

IN THE COMMISSIONERS COURT
OF
JACK COUNTY, TEXAS

JUL 31 2023

VANESSA JAMES, County Clerk
JACK COUNTY, TEXAS

A RESOLUTION AND ORDER APPROVING A
ROAD USE AGREEMENT BETWEEN BY _____ DEPUTY
JACK COUNTY, TEXAS AND HECATE ENERGY LONGHORN SOLAR, LLC

WHEREAS, Jack County, Texas (the "County" or Jack County) is familiar with the solar energy project contemplated by Hecate Energy Longhorn Solar, LLC in the portion of the County described on Exhibits A and B, attached hereto and incorporated herein by reference. ("Project Area");

WHEREAS, Hecate Energy Longhorn Solar, LLC contemplates making certain improvements to the real property located within the Project Area consisting of a solar powered electric power generating facility ("Improvements");

WHEREAS, with the exception of statutory requirements, such as §240.907, Texas Transportation Code, §181.044 Texas Utilities Code, there are no applicable Jack County rules or ordinances that would require Hecate Energy Longhorn Solar, LLC to obtain zoning approval, a permit, or an authorization for the ownership, construction, operation or maintenance of a solar energy project and its Improvements within the Project Area. There are no presently existing Jack County rules or ordinances, other than those contained in a Tax Abatement Agreement between Jack County and Hecate Energy Longhorn Solar, LLC regarding decommissioning, safety buffer zones, set back requirements, noise restrictions, shade, flicker, shadow or visibility restrictions, or other zoning rules or regulations affecting the proposed ownership, construction, operation, or maintenance of Improvements within the Project Area;

WHEREAS, no part of the Project Area is located within the city limits of any towns within Jack County, and no part of the Project Area is located within the extraterritorial jurisdiction of Young, Texas, or any other city within the County.

WHEREAS, the ownership, construction, operation and maintenance of the Improvements will require access to, egress from, encroachments into, crossings of, and possibly upgrades to one or more roads maintained by Jack County, or other county owned or maintained rights-of-way, and, or county held right-of-way easements located in Jack County, Texas;

WHEREAS, by its dedication, use, and/or maintenance of the roads and as the owner and holder of County rights-of-way and right-of-way easements in the County, the Commissioners Court of Jack County, Texas has the authority on behalf of the County to permit such Road Usage;

WHEREAS, Hecate Energy Longhorn Solar, LLC seeks the County's permission for such Road Usage and Jack County, Texas has agreed to grant said permission.

NOW, THEREFORE,

BE IT ORDERED BY THE COMMISSIONERS COURT OF JACK COUNTY, TEXAS:

1. That the findings and recitals in the preamble to this Order are found to be true and correct and are hereby RATIFIED, APPROVED and ADOPTED.
2. This Agreement has a contemplated term of TEN-YEARS, and shall be binding upon the Company to the full ten-year term, plus any extensions to the original term, to cover all costs of construction, repairing and maintenance of designated roads.
3. Hecate Energy Longhorn Solar, LLC shall repair any damage to County roads caused by Hecate Energy Longhorn Solar, LLC or Hecate Energy Longhorn Solar, LLC's contractors or suppliers during the course of constructing, repairing or maintaining the Improvements and shall return such roads to the condition such roads were in prior to their use by Hecate Energy Longhorn Solar, LLC or Hecate Energy Longhorn Solar, LLC's contractors or suppliers.
 - a. Prior to the commencement of any work, or in advance of any subsequent modifications, Hecate Energy Longhorn Solar, LLC, will provide to Jack County a map identifying and designating those county-maintained roads which will be utilized to develop, install or repair the improvements, and any points of access to property, or the location of any transmission or collection lines to be installed in the public right of way.
 - b. Hecate Energy Longhorn Solar, LLC will coordinate with the Commissioner or Road Administrator responsible for the roads to be used by Hecate Energy Longhorn Solar, LLC during this project.
 - c. Hecate Energy Longhorn Solar, LLC will have a pre-construction survey completed for all designated county-maintained roads, which will include current conditions and recommendations for any preparations or modifications that will be necessary to perform required construction. In addition, the County will provide Hecate Energy Longhorn Solar, LLC, if available, with copies of any plans, cross sections and specifications relevant to the Designated Roads. Copies of all pre-construction survey documentation shall be provided to the County. All costs associated with the pre-construction survey shall be borne solely by Hecate Energy Longhorn Solar, LLC.
 - d. It is understood by Hecate Energy Longhorn Solar, LLC that no other roads may be used for ingress or egress than those roads identified pursuant to paragraph (a) above. Any truck operated by an individual utilized by Hecate Energy Longhorn Solar, LLC that is found to be using any road not listed in conformity with paragraph (a) shall be issued a citation, and subsequent violation of this agreement by that operator shall result in that operator not being allowed to participate further in hauling for Hecate Energy Longhorn Solar, LLC.

