



**Title Commitment Index**

<b>Landowner</b>	<b>Project Portion</b>	<b>Property Address</b>	<b>Tax ID/ Parcel Number</b>	<b>Parcel size (acres-approximate)</b>	<b>Existing Land Use</b>
Henriette Long	solar array	30945 Washington Road - Calhan, CO 80808	1200000040	318	rangeland and homestead
Gary B Skaggs / BS Wind, LLC	collection line	11255 Currier Road - Calhan, CO 80808	1200000056	286	rangeland; WSE-O
William K Henderson and Monica L Deines-Henderson	collection line	0 Currier Road - Calhan, CO 80808 (no address assigned)	1200000276	100	rangeland; WSE-O
Golden West Power Partners, LLC	collection line	31145 Funk Road - Calhan, CO 80808	1200000339 (Owned by Applicant)	40	subsation and operations and maintenance building; WSE-O
Timothy C. Pachak and Colleen M. Pachak	collection line	30836 Washington Road - Calhan, CO 80808	1200000388 (Title for this property is included in the Title for Balsick 1200000387)	35	rangeland and homestead; WSE-O
Adam M. Balsick and Kristin K. Balsick	collection line	0 Washington Road - Calhan, CO 80808 (no address assigned)	1200000387	443	rangeland; WSE-O

After Recording Return To:  
Dru Roscoe, Esq.  
NextEra Energy Resources, LLC  
700 Universe Boulevard, LAW/JB  
Juno Beach, FL 33408

Chuck Broerman  
09/08/2017 12:47:56 PM  
Doc \$0.00 6  
Rec \$38.00 Pages

El Paso County, CO



## **MEMORANDUM OF REAL ESTATE PURCHASE OPTION AGREEMENT**

This Memorandum of Real Estate Purchase Option Agreement ("**Memorandum**") is made as of June 28, 2017, by and between Henriatte Long, joined by her husband, Gordon Long, whose address is 27960 Hatfield Point, Calhan, CO 80808 ("**Seller**"), and Boulevard Associates, LLC, a Delaware limited liability company, whose address is 700 Universe Boulevard, Juno Beach, FL 33408 Attention: Land Services ("**Purchaser**").

The parties hereby wish to memorialize the following terms of that certain Real Estate Purchase Option Agreement (the "**Agreement**"), with an Effective Date of June 28, 2017 between Seller and Purchaser (defined terms not expressly defined herein shall have the meaning ascribed to each in the Agreement):

Seller: Henriatte Long, joined by her husband, Gordon Long

Purchaser: Boulevard Associates, LLC, a Delaware limited liability company

Property: The certain land consisting of approximately 270 acres located in the County of El Paso, State of Colorado including the improvements thereon, such land being more particularly described in Exhibit A attached hereto, and preliminarily depicted in Exhibit B attached hereto.

Option Period: The term of the Option shall be one (1) year, commencing on the Effective Date.

Option to Purchase: Purchaser is granted an exclusive right and option to purchase the Property at any time during the Option Term by delivering a Notice to the Seller, whereafter the Agreement shall automatically constitute a contract of sale between the Seller and Purchaser for the sale of Property at the purchase price and pursuant to the terms and conditions set forth in the Agreement.

Exclusivity of Option: During the Option Term, or until the Settlement Date occurs, whichever occurs later, Seller shall not offer any portion of the Property for sale to, accept any offer to purchase any portion of the Property from, nor enter into any contract to sell any portion of the Property with, nor enter into any lease, rental, or occupancy agreement affecting any portion of the Property with, nor enter into any agreement permitting any tenant to occupy any portion of

the Property with, any person other than the Purchaser hereunder without in each instance first obtaining the prior written consent of the Purchaser.

Other: Seller's rights and restrictions as to the Property, and transfer, assignment and leasing rights and restrictions during the Option Term are more particularly set forth in the Agreement.

[Signatures on Next Pages]




IN WITNESS WHEREOF, this Memorandum of Real Estate Purchase Option Agreement has been duly executed by the parties on the date written below.

**Seller:**

  
Henriatte Long

Joined by consenting spouse:

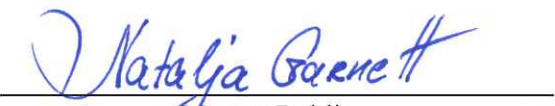

  
Gordon Long

**ACKNOWLEDGEMENT**

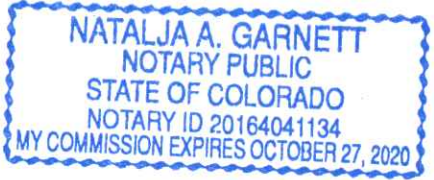
STATE OF COLORADO    )  
                                      )  
COUNTY OF EL PASO    )

The foregoing instrument was acknowledged before me on 20th June, 2017  
by Henriatte Long and Gordon Long.

Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public  


My commission expires: Oct 27, 2020.





**Purchaser:**

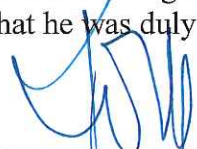
Boulevard Associates, LLC,  
a Delaware limited liability company

By   
Gregory Schneck, Vice President

**ACKNOWLEDGEMENT**

STATE OF FLORIDA                     )  
   )  
COUNTY OF PALM BEACH         )

The forgoing instrument was acknowledged before me June 28  
Gregory Schneck, 2017,  
by Gregory Schneck, as Vice President of Boulevard Associates, LLC, a Delaware limited  
liability company, who is personally known to me and who subscribed to the foregoing  
instrument and acknowledged that he executed the same on behalf of said limited liability  
company and that he was duly authorized to do so.

  
Notary Public State of Florida

(Notary Seal)

My Commission expires: \_\_\_\_\_





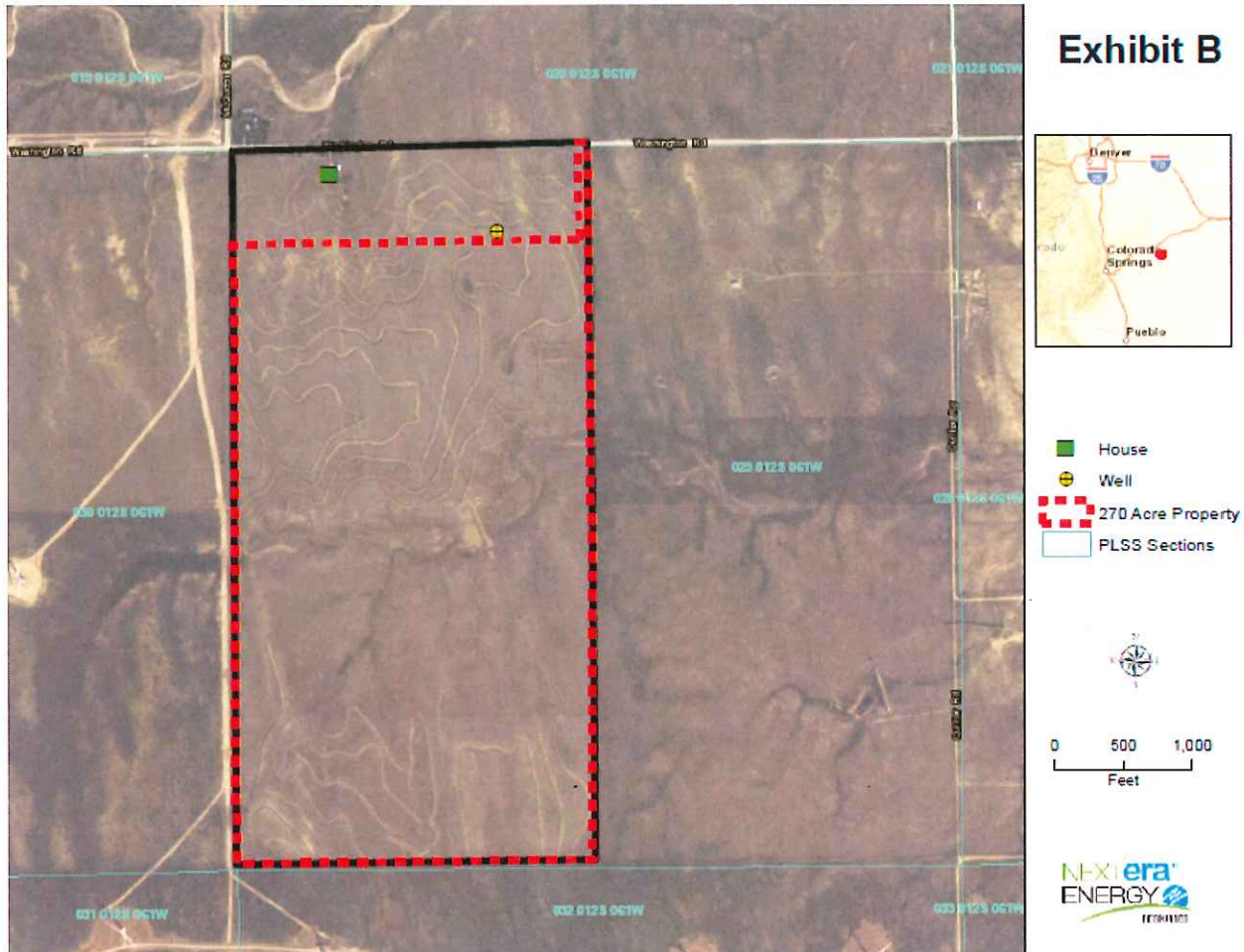
## **EXHIBIT A TO MEMORANDUM**

### **Legal Description of Property**

Approximately 270 acres out of the West Half (W $\frac{1}{2}$ ) of Section 29, Township 12 South, Range 61 West of the 6<sup>th</sup> P.M., El Paso County, Colorado.



### Preliminary Depiction of Property







## COLLECTION EASEMENT AGREEMENT

THIS COLLECTION EASEMENT AGREEMENT (together with the exhibits attached hereto, collectively, this "Agreement"), is executed effective this 9<sup>th</sup> day of April, 2018 ("Effective Date"), by and between Adam M. Balsick and Kristin K. Balsick, husband and wife, whose mailing address is 15640 Calhan Highway, Calhan, CO 80808 (collectively, "Grantor") and **Grazing Yak Solar, LLC**, a Delaware limited liability company, with an address of 700 Universe Blvd., Juno Beach, FL 33408, Attn: Land Services, and its successors and assigns ("Grantee"). Each of Grantor and Grantee are sometimes referred to in this Agreement as a "Party" or collectively as the "Parties".

### PREMISES

A. Grantor is the owner of those certain tracts of real property located in El Paso County, Colorado, which are more particularly described on the attached **Exhibit A** which is made a part hereof ("Property"); and

B. Grantor desires to grant and convey to Grantee a collection easement for the construction, installation, operation, and maintenance of certain facilities for the collection and transmission of electric power over, across, and under the Property, all upon the terms and conditions set forth herein.

IN CONSIDERATION of the foregoing, TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

