

70 2019 00021534

DUVAL COUNTY
ELODIA M. GARZA
Duval County Clerk
San Diego, Texas 78384

21534

Instrument Number: 2019-21534

Recorded On: May 20, 2019
As
RECORDINGS

Parties: PROBST DALE E ET AL
To DOVE RUN SOLAR PROJECT LLC

Billable Pages: 10
Number of Pages: 11

Comment: 4

(Parties listed above are for Clerks reference only)

**** Examined and Charged as Follows: ****

RECORDINGS	65.00
Total Recording:	65.00

***** DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

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User / Station: M Garcia - Cash Station 1

Record and Return To:

SAVION LLC
16105 W 113TH ST
STE 108
LENEXA KS 66219-2307



State of Texas |

County of Duval

I hereby certify that this instrument was filed on the date and time stamped
hereon and was duly recorded in the volume and page in the OFFICIAL RECORDS
of Duval County, Texas
Elodia M. Garza
Duval County Clerk

By:

Maria Garcia
Deputy

Vol Ps
681 435

(Space above reserved for Recorder of Deeds certification)

1. Title of Document: **Memorandum of Solar Energy Lease**
2. Date of Document: **April 1, 2019**
3. Grantor(s): **Dale E. Probst and Judy Probst, husband and wife and Danny R. Probst and April Probst, husband and wife**
4. Grantee(s): **Dove Run Solar Project, LLC, a Delaware limited liability company**
5. Statutory Mailing Address(s):

**Lessee's Address: 16105 West 113th Street
Suite 105
Lenexa, Kansas 66219**
6. Legal Description: **See Attached Exhibit A**
7. Reference Book and Page(s): **N/A**

MEMORANDUM OF SOLAR ENERGY LEASE

THIS MEMORANDUM OF SOLAR ENERGY LEASE (this "**Memorandum**") is dated as of April 1, 2019 (the "**Effective Date**") by and between Dale E. Probst and Judy Probst, husband and wife, whose address is 13165 Nokomis Road, Fillmore, Illinois 62032 and Danny R. Probst and April Probst, husband and wife, whose address is 22291 N 14th Avenue, Nokomis, Illinois 62075 (collectively "**Lessor**"), and Dove Run Solar Project, LLC, a Delaware limited liability company ("**Lessee**"), whose address is 16105 W. 113th Street, Suite 105, Lenexa, KS 66219, with reference to the following recitals:

A. Lessor owns that certain real property (including all air space thereof) described on Exhibit "A" attached hereto (the "**Property**"), which Property is located in the County of Duval, in the State of Texas.

B. Lessor and Lessee (together, the "**Parties**" and each a "**Party**") have entered into that certain unrecorded Solar Energy Lease dated of even date herewith (the "**Lease**"), which affects the Property.

C. The Parties have executed and acknowledged this Memorandum and are recording the same for the purpose of providing constructive notice of the Lease and Lessee's rights thereunder. Capitalized terms used and not defined herein have the meaning given the same in the Lease.

NOW, THEREFORE, for and in consideration the promises, covenants and agreements of the Parties contained in the Lease and herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Purpose of Lease.** Lessee shall have possession of the Property for the exclusive right for solar energy conversion, for the collection and transmission of electric power, and for related and incidental purposes and activities (collectively, "**Solar Operations**"), to be conducted in such locations on the Property as Lessee may determine, and whether accomplished by Lessee or a third party authorized by Lessee, including:

1.1 Determining the feasibility of solar energy conversion on the Property or on neighboring lands that are within the Project, including conducting studies of solar radiation, soils, and other meteorological and geotechnical data;

1.2 Developing, constructing, reconstructing, erecting, enlarging, installing, improving, replacing, relocating and removing from time to time, and maintaining, using, monitoring and operating, existing, additional or new (i) individual units or arrays of solar energy collection cells/panels and related facilities necessary to harness sunlight for photovoltaic energy generation, including without limitation, existing and/or future technologies used or useful in connection with the generation of electricity from sunlight, and associated support structure, braces, wiring, plumbing, and related equipment ("**Solar Energy Facilities**"), (ii) facilities for the storage, collection, distribution, step-up, step-