- e. Where prudent engineering and design suggests appropriate, Hecate Energy Longhorn Solar, LLC, will, at its sole costs and with the consent and approval of the County, prepare any roads in advance of the introduction of heavy or wide loads as necessary to sustain heavy or wide load trucks or where necessary in advance prepare access points from County Roads. For purposes of this agreement, the term heavy or wide loads are defined as any load exceeding 54,000 pounds in gross weight or 36,000 pounds per axle, and any load more than 12 feet in width.
- f. It is understood that maintenance of the roads to be utilized by Hecate Energy Longhorn Solar, LLC and to be performed by Hecate Energy Longhorn Solar, LLC include grading, dust control, traffic control and placing of sufficient base material to adequately support the anticipated loading to be imposed upon the county-maintained road or as outlined in the designation of county-maintained roads required by this agreement.
- g. To the extent necessary, the County recognizes that electrical lines will be installed within the county road right-of-way as a necessary component of the project. Such installations are subject to the following requirements:
 - 1. Hecate Energy Longhorn Solar, LLC will utilize GPS or other suitable surveying methods to locate all bore or trench installations, and adequately mark the location of such electrical lines.
 - 2. Hecate Energy Longhorn Solar, LLC will bury all electrical lines at a depth of not less than four feet (4') below grade, and will avoid placing the lines within the traveled portion of the roadway or in the bottom of drainage ditches.
 - 3. Electrical collection cable installed beneath any road shall be encased in SDR 13.5 HDPE or equivalent for all road bores.
- h. All such preparation or repairs by Hecate Energy Longhorn Solar, LLC, including the widening of roads pursuant to subsection (c) below, shall have the prior approval of the County and property owners affected by any widening, and shall be done in accordance with the standards and specifications for road repair generally used by the County for other county roads. If this covenant for road repair by Hecate Energy Longhorn Solar, LLC cannot be performed by Hecate Energy Longhorn Solar, LLC or in the event Hecate Energy Longhorn Solar, LLC fails to perform this covenant within 30 days of a demand that it do so from the County, then the County may perform the road repair required of Hecate Energy Longhorn Solar, LLC pursuant to this section and Hecate Energy Longhorn Solar, LLC agrees to reimburse the County for its reasonable and necessary costs in repairing such roads within ten (10) days of being invoiced for the necessary costs of repairs. The County's cost for such repairs

shall be determined using the applicable rates used by the Federal Emergency Management Administration for equipment and personnel and the County's actual cost of materials. Hecate Energy Longhorn Solar, LLC agrees to pay the cost of any such repairs within 30 days of the date Hecate Energy Longhorn Solar, LLC is billed for such services by the County.

- i. Hecate Energy Longhorn Solar, LLC may not widen or change the course of any County Road without the consent of the County and any affected property owners (to the same extent that the consent of the affected property owners would be required if the County widened or changed the course of a County Road), which consent shall not be unreasonably withheld, conditioned, or delayed so long as Hecate Energy Longhorn Solar, LLC is not in default in its obligations under this Agreement. As a condition to granting such consent the County may require Hecate Energy Longhorn Solar, LLC to take any other precautions and covenants which may be commercially reasonably necessary to protect and maintain the roadway and its continued access by the public and the rights of adjoining property owners. Hecate Energy Longhorn Solar, LLC agrees to obtain any necessary permission or right from private property owners prior to using any private property for the delivery of goods or supplies used for the Improvements or for access to the site where any of the Improvements are being constructed.
- j. Any roads constructed upon private property by Hecate Energy Longhorn Solar, LLC will not, and shall not hereafter, become the responsibility of the County unless the County receives from the landowner a dedication of sufficient right of way, and the Commissioners Court, in its sole discretion, finds the road serves a sufficient public purpose and affirmatively accepts the road as a County Road.
- k. Any County owned culverts or bridges, if any, that must be replaced or repaired in the Project Area as result of the construction of the project and heavy loads associated with the project will be repaired by Hecate Energy Longhorn Solar, LLC, subject to supervision and approval of the County.
- l. Should anticipated loading of an existing bridge located on a county road be in excess of design limits on said bridge, Hecate Energy Dovetail Solar III, LLC agrees to take remedial action to either armor the bridge to address the excessive load, or construct an alternative route to avoid damage to the bridge.
- m. To more fully implement the terms of subsection (c) of this agreement, Hecate Energy Longhorn Solar, LLC agrees to establish a fund (to be called the Road Use Contingency Fund) in an amount equal to One Hundred Thousand Dollars (\$100,000.00) prior to the commencement of significant construction activities for the project, to be placed on escrow with the County Treasurer of Jack County, Texas. For purposes of this Agreement, significant construction activities shall mean any vehicular traffic carrying loads in excess of 54,000

