IN THE SUPREME COURT OF FLORIDA

Case No. SC15-780 and SC15-890
(Consolidated)

Upon Request From the Attorney General
For An Advisory Opinion As To The
Validity Of An Initiative Petition

ADVISORY OPINION TO THE ATTORNEY GENERAL RE: LIMITS OR PREVENTS BARRIERS TO LOCAL SOLAR ELECTRICITY SUPPLY

INITIAL BRIEF OF THE CITY OF CORAL GABLES

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PRELIMINARY STATEMENT

Within this Initial brief, the City of Coral Gables will be referred to as "the City" or "Coral Gables." The City's sole concern is its continued ability to use aesthetics as a zoning tool if the proposed solar amendment to Florida's constitution passes. The City is very supportive of the use of solar, and as the economics of solar continues to improve, the City looks forward to more people being able to utilize energy from the sun.

The subject of these proceedings, the proposed amendment to the Florida Constitution titled the "Limits or Prevents Barriers to Local Solar Electricity Supply" will be referred to as the "Solar Initiative" or the "Amendment."

STATEMENT OF THE CASE AND FACTS

In case number SC15-780, the Florida Attorney General has requested this Court's advisory opinion on the validity of an initiative petition filed under Article XI, section 3 of the Florida Constitution. The title of the proposed amendment is "Limits or Prevents Barriers to Local Solar Electricity Supply" (the "Solar Initiative" or "Amendment"). The sponsor of the Solar Initiative is a political committee called Floridians for Solar Choice, Inc., and it purportedly seeks to remove barriers it deems detrimental to solar development in Florida. In case number SC15-890 the Court is reviewing the report of the Financial Impact

Estimating Conference, in accordance with the provisions of Chapter 04-33, Laws of Florida.

This Court's review must address two legal issues: "(1) whether the proposed amendment violates the single-subject requirement of Article XI, section 3, of the Florida Constitution; and (2) whether the ballot title and summary violate the requirements of section 101.161(1), Florida Statutes."[1] The Court has jurisdiction. Art. V, § 3(b)(10), Fla. Const. In addition, the ballot summary must use "***clear and unambiguous language*** on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall ***be styled in such a manner that a "yes" vote will indicate approval of the proposal*** and a "no" vote will indicate rejection."[2] Further, the ballot title and summary must "provide fair notice of the content of the proposed amendment so that the voter will not be misled as to its purpose, and can cast an intelligent and informed ballot."[3]

In summary, the ballot language must be clear, unambiguous, cannot be misleading and must fully inform the voter of the consequences of a "yes" or "no" vote.

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[1] *Advisory Op. to Att'y Gen. re Use of Marijuana for Certain Med. Conditions*, 132 So. 3d 786, 795 (Fla. 2014).
[2] Section, 101.161(1), Fla. Stat. (emphasis added).
[3] *Advisory Op. to Att'y Gen. Re: Term Limits Pledge*, 718 So. 2d 798, 803 (Fla. 1998); § 101.161(1), Fla. Stat. (2013).

INTEREST OF THE CITY OF CORAL GABLES

Coral Gables is participating in these proceedings for the limited purpose of ensuring that the City's use of aesthetics as a zoning tool will not be deemed a barrier to solar power and prohibited if the Amendment passes. The ambiguous language in the Amendment regarding the removal of "barriers" and exemptions from local authority could be construed to find the City's aesthetics-based zoning and other regulatory policies regarding solar installations illegal, depending upon how some of the unclear language in the Amendment is interpreted. While the City believes that its regulatory process supports solar power expansion, the City is taking the extraordinary step of participating in these proceedings to help ensure the continued viability of its aesthetics-based solar policies. Thus, Coral Gables has a vested interest in the outcome of this case.