down, wheeling, transmission and sale of electricity and for communications in connection with the Solar Energy Facilities, including, without limitation, the following, at such locations as Lessee shall determine that are developed, constructed and/or operated on the Property and/or on the property to be acquired by leasehold or by fee purchase that are within the Project, by or on behalf of Lessee: underground and/or overhead distribution, collection and transmission lines; underground and/or overhead control, communications and radio relay systems and telecommunications equipment; energy storage facilities; interconnection and/or switching facilities, circuit breakers, transformers; cables, wires, fiber, conduit, footings, foundations, towers, poles, crossarms, guy lines and anchors, and any related or associated improvements, fixtures, facilities, appliances, machinery and equipment (collectively, the "**Transmission Facilities**"), (iii) meteorological masts and solar energy measurement equipment, (iv) control buildings, control boxes and computer monitoring hardware, (v) utility lines and installations, (vi) safety protection facilities, (vii) laydown areas and maintenance yards, (viii) roads, bridges, culverts, and erosion control facilities, (ix) signs, fences, and gates, (x) maintenance, operations and administration buildings, and (xi) other improvements, fixtures, facilities, machinery and equipment associated or connected with the generation, conversion, storage, switching, metering, step-up, step-down, transmission, distribution, conducting, wheeling, sale or other use or conveyance of electricity (all of the foregoing, including the Solar Energy Facilities and Transmission Facilities, collectively a "**Solar Energy System**");

1.3 Drilling one or more water wells on the Property solely for the purposes of servicing, operating and maintaining the Solar Energy System that is located on the Property;

1.4 During the Extended Term, removing, trimming, pruning, topping, clearing, or otherwise controlling the growth of any tree, shrub, plant or other vegetation; dismantling, demolishing, and removing any improvement, structure, embankment, impediment, berm, wall, fence, engineering works, or other object, on or that intrudes (or upon maturity could intrude) into the Property that could obstruct, interfere with or impair the Solar Energy System or the use of the Property authorized hereunder, provided, however, that the overall drainage of the property remain materially unaffected if any portion of the Property is utilized for agricultural purposes, and provided further that, Lessee's removal of any such improvements or structures having salvage value (as reasonably determined by Lessor and Lessee) shall be coordinated with Lessor, and if so elected by Lessor within ten (10) days after notice from Lessee that any such improvement or structure must be removed, Lessor shall have a thirty (30) day period to remove any such improvement at Lessor's expense. In the event Lessor fails to respond in writing to Lessee in such ten (10) day period, or Lessor elects not to remove or fails to remove any such improvements or structures within such thirty (30) day period, Lessee may remove and dispose of such improvements or structures at Lessee's expense, and Lessee shall have no liability to Lessor relating to the removal and disposal thereof;

1.5 A non-exclusive easement for vehicular and pedestrian access, ingress and egress to, from and over the Property, at such locations as Lessee shall determine, for purposes related to or associated with the Solar Energy System installed or to be installed on the Property ("**Access Rights**"), which, without limiting the generality of the foregoing, shall entitle Lessee to use, improve and widen any existing and future roads and access routes or construct such roads as Lessee may determine necessary from time

to time located on the Property, subject to consultation with Lessor as provided in the Lease;

1.6 Undertaking any other lawful activities, whether accomplished by Lessee or a third party authorized by Lessee, that Lessee determines are necessary, helpful, appropriate, convenient or cost-effective in connection with, incidental to or to accomplish any of the foregoing purposes, including conducting surveys and soils, environmental, biological, cultural and other tests and studies.

2. Among other things, this Lease includes the exclusive right and easement on, over and across the Property for the free and unobstructed flow of sunlight resources, together with the exclusive right to (i) develop, use, convert, maintain and capture such sunlight, (ii) convert solar energy into electrical energy and (iii) derive and keep all credits and income therefrom (subject to the payment of Rent to Lessor, as set forth in the Lease).

3. The Lease shall initially be for a term of five (5) years commencing on the Effective Date and ending on April 1, 2024. Lessee shall have the right and option to extend the term of the Lease for one additional period of thirty (30) years, upon the terms set forth in the Lease. Additionally, Lessee shall have the right to renew the Extended Term for two (2) additional five (5) year periods.

4. Any Solar Energy System constructed on the Property shall at all times remain the property of Lessee and shall not be deemed to be fixtures and (ii) Lessor shall have no ownership, lien, security or other interest (including any lien that might otherwise be implied by law) in any Solar Energy System installed on the Property, or in any profits or income derived therefrom.

5. Neither Lessor nor any of its tenants, licensees, contractors, invitees, agents, assigns or anyone else obtaining rights from Lessor shall, currently or prospectively, interfere with, impair, delay or materially increase the cost of any of Lessee's Solar Operations on the Property, or the undertaking of any other activities or the free enjoyment or exercise of any other rights or benefits given to or permitted Lessee hereunder. Without limiting the generality of the foregoing, neither Lessor nor anyone obtaining rights from or acting with the permission of Lessor shall (a) interfere with or impair the free, unobstructed and natural availability of sunlight over or across the Property (whether by planting trees, constructing structures, or otherwise), or the lateral or subjacent support for the Solar Energy System or (b) engage in any other activity on the Property that might cause a decrease in the output, efficiency or longevity of the Solar Energy System.