pounds. This fund shall be available to be applied to any costs incurred by Jack County for the repair of roads, bridges, culverts or other road infrastructure due to damage caused by the activities of Hecate Energy Longhorn Solar, LLC in the project zone. The County will first give notice to Hecate Energy Longhorn Solar, LLC of the damage claimed, and Hecate Energy Longhorn Solar, LLC will have thirty (30) days in which to cure any claimed damage. Failure to cure the claimed damage will authorize the County to access the Road Use Contingency Fund to the extent of the actual costs of repairs incurred by the County, as documented by actual receipts for material, labor or equipment use rates, as based on FEMA publications, as noted above. Upon any withdrawal from the Road Use Contingency Fund, Hecate Energy Longhorn Solar, LLC shall immediately replenish the fund to the extent of any drawdown pursuant to this section. Failure to establish this fund, or to replenish said fund when and if necessary, shall constitute a material breach of the Tax Abatement Agreement. At the conclusion of all construction and commencement of commercial operations, any remaining balance in said contingency fund shall be remitted to Hecate Energy Longhorn Solar, LLC.

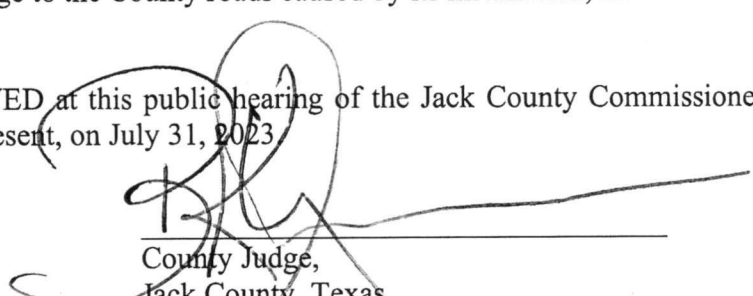
- n. Hecate Energy Longhorn Solar, LLC agrees to defend, indemnify and hold harmless Jack County and its officers, representatives and employees against any and all losses, damages, claims, expenses and liabilities for physical damage to the property of Jack County or to any person, including reasonable attorney's fees arising out of the project with respect to (1) operations of Hecate Energy Longhorn Solar, LLC, or any of its contractors or subcontractor for any intentional act or omission on the part of Hecate Energy Longhorn Solar, LLC, or its agents, representatives, employees, or its general contractor or subcontractors and all employees of such companies actually performing work related to the project, and (2) any negligent, careless or reckless act or omission on the part of Hecate Energy Longhorn Solar, LLC, or its contractors and subcontractors, and (3) any breach of this agreement. This indemnity agreement shall survive the termination of this agreement.
- o. Hecate Energy Longhorn Solar, LLC agrees to provide insurance at all times during construction and such insurance will include: (1) Worker's compensation insurance in compliance with the laws of the State of Texas (2) Commercial General Liability insurance with minimum limits of \$2,000,000.00 per occurrence, and (3) Automobile Liability insurance. Certificates of Insurance will be provided upon request to the County. Jack County will be identified as an additional insured on all insurance policies related to the project.

4. The Commissioners' Court hereby grants permission to Hecate Energy Longhorn Solar, LLC, and its successors and assigns, during the planning and construction phases of its solar power project and Improvements, and thereafter during the operation and maintenance phase of the solar power project and Improvements until said solar power project and Improvements are completely abandoned, to use all County roads for the Road Usages described herein, including but not limited to, (a) access and egress to and from the Hecate Energy Longhorn Solar, LLC


Project, (b) encroachment of Solar Project facilities and Improvements under, along or into the right of way of said County roads, in the form of access points to and from the County road and/or underground electrical transmission or collection lines buried in the County road right-of-way, and (c) for overhead and bored underground crossings of said County roads with solar power project electrical collection lines (and related facilities) interconnecting portions of the solar power project and Improvements, and with transmission lines connecting the solar power project and Improvements to the electrical grid power system.

5. That the permission granted in Ordering Paragraph 3 includes the installation, maintenance and repair of solar power project collection and transmission lines and related facilities within the rights of way of said County roads and right-of-way easements held by the County, and an authorization to require upgrade of such roads where necessary and conduct geo-technical and other preliminary construction analysis of such roads and rights-of-way. Hecate Energy Longhorn Solar, LLC must provide the County with notice and a map identifying the location of such Project Area facilities with reference to the County roads to be utilized by Hecate Energy Longhorn Solar, LLC before Project construction work on such roads begins. If any County roads must be upgraded in connection with such construction work, Hecate Energy Longhorn Solar, LLC will perform such upgrade work at its cost. The County may inspect such road upgrade work and Hecate Energy Dovetail I, LLC will perform additional work if needed to cause the upgrades to meet the same or better road standards as in effect at the commencement of Project construction (such standards being those agreed to by all parties). Hecate Energy Longhorn Solar, LLC must repair any damage to the County roads caused by its installation, maintenance or repair activities.