The City has used its local regulatory authority since the 1920s to establish a visual plan that underlies the distinctive design features that constitute the signature "look" of Coral Gables today. Nearly one hundred years ago, George Merrick amassed 1,200 acres, most of it a rocky wilderness covered in scrub and pine, to build what today is the City of Coral Gables. By 1921, he put together a team of designers that included an architect, an artist, and a landscape architect. They would set the aesthetic standards and design codes for every feature of the new City, down to the corner lampposts and details on the archways. They

carefully chose the colors – favoring ocher and sienna – and worked to evoke an old-world feel even in the newest buildings. Land was set aside for homes and country clubs, industrial, craft, and commercial areas. The zoning also carved out areas for golf courses, tennis courts and bridle paths. From the coral limestone that lay underground emerged a city with beautiful entrances and plazas, and stunning boulevards. Large oaks trees and banyans, palm trees, and royal poincianas began forming a canopy that shaded the growing city from the harsh Florida sun. In one year alone, Merrick planted 20,000 trees and shrubs. By the time the City was incorporated in April 1925, it boasted more than 600 homes – from quaint Spanish bungalows to two-story Spanish residences. To preserve Merrick's vision, Coral Gables installed one of the most stringent zoning codes in Florida, and uses aesthetics as a zoning tool.

With respect to solar facilities, the City works well with solar developers through a City architectural review board to review solar developers' plans so that Coral Gables can preserve the look and feel of the city as designed by George Merrick early last century. On its face, the potential far reach of the language in the Amendment raises questions regarding the ability of the City to preserve its ability to use aesthetics. While the City believes that its approach to reviewing and approving solar installations does not constitute a barrier to solar use, the City wants to make sure that its process and aesthetics-based regulations will not be

deemed illegal if the Solar Initiative becomes law. Therefore, Coral Gables submits this Initial Brief pursuant to this Court's Scheduling Order dated May 22, 2015, to expressly address the City's concerns in the event the Amendment becomes law.

SUMMARY OF ARGUMENT

The City's concerns regarding the legal status of its aesthetic-based regulations and approval process stem from several issues with the Amendment. It appears that the Solar Initiative violates the single-subject rule and suffers from a duality of purpose by potentially negatively impacting local governments within the guise of promoting solar energy. The Solar Initiative mandates the voter to accept the disfavored provisions of reduced regulations in order to obtain the favored one of promoting solar.

Specifically, the Amendment limits local regulations and ordinances to "***reasonable health, safety and welfare regulations including but not limited to building codes, electrical codes, safety codes, and pollution control regulations***..." Aesthetics is not identified as a regulatory tool for a municipality to use. Irrespective of whether this was done accidentally or intentionally, the City of Coral Gables is concerned that it will not be able to use aesthetics because the ballot language is unclear. And although the ballot language is broad by using the phrase "including but not limited to," aesthetics may not apply because aesthetics

involves an evaluation of "beauty", and not "health, safety and welfare."[4] Therefore, it appears aesthetics may not be a legally acceptable tool for zoning for small solar projects or large-scale solar grids up to 2MWs under this Amendment if it is adopted. In addition, the Amendment's restrictions on municipalities and their regulatory tools are aggravated by the failure to define "contiguous."

The Solar Initiative's failure to define "contiguous" will provide unintended consequences if a profit-driven neighbor installs a large panel on his/her property, and sells electricity to properties that are "touching" on another (i.e. perhaps the entire city block). This could be troublesome, because the Amendment allows solar panel 2MWs in size which could be as large as 16 acres and more akin to a micro grid than a behind the meter energy solution. Solar panels need unobstructed access to the sun, and such large scale 2 MW facilities raises concerns for the City's tree canopies and residential neighborhoods.

In the final analysis, the Amendment appears to present several legal problems that potentially may impact the City's aesthetics-based regulations. Given these important governmental issues, the City of Coral Gables respectfully files this brief highlighting its concerns with the Amendment.

[4] The City of Coral Gables reserves the right to argue that aesthetics is included as a part of the "welfare" of its citizens.

STANDARD OF REVIEW

The issues before the Court are questions of law.[5] Accordingly, the standard of review is *de novo*.[6] The Court has stated that it "must act with extreme care, caution, and restraint before it removes a constitutional amendment from the vote of the people."[7] That sensitivity notwithstanding, amendments proposed by initiative are nonetheless subject to a unique analysis because they do not "provide a filtering legislative process for the drafting of any specific proposed constitutional amendment or revision."[8] This is the case presented by the Solar Initiative.

ARGUMENT

I. IT APPEARS THE INITIATIVE VIOLATES THE SINGLE-SUBJECT REQUIREMENT.

"The power of the citizens of the state of Florida to amend their state constitution by initiative, set forth in article XI, section 3, Florida Constitution, is subject to only one rule of restraint – that the 'revision or amendment shall embrace but one subject and matter *directly connected* therewith.'"[9] Article XI requires that "the electorate's attention be directed to a change regarding one

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[5] *Fine v. Firestone*, 448 So. 2d 984, 987 (Fla. 1984).
[6] *Armstrong v. Harris,* 773 So. 2d 7, 16 (Fla. 2000), *cert. den.*, 532 U.S. 958 (2001).

