

2011- 0145

Pages 7 Doc Tax \$ _____ EX # _____
Fee Amt \$ 37.00 Ck Pd \$ 37.00
Cash PD \$ _____ Refund \$ _____
Paid by #67 NEXTERA Ck # 53148
Ck # _____
CUSTOMER CODE _____

State of Nebraska Gage County ss. Entered in
Numerical Index and filed for record the
12th day of Jan, 2011
at 9:30 o'clock A. M., and recorded as
INSTRUMENT NO **2011- 0145**

17-6-6
18-5-6
12-5-5
16-6-6

Ruth E. Siems
Register of Deeds
By _____ Deputy

TRACT INDEX
COMPUTER A #
CORRECTED _____
FILED _____

AFTER RECORDING RETURN TO
Mikel Greene
#67 NextEra Energy Resources, LLC
700 Universe Blvd. (JB/LAW)
Juno Beach, FL 33408
(561) 304-5934
(UPS ENVELOPE)

(This space reserved for recording information)

MEMORANDUM OF WIND FARM LEASE AND EASEMENT AGREEMENT

THIS MEMORANDUM OF WIND FARM LEASE AND EASEMENT AGREEMENT (“**Memorandum**”), is executed by and between Martha Lee Heyne and Matthew J. Heyne, wife and husband, whose address for purposes of notices is: 54997 897 Rd. #R1, Crofton, NE 68730 (“**Owner**”), and Boulevard Associates, LLC, a Delaware limited liability company, whose address for purposes of notices is: 700 Universe Blvd., Attn: Business Manager, Juno Beach, FL 33408 (“**Operator**”). Each of Owner and Operator shall hereinafter be referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, Owner and Operator are the parties in and to a Wind Farm Lease and Easement Agreement dated as of the same date of Operator’s signature set forth below (as modified, supplemented or restated from time to time, the “**Agreement**”), by which Owner granted to Operator an exclusive option (“**Option**”) for a Lease and one or more Easements over and across certain real property located in the County of Gage, State of Nebraska, described on the attached **Exhibit A** as the “**Owner’s Property**” and by which if such Option is exercised by Operator the Lease and Easements granted in the Agreement automatically become effective.

WHEREAS, Owner and Operator desire to execute, deliver and record this Memorandum for the purpose of putting all persons on notice of Operator’s right, title and interest in Owner’s Property, including the grant of the Option, the Lease and Easements to Operator.

NOW, THEREFORE, in consideration of the mutual covenants contained in the Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Operator do hereby state, declare and establish as follows:

1. **Defined Terms.** All capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Agreement and the terms, covenants and

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conditions of the Agreement are incorporated herein by reference with the same force and effect as though fully set forth herein.

2. **Option.** The period during which the Option may be exercised ("**Option Term**") shall begin on the date when both Owner and Operator have executed the Agreement, and shall continue for a period of thirty-six (36) months after such date ("**Initial Option Period**"). The Option Term may be extended for one thirty-six (36) month extension period ("**Extended Option Period**"). Operator may exercise the Option by giving written notice to Owner ("**Option Notice**") at any time during the Option Term. References herein to the Option Term shall mean the initial thirty-six (36) month period and, to the extent exercised by Operator, also the Extended Option Term. Operator shall specify in the Option Notice the commencement date of the Lease and Easements, which shall be a day that is the first day of a month and a day that is not sooner than thirty (30) days and not later than sixty (60) days after the date the Option Notice is given to Owner ("**Commencement Date**"). Upon Operator's exercise of the Option, the Lease and Easements in the Agreement shall automatically become effective without any further action and shall commence on the Commencement Date, and Operator and Owner shall be subject to all of the terms and conditions of the Agreement with respect to such Lease and Easements and all rights and obligations relating thereto.

3. **Rights.** The Agreement between Owner and Operator leases the Owner's Property to Operator and allows Operator to construct, operate, maintain, repair, replace, and remove (from time to time) the Improvements, including, without limitation, turbines, met towers, collection and transmission facilities, telecommunication facilities and related improvements for a wind energy project ("**Wind Farm**") at, on, over and under the Owner's Property, ingress and egress over Owner's Property to and from the Improvements, the Construction Property, the Turbine Site Property, the Collection and Transmission Property, the Overhang Property, and the Met Tower Site Property and otherwise as set forth in the Agreement, and for the purpose of surveying, testing and installing monitoring devices and the right to permit the rotors of turbines located on adjacent properties to overhang on to Owner's Property by no more than 110 feet at a height of at least 100 feet above the ground, all in accordance with and subject to the terms of the Agreement.