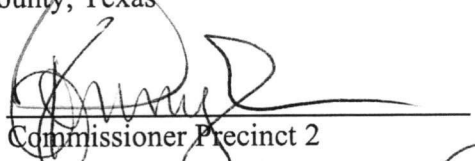
PASSED AND APPROVED at this public hearing of the Jack County Commissioners' Court, at which a quorum was present, on July 31, 2023



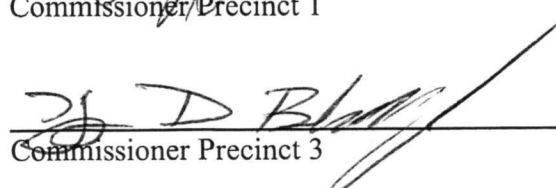
County Judge,
Jack County, Texas



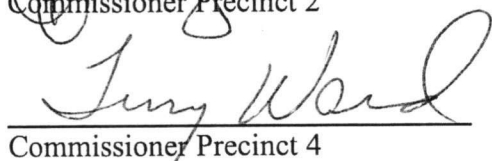
Commissioner Precinct 1



Commissioner Precinct 2




Commissioner Precinct 3



Commissioner Precinct 4

ATTEST:

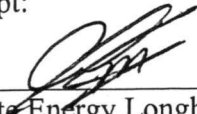


County Clerk

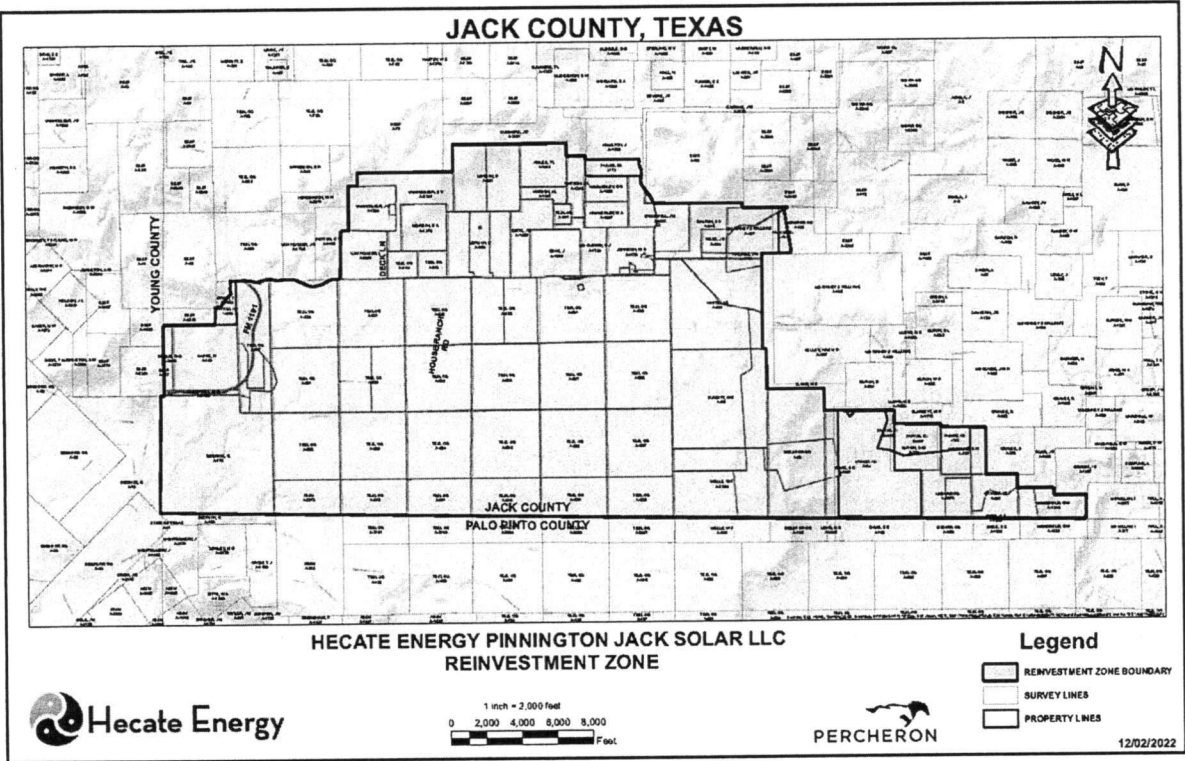
Date of Execution: 7/31/2023



Accept:


Hecate Energy Longhorn Solar, LLC

Date: 7-31-23



Acreage	Property ID	Owner	Legal Desc
923.70	1665	LEACH LORETTA MANAGEMENT LLC	AB 176 G DEDRICK
116.70	1945	BEALL HOLDINGS I LLC	AB 1051 J H BRIDWELL
65.99	1950	SEALE EDWARD H III & KAREN R	AB 951 I E GRAVES
38.02	1952	SEALE EDWARD H III & KAREN R	AB 1348 G W WAKEFIELD
16.10	2300	LITTLE BOBBY GLENN	AB 657 T E & L CO
170.53	3094	DECK RUSSELL	AB 1248 J H DECK
43.51	4103	CUMMING GREGORY ALTON	AB 880 J B WEBB
122.93	4106	CUMMING GREGORY ALTON	AB 946 S C DALTON
34.10	4196	LEACH LORETTA MANAGEMENT LLC	AB 657 T E & L CO
11.99	4196	LEACH LORETTA MANAGEMENT LLC	AB 657 T E & L CO
19.56	4197	LEACH LORETTA MANAGEMENT LLC	AB 2433 M C GLIDWELL
159.10	4239	LLOYD EMMETT GLIDWELL IRREVEOCABLE TRUST	AB 623 T E & L CO
528.93	4572	TAUNTON DAVID	AB 58 W B BURDETT
57.07	4578	THE ALLAR COMPANY	AB 339 C W KUTCH
110.14	4579	EVANGELISTA DAVID & MELISSA	AB 427 MCKINNEY & WILLIAMS
47.66	4582	GRAY GERALD J II & CHRISTOPHER	AB 437 F H MEDEARIS
336.42	4583	GRAFORD 337 RANCH LTD	AB 635 T E & L CO
325.00	4584	GRAFORD 337 RANCH LTD	AB 636 T E & L CO
323.40	4585	GRAFORD 337 RANCH LTD	AB 637 T E & L CO
190.85	4586	GRAFORD 337 RANCH LTD	AB 638 T E & L CO
188.13	4587	GRAFORD 337 RANCH LTD	AB 639 T E & L CO
26.35	4588	EVANGELISTA DAVID & MELISSA	AB 891 J G WHITE
484.77	4589	THE ALLAR COMPANY	AB 1061 E B DAVIS
206.71	4595	GRAFORD 337 RANCH LTD	AB 2380 W F WELLS
87.86	4598	THE ALLAR COMPANY	AB 2375 ING & RR CO
170.75	4707	GRAFORD 337 RANCH LTD	AB 641 T E & L CO
191.61	4708	GRAFORD 337 RANCH LTD	AB 640 T E & L CO
170.95	4709	PINNINGTON CREEK RANCH LLC	AB 2372 A B & M
310.43	4710	PINNINGTON CREEK RANCH LLC	AB 631 T E & L CO
323.35	4711	PINNINGTON CREEK RANCH LLC	AB 632 T E & L CO
173.59	4712	PINNINGTON CREEK RANCH LLC	AB 642 T E & L CO
12.19	4713	PINNINGTON CREEK RANCH LLC	AB 657 T E & L CO
162.22	5098	HHW RANCHES LTD A TEXAS LTD	AB 630 T E & L CO
57.64	5114	HOUSE JIM CHARLES	AB 840 T E & L CO
56.46	5115	HOUSE JIM CHARLES	AB 842 T E & L CO
153.55	5116	HOUSE JIM CHARLES	AB 1279 B A MORGAN
109.58	5117	HOUSE JIM CHARLES	AB 350 D LEHMAN
52.90	5175	HIDDEN SPRINGS LAND & CATTLE	AB 437 F H MEDEARIS
93.03	5176	HIDDEN SPRINGS LAND & CATTLE	AB 1348 G W WAKEFIELD
78.35	5181	HIDDEN SPRINGS LAND & CATTLE	AB 951 I E GRAVES
316.04	5646	HHW RANCHES LTD A TEXAS LTD	AB 629 T E & L CO
323.89	5647	HHW RANCHES LTD A TEXAS LTD	AB 622 T E & L CO
312.90	5648	HHW RANCHES LTD A TEXAS LTD	AB 634 T E & L CO
323.90	5649	HHW RANCHES LTD A TEXAS LTD	AB 626 T E & L CO
150.76	5650	HOUSE JIM CHARLES	AB 1334 J C VANHOOSER
326.74	5651	HHW RANCHES LTD A TEXAS LTD	AB 628 T E & L CO
318.23	5652	HHW RANCHES LTD A TEXAS LTD	AB 625 T E & L CO
0.44	5654	HOUSE JIM CHARLES	AB 620 T E & L CO
324.16	5654	HOUSE JIM CHARLES	AB 620 T E & L CO
319.74	5655	HHW RANCHES LTD A TEXAS LTD	AB 627 T E & L CO
314.80	5661	KINDER SAMMY G	AB 624 T E & L CO
307.10	6161	LOGAN JERRY & TERRY & UNDERWOOD SANDRA	AB 143 H CAPPS
35.05	6162	UNDERWOOD JIMMY A AND SANDRA	AB 657 T E & L CO
27.15	6167	REYNOLDS ROY F & BEVERLY	AB 841 T E & L CO
80.24	6168	REYNOLDS ROY F & BEVERLY	AB 1096 G C HAMMERLY
82.96	6169	REYNOLDS ROY F & BEVERLY	AB 1097 W A HAMMERLY
78.16	6170	REYNOLDS ROY F & BEVERLY	AB 1216 A L WATSON
47.21	6171	REYNOLDS ROY F & BEVERLY	AB 1497 A L WATSON
109.32	6172	REYNOLDS ROY F & BEVERLY	AB 1700 C I MCQUERRY
64.90	6173	REYNOLDS ROY F & BEVERLY	AB 1535 J HAMILTON
148.11	6174	REYNOLDS ROY F & BEVERLY	AB 1014 T L WALES
0.00	6927	DECK GERALD R & MAY ANN	AB 621 T E & L CO
0.01	6927	DECK GERALD R & MAY ANN	AB 621 T E & L CO

