

**RESOLUTION NO. 1513  
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION AUTHORIZING THE CITY OF PRINEVILLE TO ENTER INTO AN  
AMENDMENT TO SOLAR LEASE AGREEMENT WITH WESTLAKE SOLAR  
PANELS, LLC**

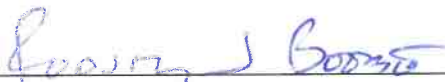
**Whereas**, on April 1, 2020, City of Prineville (“Prineville”) and Westlake Solar Panels, LLC (“Westlake”) entered into a Solar Site Lease Agreement (“Agreement”) regarding the leasing of certain real property within the City of Prineville; and

**Whereas**, City has prepared an Amendment to Solar Lease (“Amendment”) for City’s consideration; and

**Whereas**, City staff believes it is in the best interest of the City to approve and execute the Amendment.

**Now, Therefore**, the City of Prineville resolves that the Amendment to Solar Lease Agreement attached to this Resolution between the City and Westlake is hereby approved and that the Mayor and the City Manager are authorized and instructed to sign such Agreement on behalf of the City.

Approved by the City Council this 22<sup>nd</sup> day of February, 2022.

  
\_\_\_\_\_  
Rodney J. Beebe, Mayor

ATTEST:

  
\_\_\_\_\_  
Lisa Morgan, City Recorder

## AMENDMENT TO SOLAR SITE LEASE AGREEMENT

THIS AMENDMENT to Solar Site Lease Agreement (“Amendment”) effective on the date last written below, is entered between City of Prineville, an Oregon municipal corporation (“Owner”) and Westlake Solar Panels, LLC, a Washington limited liability company (“Lessee”). Both Owner and Lessee shall be known as “Party” and collectively “Parties.”

### RECITALS

- A. The Parties executed a Solar Site Lease Agreement effective April 1, 2020, (“Agreement”) which is attached as Exhibit A and incorporated herein.
- B. Pursuant to the Agreement, Lessee was responsible for all signs and fences on the Property.
- C. A fence is required per rules and regulations regarding solar sites. A design of that fence is set forth on the attached B, which is incorporated herein, hereinafter “Fence.”
- D. Lessee is unable to install the fence because of financial burdens as a result of the COVID-19 pandemic.
- E. Owner is willing to install the fence because it feels that the project is an asset to the community.

NOW, THEREFORE, in consideration of the foregoing, the covenants and agreements of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:


- 1. Owner shall install the fence as depicted on Exhibit B at Owner’s sole costs and expense. Owner and/or its agents shall be allowed full access to the Demised Premises for the purpose of construction.
- 2. After installation, Owner shall retain ownership of the improvements within this Amendment; however, during the Term of the Lease, Lessee shall be fully responsible for the maintenance and repair of the improvement at Lessee’s sole costs and expense. At the conclusion of the Lease, Lessee shall remove the fence along with other facilities if Owner does not exercise its option to purchase.
- 3. Except as modified by this Amendment, all terms and conditions of the Agreement are reaffirmed and remain unmodified and in full force and effect.
- 4. This Amendment may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) agreement; but in making proof of this Amendment, it shall not be necessary to produce or account for more than one such counterpart. Copies

(whether **facsimile**, photostatic or otherwise) of signatures to this Agreement shall be deemed originals and may be relied on to the same extent as the originals.

5. Each of the individuals signing this Agreement **represents** and warrants that he or she has been properly authorized to enter into this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year last written below.

**City of Prineville (“Owner”)**

By:   
Rodney J. Beebe  
Its Mayor

\_\_\_\_\_  
Date

By:   
Steve Forrester  
Its City Manager

\_\_\_\_\_  
Date

**Westlake Solar Panels, LLC (“Lessee”)**

By: \_\_\_\_\_  
Peter Parker  
Its CFO/COO

\_\_\_\_\_  
Date

## SOLAR SITE LEASE AGREEMENT

This SOLAR SITE LEASE AGREEMENT (this "Agreement") is made, dated and effective as of April 1, 2020 (the "Effective Date"), between City of Prineville, Oregon ("Owner"), and Westlake Solar Panels LLC, a limited liability company formed under the laws of the State of Washington ("Lessee"), in light of the following facts and circumstances.

### RECITALS

WHEREAS, Lessee is in the business of **developing**, erecting and operating photovoltaic solar generating facilities for the production of electrical energy for sale to utility companies, power marketers, power exchanges and other users;

WHEREAS, Owner owns certain real property located in Prineville, Oregon, as more particularly described on Exhibit A attached hereto and by this reference made a part hereof (the "Property"); and

WHEREAS, Lessee desires to lease the Property and to obtain other rights over the adjoining property owned by Owner (the "Adjoining Property"), and Owner desires to grant such lease and rights, on the terms and conditions set forth herein.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual obligations and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Owner and Lessee (each, a "Party" and together, the "Parties") hereby agree as follows:

1. Demise of Leasehold Estate.

(a) Demise. Owner hereby leases, demises, lets and warrants to Lessee and Lessee hereby leases, hires and takes from Owner, the Property for the purposes described in this Agreement, together with the right to all rents, royalties, credits and profits derived from solar and other energy generation upon, over and across the Property, on the terms provided herein.

(b) Purpose. The foregoing leasehold estate and grant of rents, royalties, credits and profits created by this Agreement (collectively, the "Leasehold Estate") is for the production of energy, including solar energy, and for any and all related or ancillary purposes, and not for any other purpose, and Lessee shall have the exclusive right to use the Property and the unobstructed receipt of and access to sunlight across the Property for solar energy purposes, to convert all of the solar resources of the Property and to derive all profits therefrom. For purposes of this Agreement, "solar energy" includes evaluating solar resources, developing solar energy, converting solar energy into **electrical** energy and collecting and transmitting the electrical energy so converted, together with any and all activities related thereto ("Development Activities"), including, without limitation:

(i) determining the feasibility of solar energy conversion and power generation on the Property, including, without limitation, conducting inspections, tests, surveys, engineering, environmental, market and economic feasibility studies, studies of available sunlight and other data, and/or soil studies, and due diligence matters related to any of the foregoing;

(ii) constructing, **reconstructing**, erecting, installing, improving, replacing, relocating and removing from time to time, and **maintaining**, repairing, using and operating, any of the following new, existing, additional or repowered improvements, facilities, machinery and equipment (collectively, "**Power Facilities**"): (i) buildings, parking areas, evaporation ponds, cooling towers, water tanks, steam turbine generators, power blocks, and chimney stacks; (ii) solar power generating equipment, solar **collectors**, solar energy conversion systems and other power generation facilities, of any type or technology (collectively, the "**Solar Equipment**"); (iii) transmission facilities, including without limitation, overhead and underground transmission, distribution or collector lines, circuit breakers, conduits, foundations, footings, towers, poles, crossarms, guy lines, anchors and wires; (iv) overhead and underground control, communications and radio relay systems; (v) substations, interconnection and/or switching facilities and electric transformers; (vi) energy storage facilities; (vii) sunlight measurement, research or development equipment; (viii) water pipelines and pumping facilities; (ix) control, maintenance and administration buildings; (x) utility installations; (xi) safety **protection facilities**; (xii) **laydown areas and maintenance yards**; (xiii) roads, road-related structures and **erosion control facilities**; (xiv) **signs and fences**; and (xv) other improvements, facilities, machinery and **equipment in any way related to or associated with any of the foregoing**, on the Property;

(iii) exercising rights of vehicular and pedestrian ingress and egress upon, over and across the Property, for purposes of conducting Development **Activities** and accessing Power Facilities (whether such Development Activities are conducted, or Power Facilities are located, on the Property, adjacent to the Property or elsewhere) upon, over and across any and all now existing or hereafter constructed access routes or such new or alternative access routes as Lessee shall determine, including the right to construct, reconstruct, install, improve, replace, relocate and remove from time to time, and maintain, repair, use and operate, new, existing or additional routes, including roads, road-related structures and erosion control facilities, on the Property;

(iv) making free use of or otherwise **developing** any water resources (whether or not potable) or water rights in, on, under, produced from or **appurtenant** to the Property for use in connection with the Power **Facilities**, without payment therefor to Owner; provided, however, that (i) Lessee shall not be entitled to use water which is being **purchased** by Owner unless **Lessee** reimburses Owner for the actual price paid by Owner therefor and (ii) Lessee's right to appropriate and take water shall be subject to any applicable state regulations; and

(v) undertaking any other activities, whether accomplished by Lessee or a third party authorized by Lessee, that Lessee reasonably determines are necessary, useful or appropriate to accomplish any of the foregoing purposes.

Without limiting the generality of the foregoing, the Parties **recognize** that power generation technologies are improving at a rapid rate and that it is possible that Lessee may (although Lessee is not required to) from time to time replace existing Power Facilities on the Property with newer (and potentially larger) Power **Facilities** which have increased energy capture and efficiency, and Owner hereby consents to any such replacement. Lessee may conduct Development Activities on the Property for the benefit of other projects and property.

(c) **Included Rights and Easements**. In addition to any and all rights normally afforded a lessee in a commercial land lease circumstance, or as otherwise described herein, the following rights and easements shall be included within the **Leaschold Estate**. Upon Lessee's request, Owner shall execute and deliver to Lessee one (1) or more documents in recordable form, satisfactory in form and substance to Owner and Lessee, evidencing the rights and easements granted pursuant to this **Section 1(c)**, and Lessee may cause such documents to be recorded in the official real estate records of the county in which the Property is located.

(i) Sunlight Easement. An exclusive easement for receipt of and access to sunlight and to convert all of the solar resources above the Property to electricity. Any obstruction to the receipt of and access to sunlight throughout the entire area of the Property is prohibited, whether such obstruction is on the Property or on the Adjoining Property. The Parties intend that the easement granted herein shall be a construed as a "solar easement," the terms of such easement being more particularly described in Exhibit B attached hereto and made a part hereof by this reference.

(ii) Power Facility Effects. An easement for any audio, visual, view, light, noise, vibration, electromagnetic or other effect of any kind or nature whatsoever resulting, directly or indirectly, from any Development Activities conducted, or Power Facilities installed, upon the Property or the Adjoining Property, including but not limited to rights to cast shadows and reflect glare onto the Adjoining Property, from the Solar Equipment and/or any and all other Power Facilities, wherever located.

(iii) Clearance Rights. An easement to trim, cut down and remove all trees (whether natural or cultivated), brush, vegetation and fire and electrical hazards now or hereafter existing on the Property which might obstruct receipt of or access to sunlight throughout the Property or interfere with or endanger the Power Facilities or Lessee's Development Activities, as determined by Lessee.

(iv) Subjacent and Lateral Support. An easement for subjacent and lateral support on the Adjoining Property for Power Facilities located on or in the vicinity of the Property to whatever extent is necessary for the safe construction operation and maintenance of such Power Facilities, as reasonably determined by Lessee. Owner shall not excavate, nor permit excavation, so near the sides of or underneath the Power Facilities as to undermine or otherwise adversely affect their stability.

(v) Utility Lines. An easement over, across and through the Adjoining Property for the installation, maintenance, repair and use of utility lines and equipment, including, without limitation, for water, natural gas and electrical transmission (the "Utility Easement"), together with an easement for vehicular and pedestrian ingress and egress upon, over and across the Adjoining Property, for purposes of conducting Development Activities and accessing Power Facilities (whether such Development Activities are conducted, or Power Facilities are located, on the Property, adjacent to the Property or elsewhere) upon, over and across any and all now existing or hereafter constructed access routes or such new or alternative access routes as Lessee shall determine, including the right to construct, reconstruct, install, improve, replace, relocate and remove from time to time, and maintain, repair, use and operate, new, existing or additional routes, including roads, road-related structures and erosion control facilities, on the Adjoining Property.

(vi) Signage. An easement to place signs or advertising related to solar energy on or proximate to Lessee's Power Facilities.

(d) Lease and Easements Run with the Land. Owner agrees that this Agreement and the easements and rights granted in this Agreement shall constitute covenants running with the Property and shall be binding upon any successor owner of all or any part of the Property and survive any transfer of the Property.

## 2. Term.

(a) Term. This Agreement shall be for a term (the "Term") commencing on the Effective Date and continuing until the date occurring twenty and one half (20.5) years after the Operations Date. Notwithstanding the foregoing, this Agreement will terminate prior to the end of the Term in the event of a termination under Section 9 of that certain Power Purchase Agreement, dated as of the date hereof, by and between Owner and Lessee.

(b) Operations Date. For purposes of this Agreement, "Operations Date" shall mean the date the Power Facilities are installed on the Property and begin delivering electricity to a third-party power purchaser.

(c) Extensions. Twenty-four (24) months prior to the end of the Term, the Parties will meet to discuss the extension of this Agreement on terms and conditions reflecting the then current market and with such other amendments and additional terms and conditions as the Parties may agree. Neither Party shall be obligated to agree to an extension of this Agreement.

3. Payments to Owner. In consideration of the rights granted hereunder, Lessee will pay Owner the amounts set forth in this Section 3.