6. The Lease is for the additional purposes, is of the nature, and is subject to the requirements and limitations, set forth therein. The Lease also contains various other covenants, obligations and rights of the Parties, including, without limitation, provisions relating to Rent, termination of the Lease, quiet enjoyment, restoration of the Property, assignment and lender protections.

7. The terms, conditions and covenants of the Lease are incorporated herein by reference as though fully set forth herein. This Memorandum does not supersede, modify, amend or otherwise change the terms, conditions or covenants of the Lease, and this Memorandum shall not be used in interpreting the terms, conditions or covenants of the Lease. In the event of any conflict between this Memorandum and the Lease, the Lease shall control.

8. The Property shall be held, conveyed, hypothecated, encumbered, leased, used and occupied subject to the covenants, terms and provisions set forth in the Lease and herein, which shall run with the Property and each portion thereof and interest therein as equitable servitudes, and shall be binding upon and inure to the benefit of the Parties and each sublessee and any other person and entity having any interest therein during their ownership thereof, and their respective sublessees, grantees, heirs, executors, administrators, successors and assigns, and all persons claiming under them.

9. This Memorandum may be executed with counterpart signature pages and in duplicate originals, each of which shall be deemed an original, and all of which shall collectively constitute a single instrument.

[REST OF PAGE LEFT BLANK; SIGNATURES ON SEPARATE SHEETS]

IN WITNESS WHEREOF, the Parties have executed and delivered this Memorandum as of the Effective Date.

LESSEE:

DOVE RUN SOLAR PROJECT, LLC,
a Delaware limited liability company

By: *Christopher Hickey*

Name: Christopher Hickey

Title: Vice President

STATE OF Kansas)
) ss.
COUNTY OF Johnson)

Be it remembered that on this 4th day of April, 2019, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Christopher Hickey, to me personally known, who being by me duly sworn did say that he is Vice President of Dove Run Solar Project, LLC, a Delaware limited liability company, and that the within instrument was signed and delivered on behalf of said Dove Run Solar Project, LLC by authority thereof, and acknowledged said instrument to be the free act and deed of said limited liability company for the purposes therein expressed.

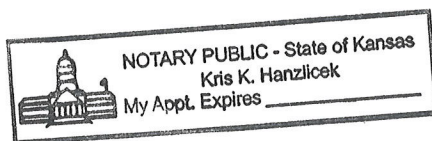
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal in the date herein last above written.

My Commission Expires:

3-5-2023
[SEAL]

Kris K. Hanzlicek
Notary Public in and for said County and State

Print Name: Kris K Hanzlicek



LESSOR:

Dale E. Probst
Dale E. Probst

Judy Probst
Judy Probst

STATE OF Illinois)
) ss.
COUNTY OF Montgomery)

BE IT REMEMBERED, that on this 15th day of March, 2019, before me, the undersigned, a Notary Public in and for said County and State aforesaid, came Dale E. Probst and Judy Probst, husband and wife, to me known to be the persons who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed and for the purposes therein stated.

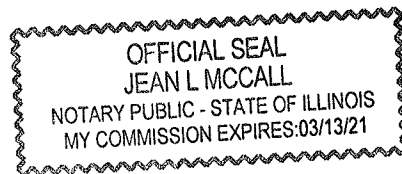
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year LAST above written.

My Commission Expires:

3/13/21
[SEAL]

Jean L McCall
Notary Public in and for said County and State

Print Name: Jean L McCall



LESSOR:

Danny R. Probst
Danny R. Probst

April Probst
April Probst

STATE OF Illinois)
) ss.
COUNTY OF Montgomery)

BE IT REMEMBERED, that on this 15th day of March, 2019, before me, the undersigned, a Notary Public in and for said County and State aforesaid, came Danny R. Probst and April Probst, husband and wife, to me known to be the persons who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed and for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year LAST above written.

My Commission Expires:

3/13/21
[SEAL]

Jean L McCall
Notary Public in and for said County and State

Print Name: Jean L McCall

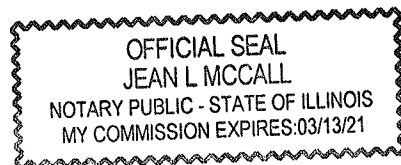


EXHIBIT "A"