[7] *Askew v. Firestone,* 421 So. 2d 151, 156 (Fla. 1982).
[8] *Advisory Op. re Save Our Everglades*, 636 So. 2d 1336, 1339 (Fla. 1994); *Fine v. Firestone*, 448 So. 2d 984, 988 (Fla. 1984).
[9] *Evans v. Firestone*, 457 So. 2d 1351, 1353 (1984) (emphasis added).

specific subject of government to protect against multiple precipitous changes in our state constitution."[10] In recognition of this important constitutional mandate, this Court has demanded that initiative proposals adhere to "strict compliance with the single-subject rule,"[11] and has construed the single-subject provision in Article XI, section 3 more stringently than the single-subject requirement for laws enacted by the Legislature contained in Article III, section 6.[12]

This Court also has held that the single-subject requirement includes the following critical components: (1) the amendment may not substantially affect multiple functions or levels of government; (2) the amendment must identify all articles and sections of the constitution that are substantially affected; and (3) the amendment may not deal with separate subjects in a manner that results in logrolling. In *Fine,* we found multiplicity of subject matter because the proposed amendment would have affected several *legislative* functions."[13] The current Amendment under review here violates all three requirements, but Coral Gables only seeks to comment on the restrictions to local government zoning laws.

As the City shall discuss below, the Amendment effects multiple layers of government, fails to identify negative impacts to a municipality's home rule

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[10] *Fine v. Firestone*, 448 So. 2d at 998.
[11] *Fine v. Firestone*, 448 So. 2d at 989.
[12] *Fine v. Firestone*, 448 So. 2d at 998.
[13] (Emphasis by court); *Advisory Op. re Personal Property Rights*, 699 So. 2d 1304, 1308 (Fla. 1997).

authority under Article VIII, section 2(b) of Florida's Constitution, and involves separate subjects by promoting solar development by adding what could be new/separate constitutional restrictions to a local government's home rule authority under Article VIII, section 2(b) of Florida's Constitution.

1. It Appears the Proposed Amendment May Effect a City's Zoning Authority and Fails to Identify Negative Impacts to a City's Home Rule Authority under Article VIII, Section 2(b) of Florida's Constitution

The Florida Constitution provides in Article VIII, section 2(b) that, "Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law." Current state law allows Coral Gables the ability to use aesthetics and appearance to site solar panels that generate electricity under the Florida Home Owner's Solar Rights Act (discussed further below). However, the Amendment may "trump" existing law and could eliminate the use of aesthetics-based regulations such as local zoning for solar panels. Despite the Amendment's potential impact to the Florida Constitution's home rule authority, the Solar Initiative does not specifically identify this impact, and therefore, voters are uninformed or misled as to the impact stemming from their "yes" or "no" vote on the Amendment.

For example, it appears that the Solar Initiative provides more stringent constraints on the Coral Gables police powers. Currently, Coral Gables uses an architectural review board to determine the size and location of solar panels in neighborhoods and business districts. Aesthetics plays a central role in this review process and serves as a critical tool used to maintain the City's Mediterranean architectural look and feel. However, it appears that the Solar Initiative may negatively impact this police power, because the Amendment does not identify aesthetics-based regulations as a permissible tool available to a local government. The Amendment only specifically reserves regulatory power related to health, safety, and welfare, and fails to mention aesthetics which involves an evaluation of "beauty" and "appearance." It is very unclear what role, if any, aesthetics will apply if the Amendment passes.[14]

Removing aesthetics from the architectural board's review process will threaten Coral Gables' ability to preserve tree lines and civic landmarks. The Amendment would permit large, commercial-scale solar power plants to be built and operated within municipalities relatively free from regulation. These solar projects could be more akin to a mini electric grid than a small residential rooftop solar panel, and they need open access to sunlight in order to be profitable. More

[14] Again, the City of Coral Gables reserves the right to argue aesthetics is included in the event the ballot passes.

sun equals more money, and thus, trees could be lost to maximize the sale of electricity from the solar project. This would change current law and impact the City's home rule authority.