(a) Annual Rent. For each year during the period commencing on the Effective Date and continuing until the expiration or sooner termination of this Agreement, Lessee shall pay Owner an annual rental payment equal to one thousand dollars (\$1,000) (the "Annual Rent"). The Annual Rent for each such year shall be payable annually, with such payment due on the first day of each year; provided, however, that the Annual Rent shall be prorated for any year which is a partial year due to the expiration or any earlier termination of this Agreement.

(b) Late Payments. If Lessee fails to make any payment to Owner required of it hereunder when due, interest shall accrue on the overdue amount, from the date overdue until the date paid, at a rate equal to the lesser of (i) three percent (3%) per annum plus the prime lending rate as may be published from time to time by *The Wall Street Journal* under the "Money Rates" section, and (ii) the maximum rate permitted by law.

#### 4. Ownership of Power Facilities.

(a) Ownership. Owner acknowledges and agrees that despite that portions of the Power Facilities may be affixed to the Property, (i) Lessee is and at all times will be the **exclusive** owner and operator of the Power Facilities, (ii) the Power Facilities shall not be construed to be a fixture and shall be and remain personal property and not real property, (iii) Lessee is the exclusive owner of the electricity generated by the Power Facilities and the Environmental Attributes (as hereinafter defined) and Environmental Incentives (as hereinafter defined) of the Power Facilities, (iv) Lessee will have the sole right to claim any depreciation expense or other tax benefits relating to the Power Facilities, (v) except for the payments described in Section 3 above, Owner shall not be entitled to any compensation, payments, credits, benefits, emissions reductions, offsets, incentives, grants or allowances of any kind, howsoever entitled, attributable to the Power Facilities or the electric energy, capacity or other **generator-based** products produced therefrom, all of which shall accrue solely to the benefit of Lessee and (vi) the Power Facilities shall not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered (collectively, a "Transfer") with the fee interest or leasehold rights to the Property or otherwise by Owner or any other person; provided, however, that Lessee may sell, lease, mortgage, pledge, otherwise alienate or **encumber**, or remove any or all Power Facilities at any time. Owner shall give Lessee at least fifteen (15) days' written notice prior to any Transfer of all or a portion of the Property identifying the transferee, the portion of Property to be transferred and the proposed date of Transfer. Owner shall require any transferee to acknowledge and consent to the terms of this **Agreement** and to assume Owner's obligations under this Agreement in a written agreement in favor of and reasonably acceptable to Lessee.

(b) Environmental Attributes and Environmental Incentives. As used herein, "Environmental Attributes" means the **characteristics** of electric power generation at the Power Facilities that have intrinsic value, separate and apart from the generated energy, arising from the perceived environmental benefits of the Power Facilities or energy generated at the Power Facilities, **including**, without limitation, (i) all

environmental and other attributes that differentiate the Power Facilities or energy **generated** at the Power Facilities from energy **generated** by fossil-fuel based generation units, fuels or resources, (ii) characteristics of the Power Facilities that may result in the avoidance of environmental impacts on air, soil or water, such as the absence of emission of any oxides of nitrogen, sulfur or carbon or of mercury, or other gas or chemical, soot, particulate matter or other substances **attributable** to the Power Facilities or (iii) the compliance of the Power Facilities or energy **generated** at the Power Facilities with the law, rules and **standards** of the United Nations Framework Convention on Climate Change (the "UNFCCC") or the Kyoto Protocol to the UNFCCC or any successor laws, rules or standards or crediting "early action" with a view thereto, or laws or regulations involving or administered by the Environmental **Protection** Agency or successor administration or any state or federal entity having **jurisdiction** over a program involving transferability of rights arising from Environmental Attributes. As used herein, "Environmental Incentives" means all rights, grants, credits (including tax credits), rebates, benefits, reductions, offsets, and allowances and entitlements of any kind, howsoever entitled or named (including carbon credits and allowances), whether arising under existing or future federal, state or local law, international treaty, trade association membership or the like, arising from the Environmental Attributes of the Power Facilities or the energy generated at the Power Facilities or otherwise from the development or installation of the Power Facilities or the production, sale, purchase, consumption or use of the energy generated at the Power Facilities. Without limiting the foregoing, "Environmental Incentives" includes accelerated depreciation rights, green tags, renewable energy credits, tradable renewable certificates, portfolio energy credits, the right to apply for (and entitlement to receive) incentives under any demand-side **management** or energy efficiency programs offered by a utility **company**, a third-party provider, or other incentive programs offered by the state and the right to claim federal income tax credits, if applicable.

5. **Taxes.**

(a) Lessee shall be responsible for and shall timely pay before the same become delinquent, any taxes, assessments or other governmental charges that shall or may during the Term be imposed on the Power Facilities.

(b) Owner shall be responsible for and shall timely pay before the same become delinquent, all real estate taxes, assessments or other governmental charges that shall or may, prior to the Operations Date, be imposed on, or arise in connection with the Property itself. Except as expressly provided in this Section 5, Lessee shall not be responsible for any real estate taxes, assessments or other governmental charges or fees levied against the Property. If Owner should fail to timely pay any taxes, **assessments** or other governmental charges for which Owner is responsible under this Agreement, then, without limiting Lessee's other remedies under this Agreement or **otherwise**, Lessee may (but shall not be obligated to) pay the same, and Owner shall reimburse Lessee, or Lessee may set off against amounts due from Lessee to Owner under this Agreement, all such amounts paid, including any late fees or interest, together with any court costs and reasonable attorneys' fees incurred by Lessee in **connection** therewith.

(c) Lessee shall be responsible for and shall timely pay before the same become **delinquent**, all real estate taxes, assessments or other governmental charges that shall or may, from and after the **Operations** Date until the expiration or earlier termination of this Agreement, be imposed on, or arise in connection with the Property itself; provided, however, that in no event shall Lessee be **responsible** for any increase in such real estate taxes, assessments or other governmental charges to the extent arising (by reassessment or otherwise) from a sale of all or any portion of Landlord's interest in the Property after the Effective Date, and in all events Owner shall be **responsible** for all such **increases** and shall pay the same before they become delinquent.



(d) Owner and Lessee agree that all real estate taxes, assessments or other governmental charges applicable with respect to the tax year in which the Operations Date occurs shall be prorated between them in a manner consistent with the Parties obligations under Sections 5(b) and 5(c).

(e) Lessee may contest the legal validity or amount of any taxes, assessments, or other charges for which it is responsible under this Agreement, and may institute such proceedings as it considers **necessary**. Lessee shall bear all expenses in pursuing such contest or proceeding. With respect to any taxes for which Lessee is responsible that may constitute a lien on the Property, Lessee shall promptly pay such taxes unless the proceeding in which it contests such tax shall operate to prevent or stay the collection of the taxes so contested or unless Lessee removes any such lien by bonding or otherwise. Owner agrees to render to Lessee all reasonable assistance, at no material cost or expense to Owner, in contesting the validity or amount of any taxes, assessments or charges, including joining in the signing of any reasonable protests or pleadings which Lessee may reasonably deem advisable to file.

6. **Lessee's Representations, Warranties and Covenants**. Lessee hereby represents, warrants and covenants as follows:

(a) **Insurance**. Lessee shall, at its expense, maintain the **insurance** required pursuant to that certain Power Purchase Agreement, dated as of the date hereof, by and between Owner and Lessee. **Certificates** of such insurance shall be provided to Owner upon written request.

(b) **Indemnity**. Lessee shall indemnify Owner against liability for physical damage to property and for physical injuries to Owner or the public, to the extent directly caused by Lessee's construction, operation or removal of Power Facilities on the Property, except to the extent such damage or injury is caused by the negligence or willful misconduct of Owner. The foregoing indemnity shall not extend to property damage or personal injuries attributable to risks of known and unknown dangers associated with electrical generating facilities, such as electromagnetic fields, and Lessee shall in no case be liable for losses of rent, business opportunities, profits or any other consequential damages that may result from the conduct of Lessee's Development Activities on the Property.

(c) **Requirements of Governmental Agencies**. Lessee, at its expense, shall comply in all material respects with valid laws, ordinances, statutes, orders and regulations of any governmental agency applicable to the Power Facilities. Lessee shall have the right, in its sole **discretion**, to contest by appropriate legal proceedings, the validity or applicability to the Property or Power Facilities of any law, **ordinance**, statute, order, regulation, property assessment or the like now or hereafter made or issued by any federal, state, local or other governmental agency or entity. Owner shall not interfere with any such contests, and at Lessee's request (but at no out of pocket expense to Owner) shall cooperate with Lessee in every reasonable way with respect to each such contest. Each such contest or proceeding shall be controlled and directed by Lessee.

(d) **Construction Liens**. Lessee shall keep the Property free and clear of all liens and claims of liens for labor and services **performed** on, and materials, supplies or **equipment** furnished to, the Property in connection with Lessee's use of the Property pursuant to this Agreement; provided, however, that if Lessee wishes to contest any such **lien**, Lessee shall, within ninety (90) days after it receives written notice of the filing of such lien, remove or bond over such lien pursuant to applicable law.

(e) **Hazardous Substances**. Lessee shall not violate, and shall **indemnify** Owner against any violation by Lessee or Lessee's agents or contractors of, any federal, state or local law, **ordinance**, or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any Hazardous Substances (as hereinafter defined) on or under the Property; provided, however, that notwithstanding the foregoing or anything else in this

Agreement, in no event shall Lessee have any liability (i) in connection with the mere discovery of any condition existing on, under, over or about the Property, or (ii) for any matter arising from the negligence or willful misconduct of Owner or its agents.

(f) Lessee's Authority. Lessee has the unrestricted right and authority to execute this Agreement. Each person signing this Agreement on behalf of Lessee is authorized to do so. When signed by Lessee, this Agreement constitutes a valid and binding agreement enforceable against Lessee in accordance with its terms.

(g) No Development Undertaking. Nothing expressly stated or implied in this Agreement or represented to Owner shall be construed as requiring Lessee to undertake construction, installation or operation of any Power Facilities on the Property or elsewhere or prohibit Lessee from removing Power Facilities from the Property, and Lessee makes no representation or warranty as to the likelihood that Power Facilities will be installed upon the Property.

7. Owner's Representations, Warranties and Covenants. Owner hereby represents, warrants, covenants and agrees as follows:

(a) Quiet Enjoyment. Lessee shall have the quiet use and enjoyment of the Property in accordance with the terms of this Agreement without any interference of any kind by Owner or any person claiming by, through or under Owner, subject, however, to the general rights herein reserved by Owner. Owner and its activities on the Property and any grant of rights Owner makes to any other person shall not interfere with any of Lessee's rights or activities pursuant to this Agreement.

(b) Title to Property. Except as disclosed on Exhibit C attached hereto and by this reference made a part hereof, Owner's fee simple title to the Property is free and clear of all liens, encumbrances, easements, leases, mortgages, deeds of trust, security interests, fractured interests, mineral, oil or gas rights, options to purchase, claims and disputes (collectively, "Liens"), and there are no tenants on or other parties in possession of the Property. Owner shall fully cooperate with and assist Lessee in obtaining a subordination and/or non-disturbance agreement acceptable to Lessee in all respects from each party holding a Lien (recorded or unrecorded) or in possession of the Property that might interfere with Lessee's rights under this Agreement. A non-disturbance agreement is an agreement between Lessee and the holder of a Lien providing that the holder of the Lien shall not disturb Lessee's possession or rights under this Agreement or terminate this Agreement so long as Owner is not entitled to terminate this Agreement under the provisions of this Agreement. Owner shall not grant, create, allow or suffer any Lien or other encumbrance on title to the Premises, except those matters set forth on Exhibit C.

(c) Condition of Property. To the Owner's knowledge, there are no physical conditions of the Property, nor any other material adverse facts or conditions relating to the Property or any portion thereof, that could delay, interfere with or impair Lessee's operations or the exercise of any of Lessee's other rights under this Agreement, or which could, with the passage of time, the giving of notice or both, have such an effect. Owner has disclosed to Lessee in writing any and all improvements existing on, under, over or about the Property, and no improvements currently exist on, under, over or about the Property that have been **constructed** or installed without all necessary and proper permits, licenses and approvals.

(d) No Interference. Owner's activities and any grant of rights Owner makes to any person or entity, whether located on the Property or elsewhere, shall not, currently or prospectively, interfere with (i) the **construction**, installation, maintenance or operation of the Power Facilities, (ii) access over the Property to such Power Facilities, (iii) any Development Activities, or (iv) the undertaking of any other activities permitted hereunder. Without limiting the generality of the foregoing, Owner may not place or plant any trees, structures or improvements on the Adjoining Property after the date of this Agreement which may,

in Lessee's sole judgment, impede or interfere with receipt of or access to sunlight to the Power Facilities, nor shall Owner engage in any other activity that might cause a decrease in the output or efficiency of the Power Facilities.

(e) **Siting and Setbacks.** Owner consents to Lessee's siting of Power Facilities at any location upon the Property. To the fullest extent applicable and permitted by law, Owner waives enforcement of, and any and all rights it may have to pursue any remedies under, any state, zoning or local rules, ordinances or requirements related to siting of Power Facilities upon the Property, including setback requirements applicable to the Power Facilities from lot lines and improvements, and agrees not to bring any complaint, suit or action or intervene in any investigation or inquiry by any person or entity with respect thereto. Owner agrees to use commercially reasonable efforts to assist, cooperate and participate in any proceeding and/or petition prepared by Lessee in connection with any modification or variance to an existing siting or setback requirement.