4. **Term.** The initial term of the Lease and Easements is for a period commencing on the Commencement Date and ending forty (40) years thereafter. Operator is granted three (3) options to extend the term of the Lease and Easements for additional periods of twenty (20) years each.

5. **Effects Easement.** Owner hereby grants to Operator an irrevocable, non-exclusive easement for sound, noise, visual, view, light, flicker, shadow, vibration, air turbulence, wake, electromagnetic, electrical and radio frequency interference, and any other effects attributable to the Wind Farm or activity located on the Owner's Property or on adjacent properties over and across the Owner's Property. This easement shall run with the land; no act or failure to act on the part of Operator or the holder of the easement shall be deemed to constitute an abandonment, surrender or termination thereof, except upon recordation by such holder of a release of such holder's rights under the easement; and nonuse of the easement shall not prevent the future use of the entire scope thereof.

6. **Wind Non-Obstruction Easement.** Owner hereby grants Operator an irrevocable, exclusive easement, right and privilege to use, maintain and capture the free and unobstructed flow of wind currents over and across the Owner's Property ("**Wind Non-Obstruction Easement**"); in connection with the provisions of Nebraska Revised Statute §66-911, Owner and Operator acknowledge and agree that any obstruction to the free flow of the wind above forty feet (40') from the surface of the Property is prohibited throughout the entire area of the Owner's Property (other than as a result of any such obstructions existing as of the Effective Date) which shall exist horizontally three hundred and sixty degrees (360°) from any point where any Turbine or Met Tower is located at any time and for a distance from each Turbine and Met Tower to the boundaries of the Owner's Property. Throughout the entire Term (24 hours a day, 7 days a week), Owner shall not engage in any activity on Owner's Property that might interfere with wind speed or wind direction over any portion of any Turbine or Met Tower Site Property, whether located on or off the Owner's Property; cause a decrease in the output or efficiency of any Turbine or accuracy of any meteorological equipment; or otherwise interfere with Operator's operation of the Wind Farm or exercise of any rights or the Lease granted in this Agreement ("**Interference**"). This easement shall run with the land; no act or failure to act on the part of Operator or the holder of the easement shall be deemed to constitute an abandonment, surrender or termination thereof, except upon recordation by such holder of a release of such holder's rights under the easement; and nonuse of the easement shall not prevent the future use of the entire scope thereof.

7. **Exclusive Rights.** Owner agrees not to grant, convey, assign or provide any easement, license, permit, lease or other right for access across the Owner's Property for generation or transmission of power on or across Owner's Property to any third party in connection with the construction or operation of electrical generating or transmission facilities. Operator shall have the exclusive right during the Term (i) to use and possess the Owner's Property in connection with the Wind Farm and other similar wind-powered electrical power generation projects; (ii) to investigate, inspect, survey, and conduct tests of the Owner's Property, including, but not limited to, meteorological, environmental, archeological and geotechnical tests and studies; (iii) to use and convert all of the wind resources on the Owner's Property; and (iv) to undertake such other activities on the Owner's Property that may be related to the Wind Farm, including, without limitation, the storage of towers, materials and equipment during the installation and construction of the Turbines and other Improvements; development and operation of communications systems; and site tours of the Wind Farm for visitors and other interested parties. This covenant shall not be interpreted to deny Owner the right to grant telecommunications providers appropriate rights to construct and maintain telecommunications facilities on or under the Owner's Property so long as the rights are granted in compliance with the requirements of the Agreement and do not interfere with Operator's operations.

8. **Hunting and Firearms; Other Restrictions.** The Agreement restricts hunting and the discharge of firearms on the Owner's Property in the vicinity of the Wind Farm Improvements for the protection of Operator's site personnel and Wind Farm Improvements. The Agreement also contains other limitations and prohibitions relating to the Owner's Property, including but not limited to, those affecting the mineral estate, including oil and gas and other minerals, and surface use by the mineral estate, and any activity in proximity to, or affecting, the Operator's operations and equipment, as more particularly described therein

9. **Rights Reserved.** The Agreement reserves to Owner, or Owner's tenants rights to farm and use areas of Owner's Property, to the extent provided in the Agreement. Operator waives any interest, claim or lien in crops grown on Owner's Property. Operator agrees that Operator's use of the Property is purely for commercial purposes and that Operator shall not conduct farming activities on the Property.