Acreage	Property ID	Owner	Legal Desc
323.56	6927	DECK GERALD R & MAY ANN	AB 621 T E & L CO
84.03	6928	DECK GERALD R & MAY ANN	AB 630 T E & L CO
163.65	6931	DECK GERALD R & MAY ANN	AB 2264 I VANHOOSER
204.59	6932	DECK GERALD R & MAY ANN	AB 2394 S V VANHOOSER
97.02	7514	SORRELLS BRENT T	AB 350 D LEHMAN
162.02	7515	SORRELLS BRENT T	AB 351 D LEHMAN
2.96	7517	BISHOP WILLIAM JORDAN	AB 1122 W C JOHNSON
145.47	7518	BISHOP WILLIAM JORDAN	AB 1122 W C JOHNSON
6.80	7526	LITTLE BOBBY GLENN	AB 631 T E & L CO
322.71	8509	PINNINGTON CREEK RANCH LLC	AB 633 T E & L CO
71.97	8510	PINNINGTON CREEK RANCH LLC	AB 630 T E & L CO
1.28	8937	KINDER KEVIN JOE	AB 425 MEP & PRR
59.79	8938	KINDER KEVIN JOE	AB 427 MCKINNEY & WILLIAM
0.44	9401	WILSON BESSIE REVOCABLE RANCH TRUST	AB 350 D LEHMAN
0.00	9404	WILSON BESSIE REVOCABLE RANCH TRUST	AB 623 T E & L CO
3.51	9421	DECK RUSSELL	AB 624 T E & L CO
154.34	9422	DECK RUSSELL	AB 1069 J H DECK
159.29	9578	STRIFLER STEVEN	AB 623 T E & L CO
14.84	9584	EVANGELISTA DAVID & MELISSA	AB 2454 J R HALSELL
42.69	10054	M J INDIAN MOUNTIAN LLC	AB 2043 R O POGUE
41.89	10056	DOUBLE CROSSED T INVESTMENTS LLC	AB 1829 T J CROW
24.13	10056	DOUBLE CROSSED T INVESTMENTS LLC	AB 1829 T J CROW
162.07	10057	DOUBLE CROSSED T INVESTMENTS LLC	AB 657 T E & L CO
2.07	11198	KINDER S E & RUBY	AB 624 T E & L CO
5.14	50892	DECK GERALD R & MAY ANN	AB 2394 S V VANHOOSER
96.34	51520	WILSON BESSIE REVOCABLE RANCH TRUST	AB 350 D LEHMAN
163.27	51521	WILSON BESSIE REVOCABLE RANCH TRUST	AB 351 D LEHMAN
2.61	54267	THE ALLAR COMPANY	AB 1061 E B DAVIS
71.81	54269	SEALE EDWARD H III & KAREN R	AB 2375 ING & RR CO
219.80	54271	THE ALLAR COMPANY	AB 92 BBB & CRR
119.76	54273	TAUNTON DAVID	AB 2380 W F WELLS
38.49	54278	THE ALLAR COMPANY	AB 1924 M B LLOYD
34.48	54281	THE ALLAR COMPANY	AB 891 J G WHITE
357.85	54282	TAUNTON DAVID	AB 891 J G WHITE
0.62	54283	PORTER EDWARD	AB 657 T E & L CO
142.24	54344	THE ALLAR COMPANY	AB 92 BBB & CRR
138.15	54559	THE ALLAR COMPANY	AB 2380 W F WELLS
28.28	54645	EVANGELISTA DAVID & MELISSA	AB 425 MEP & PRR CO
167.58	54784	WILSON MICHAEL M	AB 92 BBB & CRR
33.15	54785	WILSON MICHAEL M	AB 1924 M B LLOYD
0.66	54787	WILSON MICHAEL M	AB 1061 E B DAVIS
5.12	54788	WILSON MICHAEL M	AB 2380 W F WELLS
31.45	54806	GRAY GERALD J II & CHRISTOPHER	AB 1061 E B DAVIS
99.67	54808	GRAY GERALD J II & CHRISTOPHER	AB 339 C W KUTCH
159.48	54816	THE ALLAR COMPANY	AB 58 W B BURDETT
0.80	54817	TAUNTON DAVID	AB 637 T E & L CO
5.00	55143	REID DAVID RAMSEY	AB 80 B S & F
78.80	55144	REID DAVID RAMSEY	AB 1051 J H BRIDWELL
16.73	55254	GREENE JACOB AND SHANA	AB 946 S C DALTON
180.13	55386	STEGMEIER JOHN MICHAEL	AB 891 J G WHITE
2.23	57592	ONCOR ELECTRIC DELIVERY CO	AB 1122 W C JOHNSON
0.51	58165	BEALL BILL & SARA	AB 1051 J H BRIDWELL
12.15	58288	BARTON CHAPEL WIND LLC	AB 1122 W C JOHNSON
51.90	58831	SEALE EDWARD H III & KAREN R	AB 437 F H MEDARIS
15279.23	Acres		