(f) **Approvals.** Lessee may apply for and process, and Owner shall cooperate with Lessee in Lessee's efforts to seek, governmental approvals desired by Lessee for Lessee's intended use of the Property including (i) the granting to Lessee of full authority to seek any and all authorizations, permits, licenses, and approvals necessary for the development of the Property for Lessee's intended use thereof (including, as necessary, rezoning, variance, and/or vacation applications), (ii) the granting to Lessee of full authority to seek any and all authorizations, permits, licenses, and approvals necessary for the division or adjustment (whether by certified survey map, lot line adjustment, or otherwise) of the Property so as to cause the Property to be recognized as a single lawfully subdivided and/or created lot or parcel that is separately conveyable and/or leaseable in accordance with applicable law, and (iii) the execution of consents and applications in connection with Lessee attempting to obtain such governmental permits, licenses, and approvals. Without limiting the generality of the foregoing, (y) Owner shall not oppose, in any way, whether directly or indirectly, any application by Lessee for any permit, approval, or entitlement at any administrative, judicial, legislative, or other level, and (z) so long as this Agreement is in effect, Owner shall not, and shall not permit any other party (other than Lessee) to process any approvals, entitlements or other similar matters relating to the Property with the city or county in which the Property is located or with any other governmental agency without the written consent of Lessee. Without limiting the generality of the foregoing, Owner shall assist and fully cooperate with Lessee, at no out-of-pocket expense to Owner, in complying with or obtaining any other approvals required for the financing, construction, installation, **replacement**, relocation, maintenance, operation or removal of Power Facilities, including execution of applications for such approvals. Owner shall make available to Lessee copies of all field tiling surveys, plans and other geotechnical and other site **assessments**, surveys, plans, environmental assessments, reports, test results, **correspondence** to or from any governmental agency, and other such records of Owner relating to the Property. Without limiting the generality of the foregoing, Owner **represents** and warrants to Lessee that the Property is a single lawfully subdivided and/or created lot or parcel that is separately conveyable and/or leaseable in accordance with applicable law.

(g) **Indemnity.** Owner will indemnify Lessee against liability for physical damage to the Property and for physical injuries to Lessee or the public, to the extent caused by Owner's activities on the Property or the Adjoining Property, except to the extent such damage or injury is caused by the operations, activities, negligence or willful misconduct of Lessee. Owner shall take reasonable safety measures to reduce the risk that Owner's activities will cause harm to Lessee or the public.

(h) **No Brokers.** No brokers' commission, finders' fees or other charges are due any broker, agent or other party in connection with Owner's execution of this Agreement, or if any are now due or shall become due in the future, then Owner shall promptly pay the same from its own funds and shall indemnify, protect, hold harmless and defend Lessee against any and all claims and demands therefor made by any

such broker, finder, agent or other party, or any of their **respective** successors and assigns or other parties claiming through them.

(i) **No Litigation, Violations, or Condemnation.** No litigation is pending, and, to Owner's knowledge, no actions, claims or other legal or administrative **proceedings** are pending, threatened or anticipated with respect to, or that could affect, the Property, this **Agreement** or Lessee's rights hereunder, nor does Owner know of any basis for any such action. Owner has no knowledge, nor has Owner received any notice, of any violations of law, municipal or county ordinances, or other legal requirements with respect to the Property (or any part thereof) or with respect to the use or occupancy of the Property nor does Owner know of any basis for such violations. No condemnation proceeding is pending or, to Owner's knowledge, threatened with respect to any part of the Property.

(j) **No Conflicting Agreements.** Neither the entering into nor the delivery of this Agreement nor the consummation by Owner or Lessor of the transaction contemplated by it will conflict with or constitute a default under or result in a violation of, or require a consent of anyone under (i) any of the provisions of the organizing documents of Owner, or (ii) any agreement, mortgage, encumbrance or any other instrument to which Owner is a party or by which Owner or the Property is bound. Owner is not in default under any contracts, leases, agreements, easements or any other documents or **instruments** relating to or affecting this Agreement or the Property.

(k) **Hazardous Substances.** Neither Owner nor any of Owner's predecessor's in interest to the Property, has used, generated, treated, stored, released, discharged, or disposed of (or permitted the use, generation, treatment, storage, release, discharge, or disposal of) Hazardous Substances (as defined below) in, on, over, under, about or at the Property at any time; nor has any such event occurred upon or within the Property. No notification of release of a Hazardous Substance has been filed as to the Property, nor is the Property listed or formally proposed for listing on the National Priority List promulgated pursuant to federal law or on any state list of hazardous substance sites requiring investigation or clean-up. Owner has complied with all reporting requirements under any applicable federal, state, or local **environmental** laws and there are no existing violations by Owner of any such environmental laws. There are no claims, actions, suits, proceedings, or investigations related to the presence, release, discharge, spillage, or disposal of any Hazardous Substance or contamination of soil or water by any Hazardous Substance pending or threatened with respect to the Property or otherwise against Owner in any court or before any state, federal, or other governmental agency or private arbitration tribunal. No PCB, PCB-contaminated, friable asbestos, or formaldehyde-based insulation items are present at the Property. Owner shall indemnify, protect, defend and hold harmless Lessee from and against any and all losses arising from or related to the breach by Owner of any warranties or **representations** contained in this subsection. Owner hereby assigns to Lessee, to the extent assignable, all claims, **counterclaims**, defenses or actions, whether at common law or pursuant to any other applicable federal or state or other laws, if any, that Owner may have against third parties to the extent relating to the existence of Hazardous Substances in, on, over, under, about or at the Property. "**Hazardous Substance**" shall refer to any chemical, compound, material, mixture, by-product, debris, waste, substance or other matter, whether solid, liquid or gas and whether new, used or recycled, now or in the future, defined, listed in, identified, classified pursuant to or otherwise regulated by, any state or federal laws or regulations (including, without limitation, the Comprehensive **Environmental Recovery Compensation and Liability Act**, 42 U.S.C. 9601 et seq. and the Resource **Conservation and Recovery Act**, 42 U.S.C. 6901 et seq.) as a hazardous **substance**, hazardous material, hazardous waste, extremely hazardous waste, restricted hazardous waste, acutely hazardous waste, toxic air contaminant, infectious waste, medical waste, toxic substance, contaminant, pollutant or any other terms or provisions used to define, list, identify, characterize, classify or regulate substances by reason of any **characteristics** or properties such as **ignitability**, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or "**EP toxicity**," including but not limited to any substance, material or waste that is hydrocarbon-based, petroleum, petroleum-related, or a petroleum by-product, fraction or residue therefrom, a volatile organic chemical, a solvent or other degreasing agent,

whether chlorinated or non-chlorinated, asbestos or asbestos **containing** material, lead or lead-based paints, flammable, explosive, radioactive, freon gas, methane gas, radon, or a pesticide, herbicide, or any other agricultural chemical, or polychlorinated biphenyls.

(l) **Assessments.** No assessments have been made against the Property (or any part thereof) that are unpaid (except for **non-delinquent** property taxes or special assessments), whether or not they have become liens.

(m) **No Assumption of Existing Liabilities.** Owner agrees that Lessee shall not and does not assume any of the following liabilities, and Owner shall promptly pay and perform, and indemnify, protect, defend and hold harmless Lessee from and against: any liability or obligation of Owner in respect of any state, local, federal, or foreign taxes (whether in the nature of income, transfer, sales, withholding, employee, excise, property, customs, gross receipts, or other taxes or other duties of any kind whatsoever), or penalties, interest, and fines in respect thereof, or any reporting requirement or estimated tax payable with respect thereto, relating to events or transactions occurring on or prior to Effective Date involving Owner or the transaction contemplated hereby; any litigation, investigation, or other proceeding pending or threatened with respect to Owner or the Property on or prior to the Effective Date, or subsequently asserted, which is attributable to facts existing, or events, or omissions occurring on or prior to the Effective Date; and all liabilities or claims of any nature relating directly or indirectly to the Property, whether accrued, absolute, contingent, or otherwise arising out of or relating to (or alleged to arise out of or relate to) any state of facts, omissions, or events existing or occurring on or before the Effective Date (whether known or unknown to Owner or Lessee).

(n) **Bankruptcy.** Owner has not (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy against it; (iii) received notice of the appointment of a receiver to take possession of all or substantially all of its assets; (iv) received notice of the attachment or other judicial seizure of all or substantially all of its assets; (v) admitted in writing its inability to pay its debts as they come due; or (vi) made an offer of settlement, **extension** or composition to its creditors generally.

(o) **Certain Notifications.** Owner shall promptly notify Lessee in writing of, and shall deliver to Lessee, immediately upon receipt, copies of any notices or communications received by Owner relating to: (i) **compliance** with or violation of laws, ordinances, statutes, orders and regulations applicable to the Power Facilities, the Property or Lessee's Development Activities; (ii) compliance with or violation of laws, ordinances, statutes, orders and regulations relating to Hazardous Substances on the Property; (iii) the filing or threatened filing of any construction or mechanic's lien against the Power Facilities or any interest in the Property, whether or not arising through Lessee; and (iv) any litigation or other proceeding filed or threatened in relation to the **Power Facilities, Lessee's Development Activities** on the Property, this Agreement, the Property or any interest of Owner or Lessee in the Property or hereunder.

(p) **Owner's Authority.** Owner is the sole owner of the Property, holds marketable title to such Property and has the unrestricted right and authority to execute this Agreement and to grant to Lessee the rights granted hereunder. All persons having any ownership interest in the Property have signed this Agreement. Each person signing this Agreement on behalf of Owner is authorized to do so, and the execution and delivery of this Agreement and the **consummation** of the **transactions** in this Agreement contemplated have been duly authorized by all necessary action on the part of Owner. When signed by Owner, this Agreement constitutes a valid and binding agreement enforceable against Owner in accordance with its terms. Each spouse signing this Agreement agrees that any rights of community property, homestead, dower, contribution, and the like shall be subject and subordinate to the Leasehold Estate and this Agreement. Owner hereby releases and waives all rights under and by virtue of any applicable homestead exemption laws as to the Leasehold Estate and other rights granted hereunder. Owner is not the subject of any bankruptcy, insolvency or probate proceeding.

(q) Authorization. The execution and delivery of this Agreement by Owner and the performance of its obligations hereunder have been duly authorized by all necessary official action. This Agreement is a legal, valid and binding obligation of Owner enforceable against Owner in accordance with its terms.

(r) Continuing Representations and Warranties. Each of Owner's representations, warranties, covenants and agreements set forth in this Agreement shall be true and correct as of the Effective Date, and at all times thereafter during the Term. Owner shall promptly notify Lessee of any change with respect to the Property and any information heretofore or hereinafter furnished to Lessee with respect to the Property, including, without limitation, any change which would make any portion of this Agreement untrue or misleading. Owner agrees to take such actions at its expense as may be necessary to cause the above representations, warranties, and covenants to be true, correct, and satisfied as of the Effective Date and at all times thereafter during the Term; provided, however, if an event or circumstance first occurs after the Effective Date which is neither caused by Owner nor within the reasonable control of Owner and causes any such representation, warranty, or covenant to be untrue, Owner shall be required upon discovery to disclose the same to Lessee in writing but shall not be required to take any other such actions with respect to such event or occurrence under this sentence; provided further, in the event such event or occurrence materially impairs Lessee's ability to conduct its business, Lessee shall have the option to terminate this Agreement by providing written notice of same to Owner within thirty (30) days of Lessee's receipt of Owner's written notice. Owner shall not enter into any transaction, take any action, or by inaction, permit any event to occur, which would result in any of the representations, warranties, and covenants of Owner herein contained not being true, correct, and satisfied at and as of the time immediately after the occurrence of such transaction or event.

#### 8. Assignment.

(a) Assignments by Lessee. Lessee shall at all times have the right to sell, assign, encumber, transfer or grant equal or subordinate rights and interests (including, without limitation, co-leases, separate leases, subleases, licenses or similar rights (however denominated)) in, the Leasehold Estate and/or any or all right or interest in this Agreement, or any or all right or interest of Lessee in the Property or in any or all of the Power Facilities that Lessee may now or hereafter install on the Property, to one or more persons (an "Assignee"), in each case without Owner's consent; provided, however, that any and all such transfers shall be subject to all of the terms, covenants and conditions of this Agreement. Lessee shall notify Owner in writing of any such sale, assignment, transfer or grant. Upon Lessee's assignment of its entire interest hereunder as to all or any portion of the Property, or as may otherwise be provided in the applicable sale, assignment, transfer or grant document, Owner shall recognize the Assignee as Lessee's proper successor, the Assignee shall have all of the assigned rights, benefits and obligations of Lessee under and pursuant to this Agreement, and Lessee shall be relieved of all of its obligations relating to the assigned interests under this Agreement that relate to acts or omissions that occur or accrue following the effective date of such sale, assignment, transfer or grant.

