

Doc# 2007-6498 Spp

State of South Dakota

SS. Fees 18-

County of Codington

OFFICE OF REGISTER OF DEEDS

Filed this 27<sup>th</sup> day of Nov  
2007 at 12:35 o'clock P m

Book 45 Page 865

Ann Littel

REGISTER OF DEEDS/DEPUTY

(This space reserved for recording information)

**PREPARED BY & RETURN TO**

Orin Shakerdge, Esq.  
FPL Energy, LLC  
700 Universe Blvd.  
Juno Beach, FL 33408  
Telephone: (561) 694-4678

**MEMORANDUM OF OPTION  
FOR EASEMENT AGREEMENT**

THIS MEMORANDUM OF OPTION FOR EASEMENT AGREEMENT ("Memorandum") is made as of July 2, 2007 (the "Effective Date") by and between **Dennis D. Thyen and Dawn M. Thyen, Husband and Wife**, ("Owner") whose address for purposes of notices is: **46310 164<sup>th</sup> St., Watertown, SD 57201** ("Owners"), and **Boulevard Associates, LLC**, a Delaware limited liability company, a subsidiary of FPL Energy LLC, a Delaware limited liability company, whose address for purposes of notices is: **700 Universe Blvd., Attn: Business Manager, Juno Beach, FL 33408** ("FPLE"). Each of Owner and FPLE shall hereinafter be referred to individually as a "Party" and collectively as the "Parties."

**RECITALS**

WHEREAS, Owner and FPLE are the parties in and to an Option for Easement Agreement dated July 2, 2007 ("Agreement"), by which Owner granted to FPLE an exclusive option for easements over and across certain real property located in the County of **Codington**, State of South Dakota, described on the attached Exhibit A as the "Property" and as owned by Owner.

WHEREAS, Owner and FPLE desire to execute, deliver and record this Memorandum for the purpose of putting all persons on notice of FPLE's right, title and interest in the Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and FPLE do hereby state, declare and establish as follows:

**AGREEMENT**

1. **Grant of Option.** Commencing on the Effective Date, Owner hereby grants to FPLE an exclusive option to enter into an agreement creating certain easement rights and obligations affecting the Property, for wind energy development purposes ("Option").

2. **Term & Termination.** The term of the Option shall commence on the Effective Date and terminate on the date that is three (3) years after the Effective Date ("Initial Option Period"). The Initial Option Period may be extended for a three (3) year period on the same



2. **Term & Termination.** The term of the Option shall commence on the Effective Date and terminate on the date that is three (3) years after the Effective Date (“**Initial Option Period**”). The Initial Option Period may be extended for a three (3) year period on the same terms and conditions set forth in the Agreement (“**Renewal Option Period**”). The Initial Option Period and, if applicable, the Renewal Option Period shall be referred to hereinafter collectively as the “**Option Period**”. FPLE may terminate the Option at any time during the Option Period upon written notice to Owner.

3. **Exercise of Option.** FPLE may exercise the Option at any time during the Option Period upon after providing written notice to Owner. If FPLE exercises the Option in accordance with the terms contained herein, the Parties agree to negotiate in good faith and with due diligence to execute an agreement creating the easement rights and obligations contemplated hereby, within sixty (60) days after the exercise of the Option.


4. **Exclusivity.** During the Option Period, Owner will not sell, contract to sell, assign, lease, negotiate with another wind farm developer, or otherwise transfer or encumber the Property or any part thereof or interest therein, unless it is transferred or encumbered subject to FPLE’s rights under the Agreement. In no event will Owner, during the Option Period, grant a license, easement, option, leasehold, or other rights to the Property, or any part thereof, to any other utility or entity seeking, directly or indirectly, to develop the Property, or any part thereof, for wind energy conversion, or to negotiate with any other party with respect to such rights, nor permit any third party to undertake activities on the Property to evaluate the wind resources of the Property, or any part thereof.


5. **Interpretation of this Memorandum.** The purpose of this Memorandum and its recordation in Codington County, South Dakota is to place all persons on notice of the existence of the Agreement. It is understood and agreed by the Parties that this Memorandum shall not modify or amend the Agreement in any respect. All of the terms, covenants and conditions contained in the Agreement and this Memorandum shall be deemed covenants running with the land for all purposes.

6. **Counterparts.** This Memorandum may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the Effective Date.

**Owner:**

Signature:   
Dennis D. Thyen

Signature:   
Dawn M. Thyen

**BA:**  
Boulevard Associates, LLC  
A Delaware limited liability company

By:   
Dean Gosselin, Vice President

**ACKNOWLEDGEMENT**

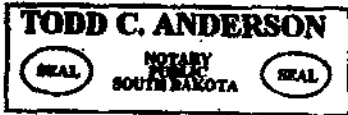
To be filled out by Notary Public for Land Owner:

State of South Dakota )  
 )ss:  
County of Codington )

On this 31<sup>st</sup> day of May, 2007, before me, the undersigned notary public, personally appeared Dennis D and Dawn M. Thyen, personally known to me to be the person who subscribed to the foregoing instrument or provided a driver's license as identification.

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

(notary seal)



Todd C. Anderson

Notary Public, State of South Dakota

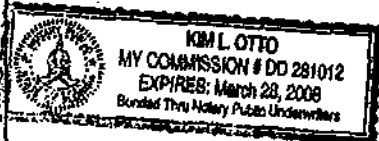
My commission expires: 5/24/2013

State of Florida )  
 )ss:  
County of Palm Beach)

On this 2 day of July, 2007, 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)



Kim L. Otto  
Notary Public, State of Florida

My commission expires: 3-28-08

**EXHIBIT A**

**Real Property Description**

**The West 830 feet of the Southwest Quarter (SW1/4) of Section 22, Township 118 North, Range 51 West of the 5th P.M., except the Railroad right-of-way contained therein; except that portion conveyed to Codington County for roadway purposes and described in Quit Claim Deed filed in Book 185 of Deeds on page 67. Codington County, South Dakota**