Exhibit F
Remediation Provisions

Vernon's Texas Statutes and Codes Annotated
Utilities Code (Refs & Annos)
Title 6. Private Power Agreements
Chapter 302. Solar Power Facility Agreements

V.T.C.A., Utilities Code § 302.0001

§ 302.0001. Definitions

Effective: September 1, 2021

In this chapter:

(1) "Grantee" means a person, other than an electric utility, as defined by Section 31.002, who:

(A) leases property from a landowner; and

(B) operates a solar power facility on the property.

(2) "Solar energy device" has the meaning assigned by Section 185.001.

(3) "Solar power facility" includes:

(A) a solar energy device; and

(B) a facility or equipment, other than a facility or equipment owned by an electric utility, as defined by Section 31.002, used to support the operation of a solar energy device, including an underground or aboveground electrical transmission or communications line, an electric transformer, a battery storage facility, an energy storage facility, telecommunications equipment, a road, a meteorological tower, or a maintenance yard.

(4) "Solar power facility agreement" means a lease agreement between a grantee and a landowner that authorizes the grantee to operate a solar power facility on the leased property.

Vernon's Texas Statutes and Codes Annotated
Utilities Code (Refs & Annos)
Title 6. Private Power Agreements
Chapter 302. Solar Power Facility Agreements

V.T.C.A., Utilities Code § 302.0002

§ 302.0002. Applicability

Effective: September 1, 2021

This chapter applies only to a solar power facility that is a generation asset as defined by Section 39.251.

Vernon's Texas Statutes and Codes Annotated
Utilities Code (Refs & Annos)
Title 6. Private Power Agreements
Chapter 302. Solar Power Facility Agreements

V.T.C.A., Utilities Code § 302.0003

§ 302.0003. Waiver Void; Remedies

Effective: September 1, 2021

- (a) A provision of a solar power facility agreement that purports to waive a right or exempt a grantee from a liability or duty established by this chapter is void.
- (b) A person who is harmed by a violation of this chapter is entitled to appropriate injunctive relief to prevent further violation of this chapter.
- (c) The provisions of this section are not exclusive. The remedies provided in this section are in addition to any other procedures or remedies provided by other law.

Vernon's Texas Statutes and Codes Annotated
Utilities Code (Refs & Annos)
Title 6. Private Power Agreements
Chapter 302. Solar Power Facility Agreements

V.T.C.A., Utilities Code § 302.0004

§ 302.0004. Required Agreement Provisions on Facility Removal

Effective: September 1, 2021

- (a) A solar power facility agreement must provide that the grantee is responsible for removing the grantee's solar power facilities from the landowner's property and that the grantee shall, in accordance with any other applicable laws or regulations, safely:
 - (1) clear, clean, and remove from the property each solar energy device, transformer, and substation;
 - (2) for each foundation of a solar energy device, transformer, or substation installed in the ground:
 - (A) clear, clean, and remove the foundation from the ground to a depth of at least

three feet below the surface grade of the land in which the foundation is installed; and

(B) ensure that each hole or cavity created in the ground by the removal is filled with soil of the same type or a similar type as the predominant soil found on the property;

(3) for each buried cable, including power, fiber-optic, and communications cables, installed in the ground:

(A) clear, clean, and remove the cable from the ground to a depth of at least three feet below the surface grade of the land in which the cable is installed; and

(B) ensure that each hole or cavity created in the ground by the removal is filled with soil of the same type or a similar type as the predominant soil found on the property; and

(4) clear, clean, and remove from the property each overhead power or communications line installed by the grantee on the property.