(b) Assignments by Owner. The burdens of this Agreement and other rights contained herein shall run with and against the Property and shall be a charge and burden thereon for the duration of this Agreement and shall be binding upon and against Owner and its successors and assigns. Owner shall notify Lessee in writing of any sale, assignment or transfer of any of Owner's interest in the Property, or any part thereof. Until such notice is received, Lessee shall have no duty to any successor Owner, and Lessee shall not be in default under this Agreement if it continues to make all payments to the original Owner before notice of sale, assignment or transfer is received. Owner agrees (i) it will not assign the rights to payments due to Owner under this Agreement except to a successor owner of the Property, (ii) in no case shall Owner sever or attempt to sever the Property's solar energy rights or interests from the Property's fee title, and (iii)

in no case shall Owner convey, assign or transfer or attempt to convey, assign or transfer this Agreement, except to a successor owner of the Property.

(c) Bifurcation of Agreement. If Lessee from time to time so requests (including, without limitation, in contemplation of or following a partial assignment under Section 8.1 above), Owner shall promptly bifurcate this Agreement by entering into two or more new lease agreements that provide Lessee with such lease rights as to such portions of the Property as may be designated by Lessee. Each of such new agreements shall (a) contain the same terms and conditions as this Agreement, (b) be for a term equal to the remaining term of this Agreement, and (c) enjoy the same priority as this Agreement over any lien, encumbrance or other interest created by Owner. Further, in the event of an uncured default by Lessee under any such new agreement, such default shall not constitute a cross-default, or otherwise affect, or cause a termination of, any such other new agreement or any rights or interests granted to Lessee under such other new agreement. The portions of the Property covered by each new agreement may or may not be coextensive or contiguous with the other portions of the Property covered by the same agreement.

9. Mortgagee Protection. In the event that any mortgage, deed of trust or other security interest in this Agreement or any Power Facilities is entered into by Lessee or an Assignee, including, without limitation, a sale-leaseback (i.e., a transaction in which Lessee sells its interest in the Agreement and/or Power Facilities and then leases those interests back from the purchaser) (a "Leasehold Mortgage"), then any person who is the mortgagee or beneficiary of a Leasehold Mortgage, including the purchaser in a sale-leaseback transaction (a "Leasehold Mortgage") shall, for so long as its Leasehold Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth in this Section 9. Lessee or any Leasehold Mortgagee shall send written notice to Owner of the name and address of any such Leasehold Mortgagee, as well as any change of the name or address of any Leasehold Mortgagee.

(a) Leasehold Mortgagee's Right to Possession, Right to Acquire and Right to Assign. A Leasehold Mortgagee shall have the absolute right: (a) to assign its security interest; (b) to enforce its lien and acquire title to the Leasehold Estate by any lawful means; (c) to take possession of and operate the Power Facilities, the Leasehold Estate or any portion thereof and to perform all obligations to be performed by Lessee hereunder, or to cause a receiver to be appointed to do so; and (d) to acquire the Leasehold Estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the Leasehold Estate to a third party. Owner's consent shall not be required for the acquisition of the encumbered leasehold or subleasehold estate by a third party who acquires the same by or subsequent to foreclosure or assignment in lieu of foreclosure.

(b) On or before the Operations Date, Lessee shall establish a reserve fund of twenty thousand dollars (\$20,000) to meet any unpaid obligations of Lessee (the "Reserve Fund"). The Reserve Fund shall be held in trust at a bank of Owner's choosing and shall only be used for payments by a Leasehold Mortgagee of any unpaid obligations of Lessee. Any funds remaining in the Reserve Fund, plus all interest, shall be released to Lessee upon termination of this Agreement.

(c) Notice of Default; Opportunity to Cure. As a precondition to exercising any rights or remedies as a result of any alleged default by Lessee, Owner shall give written notice of the default to each Leasehold Mortgagee concurrently with delivery of such notice to Lessee, specifying in detail the alleged event of default and the required remedy. In the event Owner gives such a written notice of default, the following provisions shall apply:

(i) A "monetary default" means failure to pay when due any fee, payment, real property taxes, insurance premiums or other monetary obligation of Lessee under this Agreement; any other event of default is a "non-monetary default."

(ii) The Leasehold Mortgagee shall have the same period after receipt of notice of default to remedy the default, or cause the same to be remedied, as is given to Lessee after Lessee's receipt of notice of default, plus, in each instance, the following additional time periods: (i) sixty (60) days, for a total of one hundred twenty (120) days after receipt of the notice of default in the event of any monetary default; and (ii) sixty (60) days, for a total of one hundred twenty (120) days after receipt of the notice of default in the event of any non-monetary default, provided that such one hundred twenty (120) day period shall be extended for the time reasonably required to complete such cure, including, without limitation, the time required for the Leasehold Mortgagee to obtain possession of the Property through foreclosure or otherwise, provided the Leasehold Mortgagee acts with reasonable and continuous diligence. The Leasehold Mortgagee shall have the absolute right to substitute itself for Lessee and perform the duties of Lessee hereunder for purposes of curing such defaults. Owner expressly consents to such substitution, agrees to accept such performance, and authorizes the Leasehold Mortgagee (or its employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all the rights, privileges and obligations of the original Lessee hereunder. Owner shall not, and shall have no right to, terminate this Agreement prior to expiration of the cure periods available to a Leasehold Mortgagee as set forth above.

(iii) During any period of possession of the Property by a Leasehold Mortgagee (or a receiver requested by such Leasehold Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by a Leasehold Mortgagee, the Leasehold Mortgagee shall pay or cause to be paid all other monetary charges payable by Lessee hereunder which accrue during said period. Further, Lessee shall authorize any Leasehold Mortgagee, during any such period, to pay from the Reserve Fund any accrued and unpaid monetary charges payable by Lessee hereunder as of the commencement of said period. To the extent that the Reserve Fund is insufficient to meet all accrued and unpaid monetary charges of Lessee as of the commencement of said period, Lessee shall remain liable for those charges and Leasehold Mortgagee shall have no liability for those charges. Following acquisition of Lessee's Leasehold Estate by the Leasehold Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Agreement shall continue in full force and effect and the Leasehold Mortgagee or party acquiring title to Lessee's Leasehold Estate shall, as promptly as reasonably possible, commence the cure of all defaults hereunder and thereafter diligently process such cure to completion, whereupon Owner's right to terminate this Agreement based upon such defaults shall be deemed waived; provided, however, the Leasehold Mortgagee or party acquiring title to Lessee's Leasehold Estate shall not be required to cure those non-monetary defaults, if any, which are not reasonably susceptible of being cured or performed by such party ("Non-Curable Defaults"). Non-Curable Defaults shall be deemed waived by Owner upon completion of foreclosure proceedings or acquisition of Lessee's interest in this Agreement by such party.

(iv) Any Leasehold Mortgagee or other party who acquires Lessee's Leasehold Estate pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Lessee by this Agreement incurred or accruing after such party no longer has ownership of the Leasehold Estate or possession of the Property.

(v) Neither the bankruptcy nor the insolvency of Lessee shall be grounds for terminating this Agreement as long as the rent and all other obligations of Lessee hereunder are paid or performed by or on behalf of Lessee or the Leasehold Mortgagee in accordance with the terms of this Agreement.

(vi) Nothing herein shall be construed to extend this Agreement beyond the Term or to require a Leasehold Mortgagee to continue foreclosure proceedings after the default has been cured. If the default is cured and the Leasehold Mortgagee discontinues foreclosure proceedings, this Agreement shall continue in full force and effect.



(d) New Lease Agreement. If this Agreement terminates because of Lessee's default or if the Leasehold Estate is foreclosed, or if the Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors' rights, Owner shall, upon written request from any Leasehold Mortgagee within ninety (90) days after such event, enter into a new lease agreement for the Property, on the following terms and conditions:

(i) The term of the new lease agreement shall commence on the date of termination, foreclosure, rejection or disaffirmance and shall continue for the remainder of the Term of this Agreement, at the same fees and payments and subject to the same terms and conditions as set forth in this Agreement.

(ii) The new lease agreement shall be executed within thirty (30) days after receipt by Owner of written notice of the Leasehold Mortgagee's election to enter a new lease agreement, provided said Leasehold Mortgagee: (i) pays to Owner all fees and payments and other monetary charges payable by Lessee under the terms of this Agreement up to the date of execution of the new lease agreement, as if this Agreement had not been terminated, foreclosed, rejected or disaffirmed, except that the Leasehold Mortgagee shall only be required to arrange for payment from the Reserve Fund of Lessee's unpaid monetary charges as of the commencement of Leasehold Mortgagee's possession of the Property, and the Leasehold Mortgagee shall not be liable to the extent that the Reserve Fund is insufficient for this purpose; and (ii) performs all other obligations of Lessee under the terms of this Agreement, to the extent performance is then due and susceptible of being cured and performed by the Leasehold Mortgagee; and (iii) agrees in writing to perform, or cause to be performed, all non-monetary obligations which have not been performed by Lessee that are reasonably susceptible of being performed by the Leasehold Mortgagee and would have accrued under this Agreement up to the date of commencement of the new lease agreement. Any new lease agreement granted to the Leasehold Mortgagee shall enjoy the same priority as this Agreement over any lien, encumbrances or other interest created by Owner.

(iii) At the option of the Leasehold Mortgagee, the new lease agreement may be executed by a designee of such Leasehold Mortgagee without the Leasehold Mortgagee assuming the burdens and obligations of the Lessee thereunder.

(iv) If more than one Leasehold Mortgagee makes a written request for a new lease agreement pursuant hereto, the new lease agreement shall be delivered to the Leasehold Mortgagee requesting such new lease agreement whose Leasehold Mortgage is prior in lien, and the written request of any other Leasehold Mortgagee whose lien is subordinate shall be void and of no further force or effect.

(v) The provisions of this Section 9 shall survive the termination, rejection or disaffirmance of this Agreement and shall continue in full force and effect thereafter to the same extent as if this Section were a separate and independent contract made by Owner, Lessee and such Leasehold Mortgagee, and, from the effective date of such termination, rejection or disaffirmance of this Agreement to the date of execution and delivery of such new lease agreement, such Leasehold Mortgagee may use and enjoy said Property without hindrance by Owner or any person claiming by, through or under Owner, provided that all of the conditions for a new lease agreement as set forth herein are complied with.

(e) Leasehold Mortgagee's Consent to Amendment, Termination or Surrender. Notwithstanding any provision of the Agreement to the contrary, the parties agree that so long as there exists an unpaid Leasehold Mortgage, this Agreement shall not be modified or amended and Owner shall not accept a surrender of the Property or any part thereof or a cancellation or release of this Agreement from Lessee prior to expiration of the Term without the prior written consent of the Leasehold Mortgagee. This provision is for the express benefit of and shall be enforceable by such Leasehold Mortgagee.

(f) No Waiver. No payment made to Owner by a Leasehold Mortgagee shall constitute an agreement that such payment was, in fact, due under the terms of the Agreement; and a Leasehold Mortgagee having made any payment to Owner pursuant to Owner's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment.

(g) Further Amendment. At Lessee's request, Owner shall amend this Agreement to include any provision which may reasonably be requested by a proposed Leasehold Mortgagee; provided, however, that such amendment does not impair any of Owner's rights under this Agreement or materially increase the burdens or obligations of Owner hereunder. Upon request of any Leasehold Mortgagee, Owner shall execute any additional instruments reasonably required to evidence such Leasehold Mortgagee's rights under this Agreement.

#### 10. Default and Termination

(a) Lessee's Right to Terminate. Notwithstanding anything to the contrary set forth in this Agreement, Lessee shall have the right to terminate this Agreement as to all or any part of the Property at any time, with or without cause, effective upon (i) thirty (30) days' prior written notice to Owner from Lessee, and (ii) payment to Owner of a termination fee of One Hundred Dollars (\$100). If such termination is as to only part of the Property, this Agreement shall remain in effect as to the remainder of the Property, and the payments due to Owner pursuant to Section 3 hereof shall be reduced in a pro rata fashion based upon the number of acres within the portion of the Property as to which this Agreement is terminated. In the event this Agreement is terminated by Lessee in accordance with this paragraph, Owner authorizes Lessee to execute and record a notice of termination evidencing such termination.

(b) Performance Notice. Notwithstanding anything to the contrary set forth in this Agreement but subject to Section 9, if Lessee fails to (i) deliver funds or documents as required under this Agreement, (ii) make any payment in a timely manner; or (iii) fulfill any other obligation of any kind or nature of Lessee under this Agreement, such failure shall not be a default by Lessee or grounds for cancellation or termination of this Agreement unless Owner delivers written notice to Lessee of such failure (a "Performance Notice") and Lessee fails to cure such failure (A) with respect to a monetary failure, within sixty (60) days after receipt of a Performance Notice from Owner, or (B) with respect to a non-monetary failure, within sixty (60) days after receipt of a Performance Notice from Owner, or if such a cure cannot reasonably be accomplished within such sixty (60) day period, then within such additional time as reasonably necessary to accomplish such cure, provided that Lessee has commenced such cure within such sixty (60) day period and thereafter diligently prosecutes such cure to completion.