DESCRIPTION OF THE PROPERTY

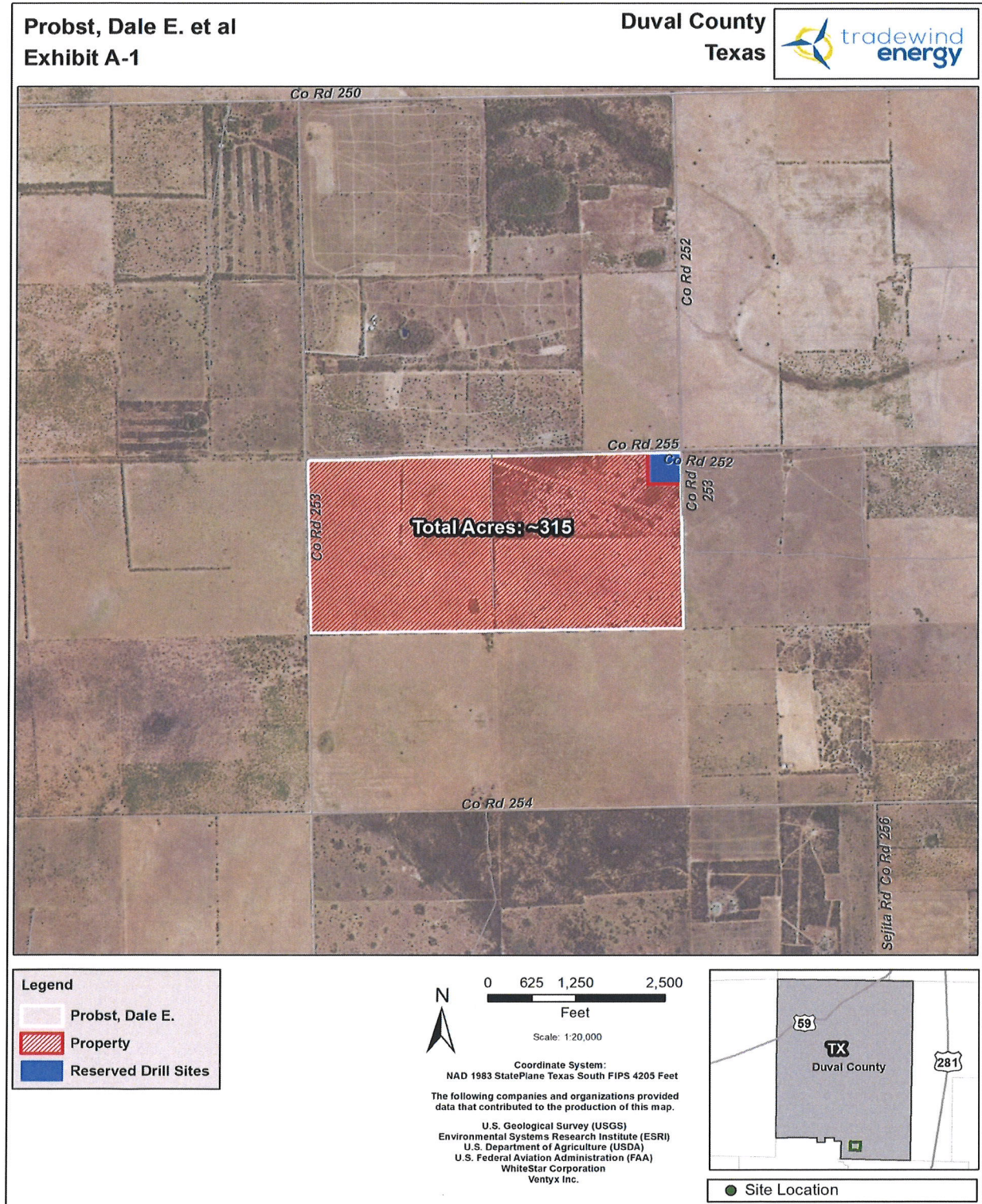
THE FOLLOWING REAL PROPERTY LOCATED IN THE COUNTY OF DUVAL, STATE OF TEXAS:

The Southeast Quarter (SE 1/4) of Lot number Two (2) of Block number forty-nine (49), of Addition number three (3), of Realitos Sub-division of Copita Farm and Garden Tracts, containing forty acres: and, All of Lot Number One (1) and the North half (1/2) and Southwest Quarter (1/4) of Lot Number Two (2), of Block Number Forty-nine (49), of Addition Number Three (3), of Realitos Sub-division of Copita Farm & Garden Tracts, containing Two Hundred and Eighty (280) acres: said tracts being located in and a part of what is known as the Marcelo Hinojosa Grant, of Duval County, of the State of Texas; reference is here made to map on file and of record in the Office of the County Clerk of Duval County, Texas for a more particular description of the tract.

LESS AND EXCEPT approximately five (5) acres of reserved drill sites generally depicted on Exhibit "A-1" attached hereto, to be surveyed at a later date.

EXHIBIT "A-1"

MAP GENERALLY DEPICTING THE PROPERTY



601
 681
 445
 P5