#### 1. Grant.

(a) Grantor does hereby grant, bargain, sell and convey unto Grantee, a permanent, perpetual, and exclusive easement (the "Collection Easement") on, over, under, through, across, along and in the route depicted on **Exhibit B** attached hereto ("Easement Area") for the purposes of erecting, constructing, repairing, replacing, relocating, improving, enlarging, removing, maintaining and utilizing, from time to time, buried electrical cables for the collection and transmission of electrical energy and buried telecommunication and computer data cables, and all necessary and proper junction boxes, and other appliances, facilities and fixtures for use in connection therewith (collectively, the "Facilities") on, over, under, thru, across, along and in the Easement Area; together with (i) the right of ingress to and egress from the Facilities over and along the Property by means of roadways thereon, if existing, or otherwise by such roadway(s) as Grantee may construct from time to time (the "Access Easement"); (ii) a temporary non-exclusive easement along and under that portion of the Property comprising the fifty (50) feet adjacent to and along the entire boundary of the Easement Area during the initial construction and installation of the Facilities (the "Construction Easement"). The Collection Easement, Access Easement, and Construction Easement are collectively referred to as the "Easements". Grantor further grants to Grantee a non-exclusive right to enter upon the Property and the right of ingress and egress over and across the Property for the purposes of: (i) surveying the Property; and (ii) performing such

other tests and studies as Grantee may desire in connection with the Easements, including, without limitation, environmental, avian and cultural resource assessments, and geotechnical, foundation and soil tests.

(b) **Exhibit B** shows the contemplated location and route of the Easement Area referenced in **Section 2(a)**. Grantor acknowledges and agrees that execution of this Agreement shall constitute Grantor's approval of **Exhibit B**. The attached **Exhibit B** may be placed of record by Grantee, and recorded against the Property. Grantor acknowledges and agrees that Grantee reserves the right to record an **Exhibit C**, which will replace **Exhibit B** as attached to this Agreement. As used herein, **Exhibit C** means the final easement plan which legally describes the surveyed location of the Easement Area on the Property. Grantor hereby consents to the Grantee recording **Exhibit C** without requiring consent or execution from Grantor, provided that the Easement Area in **Exhibit C** approximates and is no wider than the Easement Area depicted on **Exhibit B**, and upon such recordation, any references that refer to **Exhibit B** in this Agreement shall refer to **Exhibit C** with no further amendments, modifications or recordings thereof.