(c) Effect of Termination or Expiration. Upon the termination or expiration of this Agreement, whether as to the entire Property or only as to part, Lessee shall, as soon as practicable thereafter, unless otherwise mutually agreed upon, (a) remove from the Property (or applicable portion thereof) all above surface grade Power Facilities and other personal property owned, located, installed or constructed by or on behalf of Lessee thereon, (b) remove from the Property (or applicable portion thereof) concrete footings, foundations and other fixtures of Lessee to a depth of two (2) feet below the surface grade, (c) cover up all pit holes, trenches and other borings and excavations made by or on behalf of Lessee on the Property (or applicable portion thereof), (d) leave the surface of the Property (or applicable portion thereof) free from debris arising from the foregoing or from the operations or activities of Lessee and (e) otherwise restore any portion of the Property (or applicable portion thereof) disturbed by Lessee to a condition reasonably similar to its original condition, consistent with the uses permitted by this Agreement. Owner shall provide Lessee with reasonable access and rights to the Property during the performance of such removal and other work by Lessee for a period of twelve (12) months following the termination or expiration of this Agreement in order to enable and facilitate the performance of Lessee's duties under this Section 10.3. During such period, Lessee shall not be required to pay the amounts set forth in Sections 3 or 5 or any other

rent. If Lessee fails to remove any Power Facilities within twelve (12) months following the termination or expiration of this Agreement, or such longer period as Owner may provide by extension, Owner may do so, in which case Lessee shall reimburse Owner for reasonable and **documented** costs of removal and restoration incurred by Owner, net of any amounts reasonably recoverable by Owner with respect to the salvage value of any such Power Facilities.

#### 11. Miscellaneous.

(a) Force Majeure. If, after a good faith effort, Lessee is prevented, restricted or delayed from (i) complying with any express or implied covenant of this Agreement; (ii) constructing, or causing construction of, Power Facilities on the Property; (iii) producing or transmitting, or causing to be produced or transmitted, electricity; or (iv) performing any other activity reasonably related to and/or required by this Agreement by reason of war; weather; fire; casualty; terrorism; rebellion; riots; strikes; acts of God; inability to secure materials; any valid order, rule, or regulation of governmental authority (e.g., a third-party contest to any governmental approval or any legal action intended to prevent issuance of a permit or approval); or other events that are beyond the control of the Lessee (collectively referred to as a "**Force Majeure Condition**"), then, while so prevented, restricted or delayed, the Lessee's obligation to perform hereunder shall be suspended and excused to the extent of prevention, restriction or delay, and the Lessee shall not be liable for damages for failure to comply with such obligation. The term Force Majeure Condition shall also include repowering of the Power Facilities and the termination of any power purchase agreement with respect to the Property, even though such action may be deemed to be within the control of Lessee. For clarity, Lessee shall not be required to pay the amounts set forth in Section 3 or other rent to the extent a Force Majeure Condition prevents, restricts or delays Lessee's ability to sell and be paid for electricity from the Premises.

(b) Condemnation. All payments made on account of any taking or threatened taking of the Property or any part thereof in condemnation proceedings or by inverse condemnation by a **government** agency, governmental body or private party under the exercise of the right of eminent domain may be made to Owner, except that Lessee shall be entitled to, and Owner shall request that such condemning authority make payment directly to Lessee of: (i) any removal and **relocation** costs of the Power Facilities, (ii) any loss of or damage to any Power Facilities, (iii) the loss of use of any portion of the Property by Lessee (including impediments to or interference with the receipt of sunlight) and (iv) Lessee's lost profits, measured in each case with regard to the effect on the Lessee's use of the Property and any effect on Lessee's use of other property. If such condemning authority makes all payments to Owner, then Owner shall forthwith make payment to Lessee of the award to which Lessee is entitled. Lessee shall have the right to participate in any condemnation settlement proceedings and Owner shall not enter into any binding settlement agreement without the prior written consent of Lessee, which consent shall not be **unreasonably** withheld. Should title to or possession of all of the Property be permanently taken, or should a partial taking render the remaining portion of the Property unsuitable for Lessee's use (as determined by Lessee), then Lessee may terminate this Agreement upon such vesting of title or taking of possession. If Lessee does not terminate this Agreement as provided in this Section 11(b), the rent and any other charges and other terms of this Agreement shall be equitably adjusted to reflect such taking.

(c) Confidentiality. To the fullest extent allowed by law, Owner shall maintain in the strictest **confidence**: (i) any information regarding Lessee's Development Activities and (ii) any other information that is proprietary or that Lessee requests be held confidential, in each such case whether disclosed by Lessee or discovered by Owner ("**Confidential Information**"). Excluded from the foregoing is any such information that is in the public domain by reason of prior publication through no act or omission of Owner. Owner shall not use Confidential Information for its own benefit or publish or otherwise disclose it to others; provided, however, that Owner may disclose Confidential Information to (a) Owner's personal advisors, (b) any prospective purchaser of the Property or (c) pursuant to lawful process, subpoena or court

order; so long as in making such disclosure Owner advises the person receiving the Confidential Information of the confidentiality thereof and endeavors in good faith to obtain the agreement of said person not to disclose such Confidential Information.

(d) **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon Owner and Lessee and, to the extent provided in any assignment or other transfer under Section 8.1 hereof, any Assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them, and shall be deemed covenants running with the land and be binding upon the Property. **References** to Lessee in this Agreement shall be deemed to include Assignees that hold a direct ownership interest in this Agreement.

(e) **Memorandum of Lease Agreement.** Lessee shall have the right to record a memorandum of this Agreement. Owner shall cooperate with Lessee in such regard and shall execute any reasonable form of memorandum requested by Lessee. In addition, Owner hereby consents to the recordation of the interest of an Assignee in the Property.

(f) **Notices.** All notices or other communications required or **permitted** hereunder, including payments to Owner, shall, unless otherwise provided herein, be in writing, and shall be personally delivered, delivered by reputable overnight courier, or sent by registered or certified mail, return receipt requested and postage prepaid, addressed as follows:

If to Owner:

City of Prineville  
387 NE Third Street  
Prineville, Oregon 97754  
Attention: Eric Klann  
Email: [eklann@cityofprineville.com](mailto:eklann@cityofprineville.com)

And with a copy to:

Jered Reid  
35 SE C Street, Suite D  
Madras, OR 97741  
[jeredwreid@gmail.com](mailto:jeredwreid@gmail.com)

If to Lessee:

Westlake Solar Panels LLC  
1000 2<sup>nd</sup> Ave. #1800  
Seattle, Washington 98104  
Attention: Peter Parker  
Email: [ ]

And with a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notices personally delivered shall be deemed given the day so delivered. Notices given by overnight courier shall be deemed given on the first business day following the mailing date. Notices mailed as provided herein shall be deemed given on the third business day following the mailing date. Notices electronically mailed shall only be deemed delivered upon non-automated confirmation by the receiving Party. Any Party may change its address for purposes of this subsection by giving written notice of such change to the other Party in the manner provided in this subsection.

(g) **Further Assurances: Cooperation.** Without limiting any other obligations of Owner under this Agreement (**including**, without limitation, Owner's obligations under Section 7(f)), Owner shall fully support and cooperate with Lessee in the conduct of its **Development Activities** and the exercise of its rights hereunder (**including**, without limitation, Lessee's efforts to obtain from any governmental authority or any other person or entity any environmental impact review, permit, entitlement, approval, authorization or other rights to sell, assign, transfer or finance any Power Facilities or interest in the Leasehold Estate or under this Agreement or obtain any financing), and Owner shall perform all such acts (including executing and delivering maps, instruments and documents within ten (10) days after receipt of a written request made

from time to time by Lessee) as Lessee may reasonably specify to fully effectuate each and all of the purposes and intent of this Agreement. Without limiting the generality of the foregoing, within ten (10) days after receipt of a written request made from time to time by Lessee, Owner shall: (a) enter into any reasonable amendment hereto (i) to correct an error in this Agreement, (ii) to amend the legal description attached hereto (**including** by replacing said legal description with a revised description prepared or provided by Lessee's surveyor or title company), (iii) that may be required by any Leasehold Mortgagee or in connection with the transfer by Lessee of any Power Facilities or interest in the Leasehold Estate or under this Agreement or (iv) to cause this Agreement to comply with applicable law; (b) execute and deliver to Lessee any owner's affidavit reasonably requested by any title company or attorney reviewing title to the Property; (c) enter into any reasonable consent and nondisturbance agreement with any Leasehold Mortgagee, stating that Owner shall recognize the rights of the Leasehold Mortgagee and not disturb its possession of the Property so long as it is not in default under this Agreement, and stating such other things as such Leasehold Mortgagee may reasonably request; (d) join in any grants for rights-of-way and leases for electric and other public utilities and facilities and any other electric power purpose (including any power transmission line), together with access, ingress and egress rights, as Lessee may deem necessary or desirable for its development and use of the Property; (e) join with Lessee in the signing of any protest, petition, appeal or pleading that Lessee may deem advisable to file or in requesting any and all zoning changes or any waivers, variances, land use permits and/or approvals, in each case as Lessee may deem necessary or desirable for Lessee's development and use of the Property as **contemplated** by this Agreement; and (f) if because of the nature of this Agreement Lessee is unable to qualify for any tax credit, renewable energy credit, environmental credit or any other benefit or incentive for renewable energy established by any local, state or federal government associated with the Power Facilities or the Development Activities, amend this Agreement or convert Lessee's interest in the Property to a substantially similar interest that makes Lessee eligible for such credit, benefit or incentive (but only if such amendment does not materially adversely affect Owner's rights or obligations hereunder); and Lessee agrees to pay Owner's reasonable out-of-pocket expenses incurred by Owner in **connection** with Owner's cooperation pursuant to the foregoing provisions of this Section 11(g). Without limiting the generality of the foregoing, Owner shall not oppose, in any way, whether directly or indirectly, any application by Lessee for any permit, approval or entitlement at any administrative, judicial, legislative or other level.

(h) Estoppel Certificates. Owner shall, within ten (10) days after a written request by Lessee, any Assignee or any Leasehold Mortgagee, execute, acknowledge and deliver to the requesting party such estoppel certificates (certifying as to such matters as may reasonably be requested, including, without limitation, that this Agreement is unmodified and in full force and effect (or modified and stating the modifications), the dates to which the payments and any other charges have been paid, and that there are no defaults existing (or that defaults exist and stating the nature of such **defaults**)) and/or consents to assignment (whether or not such consent is actually required) and/or non-disturbance **agreements** as Lessee, any Assignee or any Leasehold Mortgagee may reasonably request from time to time during the term of this **Agreement**. At Lessee's option, such certificates, consents and agreements may be recorded and Owner consents to such recording.

(i) No Waiver; No Abandonment. No waiver of any right under this Agreement shall be effective for any purpose unless it is in writing and is signed by the Party hereto possessing the right, nor shall any such waiver be construed to be a waiver of any subsequent right, term or provision of this Agreement. Further, (i) no act or failure to act on the part of Lessee shall be deemed to constitute an abandonment, surrender or termination of any interest under this Agreement, except upon recordation by Lessee of a quitclaim deed or release specifically conveying such Leasehold Estate or interest back to Owner, (ii) nonuse of the Agreement or any lease or interest hereunder shall not prevent the future use of the entire scope thereof; and (iii) no use of or improvement to the Property, and no assignment, transfer or grant under Section 8 or otherwise, or use resulting from any such transfer or grant, shall, separately or in the **aggregate**, constitute an overburdening of this Agreement or any lease or interest hereunder.

(j) No Merger. There shall be no merger of this Agreement, or of the Leasehold Estate created by this Agreement, with the fee estate in the Property by reason of the fact that this Agreement or the Leasehold Estate or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur **unless** and until all persons at the time having an interest in the fee estate in the Property and all persons (including, without limitation, each Leasehold Mortgagee) having an interest in this Agreement or in the estate of Owner and Lessee shall join in a written instrument effecting such merger and shall duly record the same.

(k) Entire Agreement. This Agreement, together with its attached exhibits, contains the entire agreement between the Parties with respect to the subject matter hereof, and any prior or contemporaneous **agreements, discussions** or understandings, written or oral (including any options or agreements for leases, **confidentiality** agreements, and/or access agreements previously entered into by the Parties with respect to the Property), are superseded by this Agreement and shall be of no force or effect. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by each of the Parties.

(l) Governing Law. The terms and provisions of this Agreement shall be interpreted in **accordance** with the laws of the state of Oregon without reference to choice of law principles.

(m) Dispute Resolution. The Provisions of Section 23 of the Power Purchase Agreement signed by the Parties on the Effective Date are hereby incorporated by reference and shall have the same **effect** *mutatis mutandis* as if stated expressly herein.

(n) Interpretation. The Parties agree that the terms and provisions of this Agreement embody their mutual intent and that such terms and conditions are not to be construed more liberally in favor of, or more strictly against, either Party.

(o) Partial Invalidity. Should any term or provision of this Agreement, or the **application** thereof to any person or circumstance, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Notwithstanding any other provision of this Agreement, the parties agree that in no event shall the term of the Leasehold Estate or this Agreement be longer than the longest period permitted by **applicable** law; provided, however, that Lessee shall be entitled to record an instrument preserving the effectiveness or record notice of this Agreement.