Under current law, Coral Gables may use aesthetics-based regulations to site solar panels that generate electricity, and a limited right to zone solar collectors (solar hot water heaters) under the Florida Home Owner's Solar Rights Act (the "Act"). This clarity is in jeopardy due to the vagueness of the proposed Amendment.

2. It Appears the Solar Initiative Addresses Several Subjects Not Identified in the Solar Initiative and is Guilty of Logrolling

It appears that the Amendment is about more than just promoting solar choice. Rather, it takes aim at local government's ability to regulate in the public interest. In addition, the Solar Initiative appears to be about deregulation, and adding new restrictions to local government's ability to promulgate regulations to maintain consistency of its community – specifically, local aesthetics-based regulations. These counteracting currents violate the single-subject rule because the Solar Initiative engages in logrolling.

The single-subject requirement is intended to avoid logrolling: the act of including non-conforming provisions in a single amendment, "some of which electors might wish to support, in order to get an otherwise disfavored provision

passed."[15] The Court has consistently refused to approve initiatives that contained multiple provisions that had this effect of logrolling. In that regard, the Solar Initiative is most like the initiative at issue in *Save Our Everglades*.[16]

The *Save Our Everglades* amendment was designed to restore the Everglades through the creation of a new fund that was underwritten by imposing a new fee on sugarcane processors. The Court stated:

> There is no "oneness of purpose," but rather a duality of purposes. One objective – to restore the Everglades – is politically fashionable while the other – to compel the sugar industry to fund the restoration – is more problematic. Many voters sympathetic to restoring the Everglades might be antithetical to forcing the sugar industry to pay for the cleanup by itself and yet those voters would be compelled to choose all or nothing.[17]

The Solar Initiative appears to be a case of logrolling like that seen in *Save Our Everglades*. Like the language at issue in *Save Our Everglade*s, the Solar Initiative's language suffers from at least a duality of purposes.

Solar power generation is a popular technology that many voters will want to support. Coral Gables certainly supports the further expansion of solar power generation. But under this Amendment, the voter will have to swallow the unfavorable restrictions on local government that come with it. Thus, two subjects will be addressed under one ballot and one vote. Moreover, many voters may not

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[15] *Advisory Op. re Physicians Fees*, 880 So. 2d 659, 662 (Fla. 2004)
[16] *Save Our Everglades*, 636 So. 2d 1336 (Fla. 1994).
[17] Id. at 1341.

even be aware that the Solar Initiative threatens the ability of Coral Gables, and similarly situated cities like it, to preserve tree lines and community architectural and design values. These values are currently preserved using aesthetics-based regulations which are not enumerated within the realm of regulations allowed by the Solar Initiatives' health, safety and welfare limitations. This is problematic because the large, commercial-scale solar power facilities contemplated by the Amendment need open access to sunlight, and trees could be lost. Whether intentional or by accident, the Solar Initiative results in logrolling and carries a real-world possibility of prohibiting municipalities from using aesthetics as a regulatory tool subject to subsection (b)(4) of the Amendment. Therefore, the Solar Initiative is guilty of logrolling, because it would compel such a voter to swallow the disfavored restriction on local government due to the "all or nothing" nature of voting on a constitutional amendment. A similar "all or nothing" approach is best seen in *Health Care Providers*.[18]

This Court's decision in *Health Care Providers* carried a duality of purposes, restricted local government, and placed the voter in an "all or nothing" position. The Court held that the initiative violated the single-subject requirement, stating:

> The proposed amendment combines two distinct subjects

[18] *Advisory Opinion to the Atty. Gen. re Right of Citizens to Choose Health Care Providers*, 705 So. 2d 563 (Fla. 1998).

> by banning limitations on healthcare provider choices imposed by law and by prohibiting private parties from entering into contracts that would limit healthcare provider choice. The amendment forces the voter who may favor or oppose one aspect of the ballot initiative to vote on the healthcare provider issue in an "all or nothing" manner. Thus, the proposed amendment has a prohibited logrolling effect and fails the single-subject requirement.[19]

Therefore, like the case in *Health Care Providers,* the Solar Initiative cannot carry two distinct subjects that force the voter to swallow the disfavored subject in order to obtain the favorable subject in a ballot initiative that is essentially an "all or nothing" vote. Irrespective of whether the Solar Initiative was written this way intentionally, or unintentionally, the current Solar Initiative does both.