2. **No Interference.** Grantor shall not construct, install, or permit to be constructed or installed, any improvements, fences, structures, buildings, foliage or vegetation, utility lines or other improvements of any type whatsoever upon or near the Easement Area which would inhibit or impair any of Grantee's rights or benefits as set forth in this Agreement. Grantee shall have the right, without compensation to Grantor, to cut, prune and remove or otherwise dispose of any foliage or vegetation on or near the Easement Area that Grantee deems a threat or potential threat to the Facilities or its rights hereunder. Grantor shall not grant or permit any person or persons claiming through Grantor, other than Grantee, any right-of-way, encumbrance, easement or other right or interest in, to or interfering with Grantee's permitted use of the Easement Area, without the prior written consent of Grantee in each instance, which consent Grantee may grant, withhold or deny in its sole discretion. Grantee shall not construct, install or permit to be constructed or installed within the Easement Area any buildings, storage cabinets or sheds without Grantor's express, written consent.

3. **Termination.** Grantee shall have the right at any time to terminate this Agreement as to all or any portion of the Easement Area, effective upon thirty (30) days' prior written notice given by Grantee to Grantor. Upon full or partial termination of this Agreement, Grantee shall have one hundred eighty (180) days after the effective date of such termination to enter upon the Property and remove all physical material pertaining to the Facilities on such terminated Property to a depth of thirty-six inches (36") beneath the soil surface, and remediate any damage to the Property caused by the removal of the Facilities. Following Grantee's termination of this Agreement, Grantee agrees, within thirty (30) days of Grantor's written request, to record a Notice of Termination in the County in which the Property is located.

4. **Assignment; Mortgage Rights.**

(a) Grantee, without Grantor's consent or approval, shall have the right to mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement, the Easements, the Easement Area, or the Facilities



(collectively, its **"Facilities Assets"**). These various security interests in all or a part of the Facilities Assets are collectively referred to as **"Mortgage"** and the holders of the Mortgages, their designees and assigns are referred to as **"Mortgagee"**. Grantee shall also have the right without Grantor's consent to sell, convey, lease, or assign all or any portion of its Facilities Assets on either an exclusive or a non-exclusive basis, or to grant sub-easements co-easements, separate easements, leases, licenses or similar rights, however denominated (collectively, **"Assignment"**), to one or more persons or entities (collectively **"Assignee"**). Any Assignee or Mortgagee shall agree in writing to be bound by the terms of this Agreement. Grantee shall notice Grantor in writing of any such financing and/or assignment and include the name and address of each Mortgagee and/or Assignee.

(b) Assignees and Mortgagees shall use the Facilities Assets only for the uses permitted under this Agreement. As a precondition to exercising any rights or remedies related to any alleged default by Grantee under this Agreement, Grantor shall give written notice of the default to each Mortgagee at the same time it delivers notice of default to Grantee, specifying in detail the alleged event of default and the required remedy. Grantor is only required to give notice to a Mortgagee of which it has written notice and only at that address, or other address provided in writing. To the extent permitted by the Mortgage at issue, any Mortgagee shall be permitted to timely exercise or perform any and all of Grantee's rights and obligations hereunder and Grantor shall accept such exercise and performance thereby. Any Mortgagee under any Mortgage shall be entitled to assign its interest or enforce its rights thereunder, as permitted by applicable law, without notice to or approval of Grantor.

(c) Grantor warrants and represents to Grantee that: (i) Grantor is the holder of fee simple title to all of the Property; (ii) Grantor has the authority to grant the Easements to Grantee without the consent or approval of any other party; and (iii) there are no other existing options, rights of first refusal, contracts to purchase, leases or mortgages that encumber the Property or would prevent Grantee from exercising its rights with respect to the Agreement except as disclosed in writing to Grantee.

5. **Indemnification and Insurance.** Grantee shall maintain liability insurance insuring Grantee and Grantor against loss caused by Grantee's use of the Property. The amount of insurance shall be not less than \$3,000,000.00 of combined single limit liability coverage. The insurance is to be placed with insurers with a Best's rating of no less than A- and the insurer shall be authorized to provide insurance in Colorado. Such policy shall be endorsed to identify Grantor as an additional insured, and to provide that the policy shall not be renewed or cancelled without at least thirty (30) days prior notice to Grantor. Grantee shall provide Grantor with an ACORD or similar certificate evidencing such insurance and endorsements within thirty (30) days following the Grantor's execution of the Agreement and thereafter, upon receiving a written request from Grantor. Grantee shall indemnify and at its expense defend Grantor against liability for injuries and claims for direct damage to the extent that they are caused in whole or in part by Grantee, or its agents, and employees' exercise of rights granted in this Agreement by Grantee, or its agents, and employees' exercise of rights granted in this Agreement. This indemnity does not cover losses of rent, business opportunities, crop production, and profits that may result from Grantor's loss of use of the Property. Grantee shall not be liable for any damage caused by the intentional acts or negligence of Grantor.