(p) Other General Provisions. Except with respect to the rights conferred hereunder upon Leasehold Mortgagees (which Leasehold Mortgagees and their respective successors and assigns are hereby expressly made third party beneficiaries hereof to the extent of their respective rights hereunder), the covenants contained herein are made solely for the benefit of the Parties and their respective **successors** and assigns, and shall not be construed as benefiting any person or entity who is not a Party to this Agreement. Neither this **Agreement** nor any **agreements** or transactions contemplated hereby shall be interpreted as creating any partnership, joint venture, association or other relationship between the Parties, other than that of landowner and lessee. Lessee's shareholders, directors, officers, partners and members shall not have any personal liability for any damages arising out of or in connection with this Agreement. The use of the neuter gender includes the masculine and feminine, and the singular number includes the plural, and vice versa, whenever the context so requires. The terms "include", "includes" and "including", as used herein, are without limitation. Captions and headings used herein are for convenience of reference only and do not define, limit or otherwise affect the scope, meaning or intent hereof.

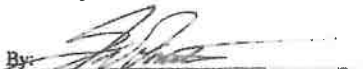
(q) Counterparts: Facsimiles or PDF. This Agreement may be executed and recorded in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same **instrument**. Each Party shall be entitled to rely upon executed copies of this Agreement transmitted by facsimile or electronic "PDF" to the same and full extent as the originals.

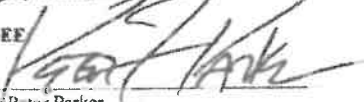
*[signature page follows]*

IN WITNESS WHEREOF, Owner and Lessee, acting through their duly authorized representatives, have executed this Agreement with the intent that it be effective as of the Effective Date, and certify that they have read, understand and agree to the terms and conditions of this Agreement.

**OWNER:**

By:   
Name: Stephen P. Uffelman  
Title: Mayor

By:   
Name: Steve Foran  
Title: City Manager

**LESSEE**  
By:   
Name: Peter Parker  
Title: CFO/COO



**EXHIBIT A**

**The Property**

A leased area of approximately seven (7) acres on a portion of property within Crook County, Oregon located at 2101 NW O'Neil Highway, Prineville, Oregon and more particularly described as Parcel 3 of Partition Plat 2015-02 as recorded in the Crook County Clerks Office. The leased area is depicted on Exhibit D of the Power Purchase Agreement, more or less.

**EXHIBIT B**

**Solar Easement**

- (1) The **dimensions** of the solar easement shall be coextensive with all space directly above all or any portion of the Property, and shall include, without **limitation**, all vertical or **horizontal** angles through which direct sunlight may be accessed or received on or above the Property by any Power Facilities erected thereon. The solar easement shall apply to all times of day and all dates of the year.
- (2) No vegetation, structures, or other objects shall be permitted to impair or **otherwise** obstruct the passage of sunlight through the solar easement.
- (3) Except with respect to a termination upon the termination or expiration of the Lease, the solar easement may be revised or terminated only with the written consent of Lessee.



150 NE Court St., Prineville, OR 97754  
PHONE (541)447-5181 FAX (541)447-3371

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To: Jered Reid, Attorney at Law  
545 NE 7th St.  
Prineville, OR 97754  
Attn: Jered Reid

Date: February 21, 2020  
Order No. 353846AM  
Reference: Parcel 3 of Partition Plat 2015-  
02  
Prineville, OR 97754

We have enclosed our Preliminary Title Report pertaining to order number 353846AM.

*Thank you for the opportunity to serve you. Your business is appreciated!*

If you have any questions or need further assistance, please do not hesitate to contact your Title Officer listed below.

Sincerely,

Elsie Ray, [elsie.ray@amerititle.com](mailto:elsie.ray@amerititle.com)  
Title Officer

**NOTICE:** Please be aware that, due to the conflict between federal and state laws concerning the legality of the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving land that is associated with these activities.

**AMERITITLE, INC.**  
**PRIVACY POLICY NOTICE**  
As of March 13, 2019

**PURPOSE OF THIS NOTICE**

Amerititle, Inc., (the "Company") shares your concerns about privacy. The Company is committed to respecting the privacy of our customers. Therefore, in accordance with Federal and State laws and regulations, we are providing you with this notice of how we might use the information about you which we gather in the process of issuing a policy of title insurance and closing your real estate transaction.

Title V of the Gramm-Leach-Bliley Act (GLBA) and the laws of the State in which you reside generally prohibit us from sharing non-public personal information about you with a third party unless we provide you with this notice of our privacy policies and practices, such as the type of information that we collect about you and the categories of persons or entities to whom that information might be disclosed. In compliance with GLBA and the laws of this State, we are providing you with this document, which notifies you of the privacy policies and practices of the Company.

**Our Privacy Policies and Practices**

**Information we collect and sources from which we collect it:**

We do not collect any nonpublic information about you other than the following:

- Information we receive from you or from your attorney or other representatives on applications or other forms, such as your name, address, telephone number, or social security number
- Information about your transactions with us, such as description, price, or term
- In addition, we may collect other nonpublic personal information about you from affiliated/nonaffiliated third parties, such as individuals and companies other than those proposed for coverage, which may include information in documents received from your lender

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional information will be collected about you.

**Information we disclose to third parties**

In the course of our general business practices, we may disclose the information that we collect (as described above) about you or others without your permission to the following types of institutions for the reasons described:

- Financial Service Providers:
  - o To an insurance institution, agent, or credit reporting agency in order to detect or prevent criminal activity, fraud or misrepresentation in connection with an insurance transaction;
  - o To an insurance institution, agent, or credit reporting agency for either this Company or the entity to which we disclose the information to perform a function in connection with an insurance transaction involving you.
- Others:
  - o To an insurance regulatory authority, law enforcement, or other governmental authority in order to protect our interests in preventing or prosecuting fraud, or if we believe that you have conducted illegal activities;
  - o To a third party such as a surveying, real estate tax research or municipal data firm if the disclosure will enable that party to perform a business, professional or insurance function for us;
  - o To an actuarial or research organization for the purpose of conducting actuarial or research studies.

The disclosures described above are permitted by law. We require any third party who receives information from us to agree to not disclose or use the information provided other than to carry out the purpose(s) for which it was disclosed.

**WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH AFFILIATES OR NON-AFFILIATED THIRD PARTIES FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.**

**Your right to access and amend your personal information:**

You have the right to request access to the personal information that we record about you. Your right includes the right to know the source of the information and the identity of the persons, institutions or types of institutions to whom we have disclosed such information within 2 years prior to your request. Your right includes the right to view such information and copy it in person, or request that a copy of it be sent to you by mail (for which we may charge you a reasonable fee to cover our costs). Your right also includes the right to request corrections, amendments or deletions of any information in our possession. The procedures that you must follow to request access to or an amendment of your information are as follows:

To obtain access to your information from AmeriTitle: You should submit a request in writing to:

Compliance Officer  
AmeriTitle, Inc.  
15 NW Oregon Avenue  
Bend, OR 97703

The request should include your name, address, policy number, telephone number and the information to which you would like access. The request should state whether you would like access in person or a copy of the information sent to you by mail. Upon receipt of your request, we will contact you within 30 business days to arrange providing you with access in person or the copies that you have requested.

To correct, amend or delete any of your information: You should submit a request in writing to the address referenced directly above. The request should include your name, address, policy number, telephone number, the specific information in dispute, and the identity of the document or record that contains the disputed information. Upon receipt of your request, we will contact you within 30 business days to notify you either that we have made the correction, amendment or deletion, or that we refuse to do so and the reasons for the refusal which you will have an opportunity to challenge.

**Our practices regarding information confidentiality and security:**

We restrict access to nonpublic information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

**Our policy regarding dispute resolution:**

In the event you believe the Company has not complied with the Privacy Policies and Practices set forth in this Notice, you must give the Company notice in writing addressed to the Compliance Officer at the above address setting forth the reasons for such non-compliance. The Company shall not be deemed to be in breach of the Privacy Policies and Practices unless it has not resolved or explained the issues set forth in such notice within thirty (30) days to your reasonable satisfaction. All claims arising under this Notice shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

**Reservation of the right to disclose information in unforeseen circumstances:**

In connection with the potential sale or transfer of its interests, the Company reserves the right to sell or transfer your information (including but not limited to your address, name, age, sex, zip code, state and country of residency and other information that you provide through other communications) to a third party entity that (1) concentrates its business in a similar practice or service; (2) agrees to be a successor in interest of the Company with regard to the maintenance and protection of the information collected; and (3) agrees to the obligations of this privacy statement.

**Other Important Information:**

The Company's website may contain links to other websites or Internet resources. The Company does not endorse or otherwise accept responsibility for the content or privacy policies of those websites or Internet resources.

The Company reserves the right to modify this Privacy Policy at any time. We will promptly reflect any such modifications in this document and, when we do, we will revise the "effective as of" date noted above. Any updated version of this Privacy Policy will be effective as of that date.



100 NE Court St., Prineville, OR 97754  
PHONE (541)447-5181 FAX (541)447-3371

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#### STATUS OF RECORD TITLE

Jered Reid  
Jered Reid, Attorney at Law  
545 NE 7th St.  
Prineville, OR 97754

February 21, 2020  
Title Number: 353846AM  
Title Officer: Elsie Ray  
Fee: \$200.00

We have searched the status of record title as to the **following** described property:

Parcel 3 of Partition Plat 2015-02, Recorded January 9, 2015 as Instrument No. 2015-266355, records of Crook County, Oregon

Yes:

City of Prineville

and dated as of February 14, 2020 at 7:30 a.m.

Said property is subject to the following on record matters:

Tax Information:

19610 assessed under Code No. 02 Account No. 19714 Map No. 1415360004702  
NOTE: The 2019-2020 Taxes: \$362.74, are Paid

19610 assessed under Code No. 02 Account No. 19610 Map No. 1415360004702  
NOTE: The 2019-2020 Taxes: No Amount Assessed.

1. 19610 assessed under Code No. 02 Account No. 19610 Map No. 1415360004702, including the current fiscal year, not assessed because of City Exemption. If the exempt status is terminated an additional tax may be levied.
2. 19610 deferred, as disclosed by the tax roll, the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use the property will be subject to additional taxes or penalties and interest.
3. **Regulations**, including levies, assessments, water and irrigation rights and easements for ditches and canals of People's Irrigation District.  
(No inquiry has been made)
4. **Regulations**, including levies, assessments, water and irrigation rights and easements for ditches and canals of Ochoco Irrigation District.  
(No inquiry has been made)

5. An easement including the terms and provisions thereof, affecting the portion of said premises and for the purposes stated therein as set forth in instrument:  
Granted To: William H. Simmons and Elsie M. Simmons, husband and wife  
Recorded: August 16, 1994  
Instrument No.: [116753](#)
6. An unrecorded lease with certain terms, covenants, **condition** and provisions set forth therein and such other exceptions as may appear necessary upon recording thereof,  
Lessor: Henry C. Simmons and Susan J. Simmons, husband and wife  
Lessee: J.C. Van Voorhees and James F. Larson, Trustees for Van Voorhees and Larson 401 (k) Profit Sharing Plan and Trust (Trust ID # 93-0963348) for the benefit of J.C. Van Voorhees  
Disclosed by: Assignment of Lease by Lessee for Security  
Date: November 22, 1999  
Recorded: December 2, 1999  
Instrument No.: [15252](#)  
  
Assignment of Lessor's Interest in Lease  
Assignor: J.C. Van Voorhees and James F. Larson, Trustees for Van Voorhees and Larson 401 (k) Profit Sharing Plan and Trust (Trust ID # 93-0963348) for the benefit of J.C. Van Voorhees  
Assignee: Henry C. Simmons and Susan J. Simmons, husband and wife  
Recorded: June 27, 2001  
Instrument No.: [162417](#)
7. Terms and Provisions contained in Dedication and Declaration as shown on the Partition Plat No. [2015-002](#).
8. Dedicated 35' Public Access and Utility Easement as shown on the Partition Plat No. [2015-002](#).
9. Dedicated 15' Public Access and Utility Easement as shown on the Partition Plat No. [2015-002](#).
10. Right-of-Way of the People's Irrigation District Main Canal as shown on the Partition Plat No. [2015-002](#).
11. Affidavit of Correction recorded January 13, 2015 as Instrument No. [2015-266401](#).
12. An easement including the terms and provisions thereof, affecting the portion of said premises and for the purposes stated therein as set forth in instrument:  
Recorded: January 20, 2015  
Instrument No.: [2015-266401](#)
13. Vacating Ordinance Order No. 2004-41 is disclosed in document,  
Recorded: March 25, 2016  
Instrument No.: [2016-21120](#)
14. The right of the public in and to that portion of the herein described property lying within the limits of public roads, streets or highways.  
Including, but not limited to, Westview Road.
15. Public Access and Public Utility Easement as shown on the Cook County [Assessor's Map](#)
16. Rights of tenants under existing **leases** or tenancies.
17. Delivery to and approval by the Company of **documentation authorizing** transaction and setting forth parties authorized to execute documents on behalf of City of Prineville.