10. **Notices.** All notices or other communications required or permitted by the Agreement shall be deemed given or made when personally delivered; three (3) days after deposit in the United States mail, first class, postage prepaid, certified; or, one (1) business day after dispatch by Federal Express or other overnight delivery service of national scope to the addresses set forth in the Preamble. Any party may change its address for purposes of this paragraph by giving written notice of the change to the other parties in the manner provided in this paragraph.

11. **Memorandum Interpretation.** This Memorandum is not a complete summary of the Agreement and the statements contained in this Memorandum shall not be used in interpreting the actual provisions of the Agreement. In the event of conflict between this Memorandum and the Agreement, the terms and provisions of the Agreement shall control.

12. **Successors and Assigns.** The terms of this Memorandum and the Agreement are covenants running with the land and inure to the benefit of, and are binding upon, the parties and their respective grantees, heirs, executors, administrators, successors and assigns, including all subsequent owners of all or any portion of the Owner's Property. References to Owner and Operator include their respective successors and assigns.

13. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

(Signature page is next.)

EXECUTED on the date set forth below.

Owner:

Martha Lee Heyne
Martha Lee Heyne

Matthew J. Heyne
Matthew J. Heyne

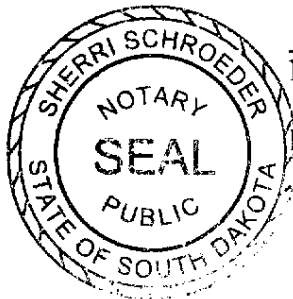
OWNER ACKNOWLEDGEMENT

STATE OF South Dakota
NEBRASKA
COUNTY OF Yankton) ss:

On this 20 day of October, 2010, before me, the undersigned notary public, personally appeared Martha Lee Heyne and Matthew J. Heyne, wife and husband, personally known to me to be the person who subscribed to the foregoing instrument.

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

(notary seal)




[Signature]
NOTARY PUBLIC, STATE OF NEBRASKA South Dakota
My commission expires: 11-14-11

EXECUTED on the date set forth below.

Operator:

Boulevard Associates, LLC
A Delaware limited liability company

By: 
Dean R. Gosselin, Vice President

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

On this 9th day of November, 2010, before me, the undersigned notary public, personally appeared Dean R. Gosselin personally known to me to be the person who subscribed to the foregoing instrument and acknowledged that he executed the same on behalf of said limited liability company and that he was duly authorized so to do.

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

(notary seal)


NOTARY PUBLIC, STATE OF FLORIDA

My commission expires: _____

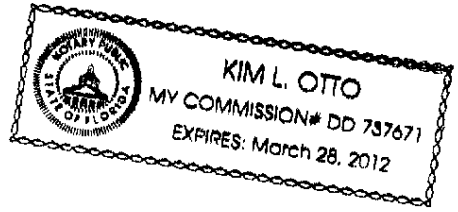


EXHIBIT A

Legal Description of Owner's Property

Parcel 1

The East Half of the Northeast Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$) of Section 17, Township 6 North, Range 6 East of the Sixth Principal Meridian located in Gage County, Nebraska.

Parcel 2

The West Half of the Northwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 18, Township 5 North, Range 6 East of the Sixth Principal Meridian located in Gage County, Nebraska.

Parcel 3

The South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 12, Township 5 North, Range 5 East of the Sixth Principal Meridian located in Gage County, Nebraska.

Parcel 4

The North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 16, Township 6 North, Range 6, East of the Sixth Principal Meridian located in Gage County, Nebraska; Less and Except a tract of land described as follows: Beginning at the Northeast corner of said Southeast Quarter (SE $\frac{1}{4}$), thence South along the section line 1,000.00 feet, thence West 425.00 feet parallel with the South section line, thence North 1,000.00 feet parallel with the East section line, thence East 425.00 feet to the point of beginning.