(b) The agreement must provide that, at the request of the landowner, the grantee shall:

(1) clear, clean, and remove each road constructed by the grantee on the property; and

(2) ensure that each hole or cavity created in the ground by the removal is filled with soil of the same type or a similar type as the predominant soil found on the property.

(c) The agreement must provide that, at the request of the landowner, if reasonable, the grantee shall:

(1) remove from the property all rocks over 12 inches in diameter excavated during the decommissioning or removal process;

(2) return the property to a tillable state using scarification, V-rip, or disc methods, as appropriate; and

(3) ensure that:

(A) each hole or cavity created in the ground by the removal is filled with soil of the same type or a similar type as the predominant soil found on the property; and

(B) the surface is returned as near as reasonably possible to the same condition as before the grantee dug holes or cavities, including by reseeding pastureland with native grasses prescribed by an appropriate governmental agency, if any.

(d) The landowner shall make a request under Subsection (b) or (c) not later than the 180th day

after the later of:

- (1) the date on which the solar power facility is no longer capable of generating electricity in commercial quantities; or
- (2) the date the landowner receives written notice of intent to decommission the solar power facility from the grantee.

Vernon's Texas Statutes and Codes Annotated
Utilities Code (Refs & Annos)
Title 6. Private Power Agreements
Chapter 302. Solar Power Facility Agreements

V.T.C.A., Utilities Code § 302.0005

§ 302.0005. Required Agreement Provisions on Financial Assurance

Effective: September 1, 2021

(a) A solar power facility agreement must provide that the grantee shall obtain and deliver to the landowner evidence of financial assurance that conforms to the requirements of this section to secure the performance of the grantee's obligation to remove the grantee's solar power facilities located on the landowner's property as described by Section 302.0004. Acceptable forms of financial assurance include a parent company guaranty with a minimum investment grade credit rating for the parent company issued by a major domestic credit rating agency, a letter of credit, a bond, or another form of financial assurance reasonably acceptable to the landowner.

(b) The amount of the financial assurance must be at least equal to the estimated amount by which the cost of removing the solar power facilities from the landowner's property and restoring the property to as near as reasonably possible the condition of the property as of the date the agreement begins exceeds the salvage value of the solar power facilities, less any portion of the value of the solar power facilities pledged to secure outstanding debt.

(c) The agreement must provide that:

(1) the estimated cost of removing the solar power facilities from the landowner's property and restoring the property to as near as reasonably possible the condition of the property as of the date the agreement begins and the estimated salvage value of the solar power facilities must be determined by an independent, third-party professional engineer licensed in this state;

(2) the grantee must deliver to the landowner an updated estimate, prepared by an independent, third-party professional engineer licensed in this state, of the cost of removal and the salvage value:

(A) on or before the 10th anniversary of the commercial operations date of the solar power

facilities; and

(B) at least once every five years after the commercial operations date of the solar power facilities for the remainder of the term of the agreement; and

(3) the grantee is responsible for ensuring that the amount of the financial assurance remains sufficient to cover the amount required by Subsection (b), consistent with the estimates required by this subsection.

(d) The grantee is responsible for the costs of obtaining financial assurance described by this section and costs of determining the estimated removal costs and salvage value.

(e) The agreement must provide that the grantee shall deliver the financial assurance not later than the earlier of:

(1) the date the solar power facility agreement is terminated; or

(2) the 20th anniversary of the commercial operations date of the solar power facilities located on the landowner's leased property.

(f) For purposes of this section, "commercial operations date" means the date on which the solar power facilities are approved for participation in market operations by a regional transmission organization and does not include the generation of electrical energy or other operations conducted before that date for purposes of maintenance and testing.

(g) The grantee may not cancel financial assurance before the date the grantee has completed the grantee's obligation to remove the grantee's solar power facilities located on the landowner's property in the manner provided by this chapter, unless the grantee provides the landowner with replacement financial assurance at the time of or before the cancellation. In the event of a transfer of ownership of the grantee's solar power facilities, the financial security provided by the grantee shall remain in place until the date evidence of financial security meeting the requirements of this chapter is provided to the landowner.