NOTE: Any map or sketch enclosed as an **attachment** herewith is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the company assumes no liability for any loss occurring by reason of reliance thereon.

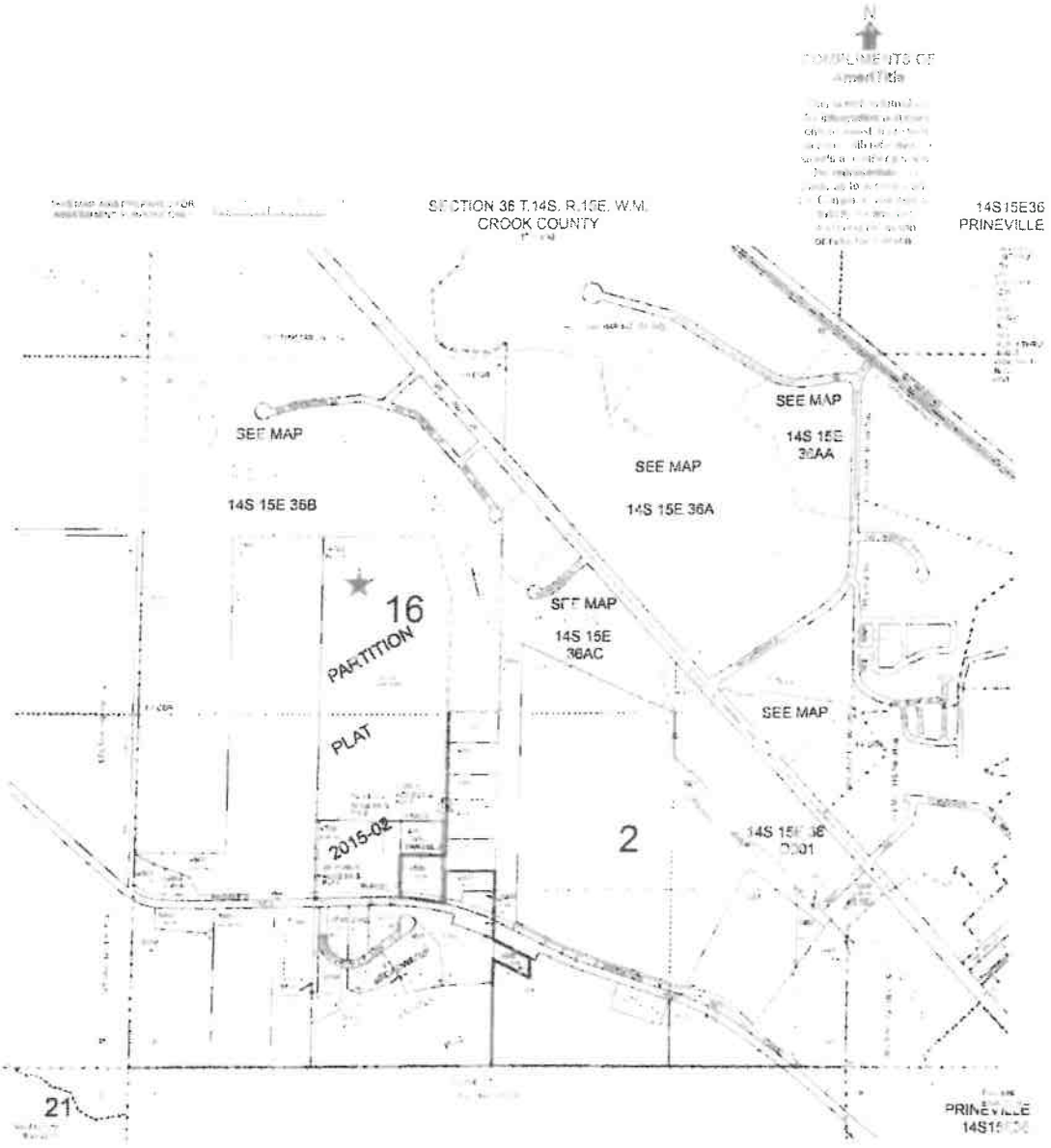
Order No. 352846AM  
Page 2

NOTE: This report does not include a search for financing statements filed in the office of the Secretary of State in this or any other State, or in a county other than the county wherein the premises are situated, and no liability is assumed if a financing statement is filed in the office of the County Clerk (Recorder) covering growing crops or fixtures on the premises wherein the lands are described other than by metes and bounds or under the rectangular survey system.

THIS IS NOT A TITLE REPORT, A COMMITMENT TO ISSUE TITLE INSURANCE OR A GUARANTEE OF ANY KIND. No liability is assumed with this report. The fee charged for this service does not include supplemental reports or other services. Further dissemination of the information in this report in a form purporting to insure title to the herein described land is prohibited by law.

*"Superior Service with Commitment and Respect for Customers and Employees"*

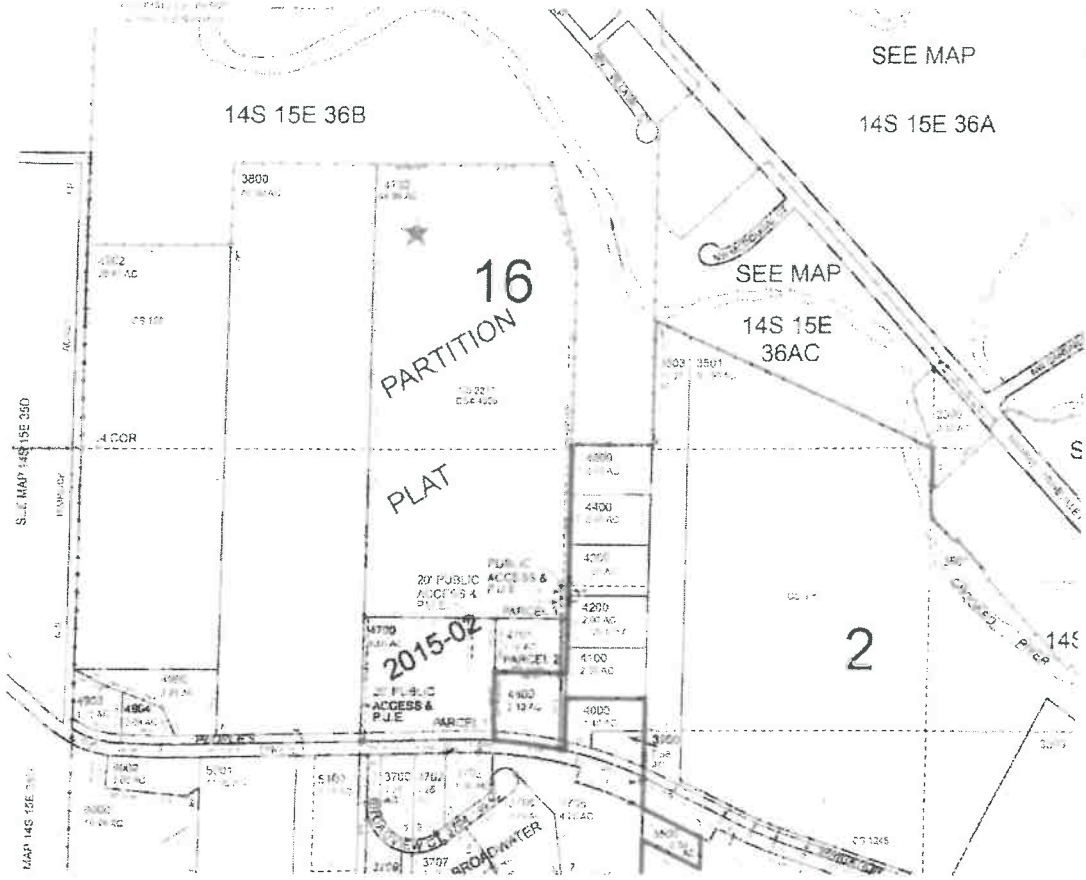






**COMPLIMENTS OF  
Aerial Photo**

The aerial photo is  
the reproduction of a  
photograph taken  
on a certain date  
and is not intended  
to be used as a  
legal document.  
It is only intended  
to show the  
general location  
of the property  
being described.



SEE MAP

14S 15E 36A

SEE MAP

14S 15E  
36AC

**16**  
PARTITION  
PLAT

2015-02  
PUBLIC  
ACCESS &  
P.U.E.

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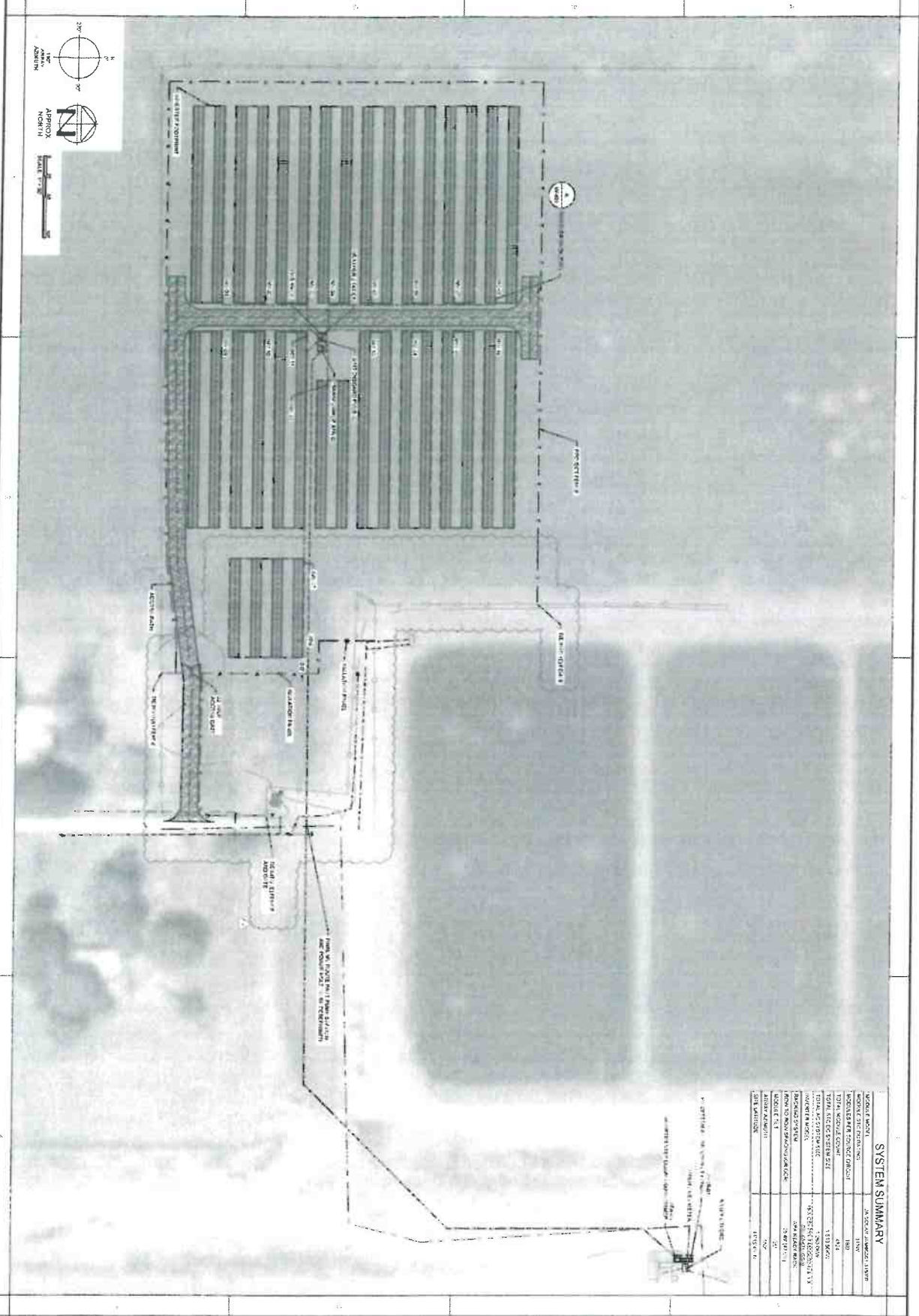
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14S

S.L.C. MAP 14S 15E 36D

MAP 14S 12E 36A

BROADWATER



**SYSTEM SUMMARY**

|                     |                  |
|---------------------|------------------|
| PROJECT NAME        | 244 SQM ARRAY    |
| NUMBER OF PANELS    | 180              |
| NUMBER OF ROWS      | 10               |
| TOTAL SYSTEM SIZE   | 244 SQM          |
| INVERTER TYPE       | MONO-CRYSTALLINE |
| INVERTER RATING     | 200 KW           |
| INVERTER EFFICIENCY | 97%              |
| INVERTER LOSS       | 3%               |
| ARRAY AREA          | 244 SQM          |
| SITE ADDRESS        | 11111 1111 1111  |