In addition to not specifically including aesthetics, a local government must be careful using health, safety, and zoning regulations for fear that city action may be interpreted as effectively prohibiting solar.

Under the Solar Initiative, health, safety, zoning, or environmental regulations that might push the costs of the local solar supplier to level that renders it unaffordable, might arguably have "the effect of prohibiting the supply of solar-generated electricity." Thus, voters who favor reducing barriers to solar power will be required to vote in favor of "watered down" regulations enacted for the voters' protection. This trade-off of local solar power in exchange for a

[19] 705 So. 2d at 566.

reduced ability to protect the health, safety and welfare is exactly what this Court has consistently and understandably rejected.

In addition, the Amendment's limitations on zoning are broadened by the use of the word "contiguous" and the failure to define "contiguous." The Solar Initiative states that it is "intended to accomplish this purpose by limiting and preventing regulatory and economic barriers that discourage the supply of electricity generated from solar energy sources to ***customers who consume the electricity at the same*** or a ***contiguous property as the site of the solar electricity production***."[20] What does that mean? Does it mean only houses with property "adjacent" to solar production, near the solar generation, or multiple properties that are continuous (touching one another) like a row of houses?

The failure to define "contiguous" is a huge hole in the Amendment that could lead to years of litigation. More directly, this type of ambiguity could provide an opening or loophole for a profit-driven neighbor to install a large panel on his/her property and sell power to his neighbors, and perhaps the entire city block. This could be a very real problem because the Amendment allows up to 2MWs of solar panels, which is approximately 16 acres in size. Therefore, failing to define "contiguous" could deprive cities like the Coral Gables of reasonable

[20] Emphasis added.

zoning authority over large solar panels if aesthetics-based regulations are not allowed and/or contiguous is defined more broadly.

In summary, the Solar Initiative contains a duality of purposes that will put the voters of the City of Coral Gables in an "all or nothing" position whereby the City's aesthetics-based regulations and visual integrity may be jeopardized in order to support an Amendment that purports to remove barriers to more local solar. Again, the Solar Initiative lacks clarity and does not give a voter a choice but to accept the disfavored provision in order to obtain the favored one.

II. IT APPEARS THE BALLOT TITLE AND SUMMARY VIOLATE SECTION 101.161, FLORIDA STATUTES.

Florida law requires that an amendment be clear and unambiguous so that voters are informed of their "yes" or "no" vote. Specifically, this section reads,

> Whenever a constitutional amendment or other public measure is submitted to the vote of the people, a ballot summary of such amendment or other public measure shall be printed in ***clear and unambiguous language*** on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall ***be styled in such a manner that a "yes" vote will indicate approval of the proposal*** and a "no" vote will indicate rejection.[21]

In addition, the ballot title and summary must "provide ***fair notice*** of the content of the proposed amendment so that the voter will not be misled as to its purpose, and

[21] Section, 101.161(1), Fla. Stat. (emphasis added).

can cast an intelligent and informed ballot."[22] The accuracy and clarity of the ballot title, and summary are of "paramount importance" because they are all the voter sees in the voting booth; the text is not on the ballot.[23]

Under the Solar Initiative, it appears the ballot language does not provide fair notice of restrictions to municipalities, or alternatively, the Solar Initiative misleads the voter to solicit a "yes" vote on false pretenses because Florida law already addresses local government regulations that serve as a barrier for solar development under the Florida Homeowner's Solar Rights Act.[24] Under this Act a municipality can regulate and zone energy devices based on renewable resources as long as the zoning does not effectively prohibit the use of the renewable devices. Specifically, the law already restricts a city's zoning application to residential use of solar collectors and enables Florida citizens to use renewable energy – particularly access to sunlight - for drying clothes and hot water needs with minimal obstructions from local government. The Act reads,

> Notwithstanding any provision of this chapter or other provision of general or special law, the adoption of an ordinance by a governing body, as those terms are defined in this chapter, which prohibits or ***has the effect of prohibiting the installation of solar collectors, clotheslines***, or other energy devices based on renewable

[22] *Advisory Op. to Att'y Gen. Re: Term Limits Pledge*, 718 So. 2d 798, 803 (Fla. 1998); § 101.161(1), Fla. Stat. (2013) (emphasis added).
[23] *Armstrong,* 773 So. 2d at 12-13.
[24] Section 163.04, Fla. Stat.

resources is expressly prohibited.[25]

Thus, the Legislature has already taken important steps to reducing barriers to solar energy development by disallowing a municipality from adopting ordinances that prohibit or effectively prohibit solar installations. Similar provisions apply to other local governments and homeowner associations for comparison purposes.

