) will be brought solely in the state or federal courts located in the State of Florida. Each Party hereby unconditionally and irrevocably consents to the jurisdiction of those courts and waives its rights to bring any action or proceeding against the other Party except in those courts. 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. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS AGREEMENT.

8. Structure. This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership or formal business organization, or agency agreement of any kind, and the rights and obligations of the Parties shall be only those expressly set forth herein. No Party shall have the right, except as expressly provided for in this Agreement, to bind the other Party with respect to any matter without the express prior written consent of the other Party.

9. Construction of Agreement. The Parties expressly agree that no provision of this Agreement should be construed against or interpreted to the disadvantage of any Party by any court or other governmental or judicial authority by reason of such Party having been deemed to have structured or dictated such provision.

10. Complete Agreement. This Agreement is intended as the complete and exclusive statement of the agreement between the Parties. Parol or extrinsic evidence shall not be used to vary or contradict the express terms of this Agreement and recourse may not be had to alleged prior drafts, negotiations, prior dealings, usage of trade, course of dealing or course of performance to explain or supplement the express terms of this Agreement.

11. Counterparts. This Agreement may be executed and delivered in counterparts, and may be delivered by facsimile transmission.

12. Severability. In the event that any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement or the application of the provisions hereof to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

13. Non-Waiver. No waiver of any provision of this AGREEMENT shall be deemed to be nor shall constitute a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

IN WITNESS WHEREOF, the Parties hereto have caused this Renewable Energy, Energy Efficiency, and Energy Sustainability Agreement to be executed and delivered by their duly authorized officers as of the date first written above.


THE CITY OF SARASOTA, FLORIDA

FLORIDA POWER & LIGHT COMPANY, a Florida corporation

BY: 

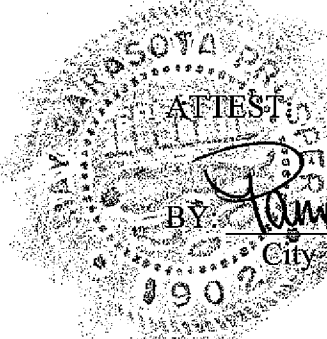
Kelly M. Kirschner

Mayor

BY: 

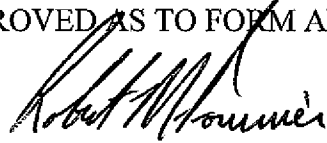
Pamela M. Rauch

Vice President, Corporate and External Affairs



ATTEST  
BY:   
City Auditor and Clerk

APPROVED AS TO FORM AND CORRECTNESS:

BY:   
City Attorney

**City of Sarasota  
Renewable Energy, Energy Efficiency, and Energy Sustainability Agreement  
Phase 1 Energy Projects - Exhibit A**

<b>Energy Project</b>	<b>What</b>	<b>Where</b>	<b>Frequency</b>
Education	B1a Captain Conservation Professor Whys	Performances as agreed upon	As agreed upon
Energy Audits	B1b Energy Audits performed by FPL to identify cost-effective energy savings	All city facilities	every 5 years through 2040
Energy Audits	B1b Energy Audits performed by FPL to identify cost-effective energy savings, with customers acceptance and agreement	Identify 100 largest electricity-consuming accounts (non-city)	1st cycle within 5 years
Energy Audits	B1b Energy Audits performed by FPL to identify cost-effective energy savings, with customers acceptance and agreement	Identify 50 largest electricity-consuming accounts (non-city)	subsequent 5 yr cycles years 2015 - 2040
Home Energy Surveys	B1b FPL and City to encourage Citizens to participate	on-line, phone, in person	on-going
Education	B1c LEED Classes for City Employee		sponsorship up to \$2000
Education Testing Facility	Demonstration of new renewable energy products and technologies to include:	site(s) selected by City, reasonable accepted by FPL	
	B1d - Five (5) Petra Solar pole-mounted panels with Smart Grid capability (useful life - 20 years)	site(s) selected by City, reasonable accepted by FPL	2011 - Initial installation of 5 2021 - review technology and use for possible additional installation of 10 2031 - replace initial 5 placed in 2011 and review for additional install of 5 2031 - review and replace/supplement additional installation subject to useful life determination
	B1e - Install a DC solar PV array (5kWmax) at a School Site (useful life - 20 years)	school(s) selected by City and Sarasota County School Board reasonable accepted by FPL	2011 - Initial installation of (5kW max) array 2021 - review for use and possible additional installation of 2-(5 kW max) sites 2031 - replace initial installation of array
	B1f - Five (5) Electric Vehicle ("EV") Charging Stations (useful life - 10 years)	site(s) selected by City, reasonable accepted by FPL	2011 - Initial installation of 5 stations 2016 - review technology and use for possible additional 10 stations 2021 - replace initial installation of 5 stations and determine useful life for subsequent replacement/supplement 2026 - replace additional 10 stations placed in 2016 and determine useful life for subsequent replacement/supplement 2031 - review and replace/supplement stations subject to useful life determination 2036 - review and replace/supplement stations subject to useful life determination
	B1g Home Energy MakeOver Initiative (HEMI) - 1500 homes to include as needed, compact fluorescent light bulbs, installation of On-Call equipment, weatherstripping, duct and insulation repairs	homes selected by City	2011 - 100 homes 2022 - 100 homes 2034 - 150 homes 2013 - 150 homes 2025 - 100 homes 2036 - 150 homes 2015 - 100 homes 2028 - 150 homes 2038 - 150 homes 2018 - 100 homes 2031 - 150 homes 2039 - 150 homes schedule flexible and subject to change
	B1h Non-Profit Energy MakeOver (NEMO) - 15 sites to include as needed, compact fluorescent light bulbs, installation of On-Call equipment, weatherstripping, duct and insulation repairs	sites selected by City	schedule to be determined

City of Sarasota  
Renewable Energy, Energy Efficiency, and Energy Sustainability Agreement  
Phase 2 Energy Projects - Exhibit B

All Projects on this list will be longer term projects and / or subject to required approvals and passage of enabling State legislation.			
Energy Project	What	Where	Comments
Solar Roof	B2a Large scale roof top DC solar PV array	As agreed upon	As agreed upon
LED Street Lights	B2b demonstration "LED" streetlight pilot program, energy efficient street and area lighting	As agreed upon	As agreed upon
"Utility Scale" Solar Generation Project	B2c Five (5) to ten (10) MW DC solar generation facility	As agreed upon	Consider Verma Wellfield property
Downtown Transportation Connector	B2d FPL would support the City's efforts in applying for a federal grant		