**PRINEVILLE PONDS PV SOLAR PROJECT**  
 2341 WOODBURN HWY - PRINEVILLE, OR 97134

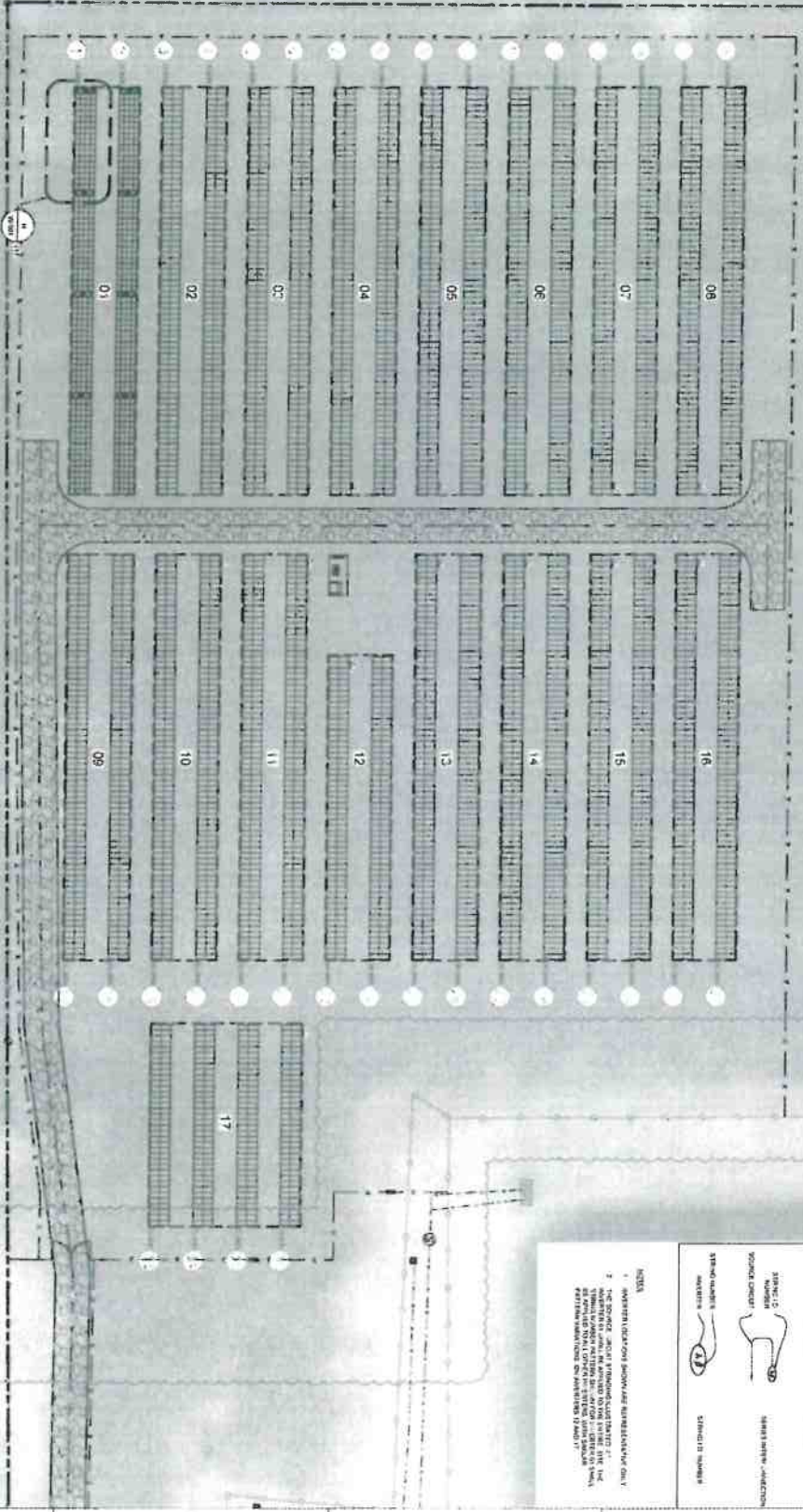
**ARRAY PLAN**

| NO. | DESCRIPTION                 | DATE     | BY  | REVISION |
|-----|-----------------------------|----------|-----|----------|
| 1   | ISSUE FOR PERMIT            | 02/11/21 | JAM | 1        |
| 2   | REVISED PER PERMIT COMMENTS | 02/11/21 | JAM | 2        |






**ISSUE FOR PERMIT**






**BLUE OAK ENERGY**  
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 PRINEVILLE, OR 97134  
 503-338-1111




















**LEGEND**






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**INDEX**

1. APPROXIMATE ROW AND COLUMN NUMBERS

2. THE GRID AND ROW NUMBERS ARE APPROXIMATE AND SHOULD BE USED AS A GUIDE ONLY. THE ACTUAL ROW AND COLUMN NUMBERS WILL BE DETERMINED BY THE FIELD SURVEYORS.

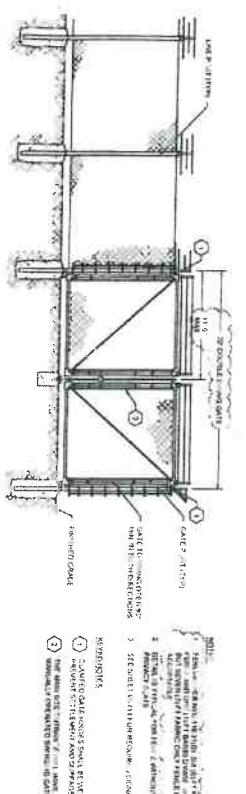
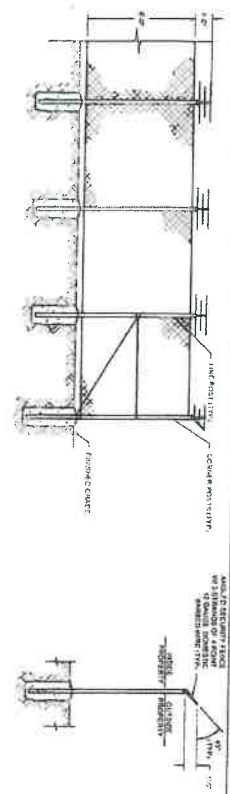
3. THE GRID AND ROW NUMBERS ARE APPROXIMATE AND SHOULD BE USED AS A GUIDE ONLY. THE ACTUAL ROW AND COLUMN NUMBERS WILL BE DETERMINED BY THE FIELD SURVEYORS.

PROJECT: PRINEVILLE PONDS PV SOLAR PROJECT  
 2000 W. PRINEVILLE ROAD, PRINEVILLE, OR 97134  
 DRAWING NO: W-121  
 STRINGING PLAN

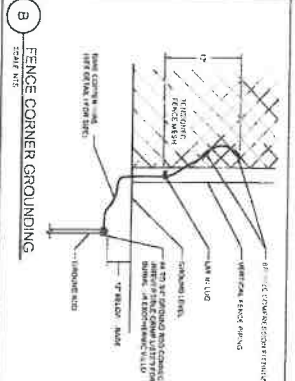
| NO. | DESCRIPTION       | DATE     | BY                | CHECKED     |
|-----|-------------------|----------|-------------------|-------------|
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| 2   | REVISION          | 10/22/14 | J. W. [Signature] | [Signature] |
| 3   | REVISION          | 10/22/14 | J. W. [Signature] | [Signature] |
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| 6   | REVISION          | 10/22/14 | J. W. [Signature] | [Signature] |
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| 12  | REVISION          | 10/22/14 | J. W. [Signature] | [Signature] |
| 13  | REVISION          | 10/22/14 | J. W. [Signature] | [Signature] |
| 14  | REVISION          | 10/22/14 | J. W. [Signature] | [Signature] |
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| 16  | REVISION          | 10/22/14 | J. W. [Signature] | [Signature] |
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**ISSUE FOR PERMIT**

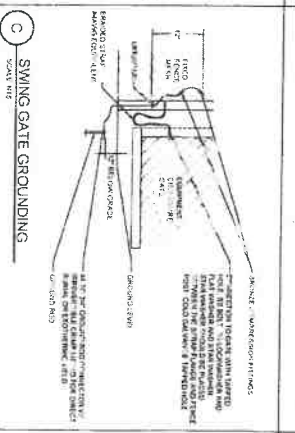

 Sun-Ed Energy, LLC  
 1000 W. Prineville Road  
 Prineville, OR 97134  
 (503) 438-2200  
 www.sun-ed.com



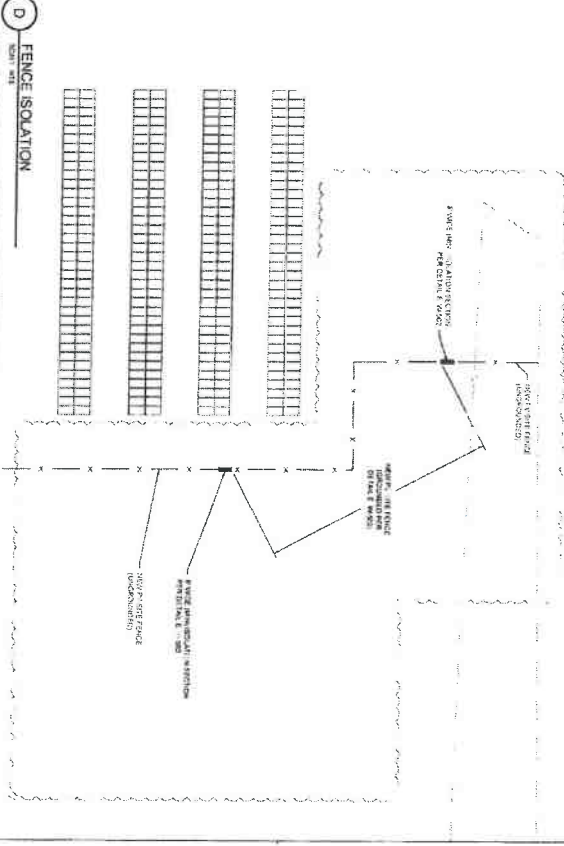
**A** FENCE AND GATE DETAILS  
SCALE: 1/8" = 1'-0"



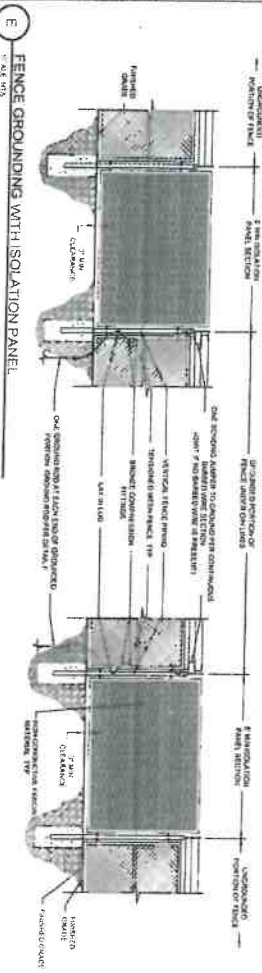
**B** FENCE CORNER GROUNDING  
SCALE: 1/8" = 1'-0"



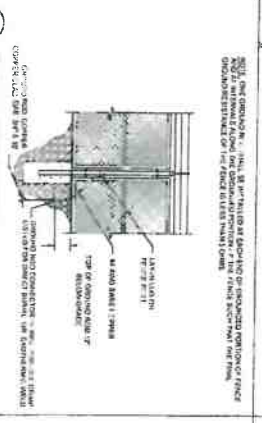
**C** SWING GATE GROUNDING  
SCALE: 1/8" = 1'-0"



**D** FENCE ISOLATION  
SCALE: 1/8" = 1'-0"



**E** FENCE GROUNDING WITH ISOLATION PANEL  
SCALE: 1/8" = 1'-0"



**F** TYPICAL GROUND ROD  
SCALE: 1/8" = 1'-0"

PROJECT: PRINEVILLE PONDS PV SOLAR PROJECT  
DRAWING NO: W-502  
DATE: 11/15/17  
SCALE: AS SHOWN  
FENCE DETAILS

| NO. | REVISION                    | DATE     | BY | CHKD BY |
|-----|-----------------------------|----------|----|---------|
| 1   | ISSUE FOR PERMIT            | 11/15/17 | JL | JL      |
| 2   | REVISED PER PERMIT COMMENTS | 11/15/17 | JL | JL      |
| 3   | REVISED PER PERMIT COMMENTS | 11/15/17 | JL | JL      |
| 4   | REVISED PER PERMIT COMMENTS | 11/15/17 | JL | JL      |
| 5   | REVISED PER PERMIT COMMENTS | 11/15/17 | JL | JL      |
| 6   | REVISED PER PERMIT COMMENTS | 11/15/17 | JL | JL      |
| 7   | REVISED PER PERMIT COMMENTS | 11/15/17 | JL | JL      |
| 8   | REVISED PER PERMIT COMMENTS | 11/15/17 | JL | JL      |
| 9   | REVISED PER PERMIT COMMENTS | 11/15/17 | JL | JL      |
| 10  | REVISED PER PERMIT COMMENTS | 11/15/17 | JL | JL      |

ISSUE FOR PERMIT

BLUE OAK ENERGY, LLC  
3000 W. 10TH AVENUE, SUITE 100  
DENVER, CO 80202  
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WWW.BLUEOAKENERGY.COM

PROJECT: PRINEVILLE PONDS PV SOLAR PROJECT  
DRAWING NO: W-502  
DATE: 11/15/17  
SCALE: AS SHOWN  
FENCE DETAILS