Thus, existing statutory language materially mirrors the relevant text of the Solar Initiative, except the Amendment is in some respects broader in its application to local governments but narrower since it does not address homeowner's associations. The chart below compares the language from existing law to the Amendment:

§ 163.04(1) Fla. Stat.	**Solar Initiative**
(1) ***Notwithstanding any provision of this chapter or other provision of general or special law***, the adoption of an ordinance by a governing body, as those terms are defined in this chapter, ***which prohibits or has the effect of prohibiting the installation of solar collectors***, clotheslines, or other energy devices based on renewable resources is expressly prohibited.	(1) A local solar electricity supplier, as defined in this section, ***shall not be subject to state or local government regulation*** with respect to rates, service, or territory, or be subject to any assignment, reservation, or division of service territory between or among electric utilities. *** (4) . . . nothing in this section shall prohibit reasonable . . . regulations, ***which do not prohibit or have the effect of prohibiting*** the supply of solar-generated electricity by a local solar electricity supplier as defined in this section."
(emphasis added)	(emphasis added)

[25] Section 163.04(1), Fla. Stat. (Emphasis added).

The City also seeks clarity on why current law is being elevated to a constitutional amendment when it does not appear that any significant disputes between solar developers and local governments exist. There has only been one relevant case involving a regulation that served as a barrier to renewable energy. That regulation was by a homeowner's association and struck down in 2006 by the Fifth District Court of Appeal. In *Sorrentino v. River Run Condominium Association*,[26] there was a dispute between a homeowner and a homeowner's association over an unauthorized building of a skylight by the homeowner, and the court interpreted section 163.04, Florida Statutes, to resolve the matter. The court sided with the homeowner that the association could not prohibit the use of a skylight, and the homeowner was able to keep an authorized skylight despite objection from the homeowner's association. Further, the homeowner was awarded attorney fees, which are also provided for under the statutes: "In any litigation arising under the provisions of this section, ***the prevailing party shall be entitled to costs and reasonable attorney's fees***."[27] The ability of a prevailing party to obtain attorney's fees can be an important driver for property owners seeking to enforce their solar rights when barriers are presented. The Amendment does not include an attorney's fee provision.

[26] *Sorrentino v. River Run Condominium Ass'n,* 925 So.2d 1060, (March 2006).
[27] *Sorrentino, 925* So. 2d at 1063.

It is important to note that there are no reported appellate cases where a local government was serving as a barrier to solar development, as is suggested by the Amendment. In addition to the Florida Homeowner's Solar Rights Act, the Florida Legislature has adopted several other laws that further serve to promote solar energy.[28] Together these laws have taken valuable strides in reducing consumer barriers to solar energy availability. The absence of significant litigation involving an enforcement of these rights, suggests that consumers do not appear to be experiencing any legal barriers to the self-deployment of solar options.

CONCLUSION

The City of Coral Gables files this Initial Brief to highlight its concern regarding the ability to continue to use aesthetics-based regulations as a part of the zoning process. The City of Coral Gables supports the expansion of solar technology, and believes it offers value to the community and its citizens and the environment. However, the Solar Initiative lacks clarity, and presents real concerns related to the future use of aesthetics-based regulations that have worked very successfully in maintaining the City's character while still promoting solar use in Coral Gables. Therefore, Coral Gables files this Initial Brief so that the

[28] See, Section 366.91, Fla. Stat. (2014); Section 377.705, Fla. Stat. (2014); Section 704.07, Fla. Stat. (2014); Section 163.04, Fla. Stat. (2014); Section 1013.44(2), Fla. Stat (2014); and, Section 193.624(2), Fla. Stat (2014).

Court may address the City's serious concerns regarding its continued use of aesthetics-based regulations if the Solar Initiative becomes law.

Respectfully submitted,

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Counsel for Appellant hereby certifies that this Initial Brief is typed in 14 point Times New Roman, in compliance with Fla. R. App. P. 9.100(l).

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