6. **Hazardous Material.** Grantor represents and warrants that, to the best of Grantor's knowledge: (a) the Property is not and has not been in violation of any federal, state or local environmental health or safety laws, statute, ordinance, rule, regulation or requirement ("Environmental Laws"), and Grantor has not received any notice or other communication from any governmental authorities alleging that the Property is in violation of any Environmental Laws; and (b) no underground storage tanks and no Hazardous Materials are or were located on the Property during or prior to Grantor's ownership of the Property. "Hazardous Materials" shall mean any asbestos containing materials, petroleum, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any federal, state, or local law or regulation. Grantor shall not violate in a material way any Environmental Law relating to the Property. Grantee shall not import Hazardous Materials on the Property, but in the event that it is responsible for Hazardous Materials on the Property, Grantee shall remediate such Hazardous Materials in accordance with Environmental Laws.

7. **Due Care.** Grantee shall utilize due care in the exercise of rights granted to Grantee in this Agreement. Grantee shall comply with all applicable laws, ordinances and regulations when exercising its rights under this Agreement, including securing all necessary governmental approvals and permits to conduct Grantee's operations on the Easement Area. Grantee shall not engage in any illegal activity on the Easement Area or Property, nor shall Grantee commit waste or create a nuisance on the Easement Area or Property. Damages to the Property resulting from Grantee's failure to exercise such due care shall be reasonably repaired by Grantee at the expense of the Grantee. Crop damage, if any, shall be compensated to Grantor pursuant to the "Crop Compensation" paragraph existing within the "Compensation" section of this Agreement, attached and incorporated hereto as **Exhibit D** (the Parties mutually agree that such "Compensation" section attached and incorporated hereto as **Exhibit D** is confidential and is not to be recorded in public records). Upon completion of construction of the Facilities and upon termination of this Agreement, all grazing areas on the Property that were disturbed by Grantee and not required for continuing operation of the Facilities shall be restored to a condition reasonably similar to its original condition, subject to Grantee's rights under this Agreement. In the case of native grassland damaged by Grantee's construction activities, the damaged area will be reseeded with grass seeds recommended by either the Natural Resources Conservation Service ("NRCS") office located in the County in which the Property is located, or the Colorado State University Extension Office ("CSU") located in the County in which the Property is located in. Such reseeding shall occur at such time or times as recommended by NRCS or CSU, at no cost to Grantor, and reseeding shall continue until the damaged native grass area has been fully reseeded and reclaimed. Notwithstanding the foregoing, Grantee's obligation to continue reseeding shall expire three (3) years from the date of the completion of construction or completion of each use of the Construction Easement or the last maintenance activity by Grantee. To the extent reasonably possible, all topsoil and subsoil excavated from the Property will be reserved and replaced on the Easement Area after completion of construction of the Facilities.

8. **Permits and Approvals.** Grantor shall cooperate with Grantee as necessary to obtain any governmental or utility approvals or permits, including, without limitation, signing



any applications, provided that Grantee shall reimburse Grantor for all its reasonable out-of-pocket expenses directly incurred in connection with such cooperation.

9. **Taxes.** Grantee shall pay any increase in the real property taxes on the Easement Area that is directly attributable to the installation of Facilities. If the Facilities are subject to real property taxes, Grantee shall request that the Facilities be separately assessed and that taxing authorities bill Grantee directly for taxes attributable to the Facilities. Grantee shall not be liable for taxes attributable to facilities installed by Grantor or others on the Property.

10. **Default and Remedies.** Except as qualified by Section 4, Grantor shall have the right to terminate this Agreement where: (a) a material default in the payment by Grantee under this Agreement shall have occurred and remains uncured; (b) Grantor simultaneously gives Grantee and all Mortgagees and Assignees written notice of the default setting forth in reasonable detail the facts pertaining to the default and specifying the method of cure; and, (c) the default shall not have been remedied within thirty (30) days after Grantee, or within ninety (90) days in the case of all Assignees and Mortgagees, receives the written notice. Except as specifically allowed by this Section 9, this Agreement shall not be terminable by Grantor under any circumstances. Grantor's sole remedy for Grantee's breach of its duties under this Agreement (except its duty to timely pay and failure to timely fulfill its removal obligations after termination under Section 3) shall be an action at law or in equity for money damages or specific performance.

11. **Notices.** All notices or other communications required or permitted by this Agreement shall be in writing and shall be deemed given when personally delivered to Grantor or Grantee, or in lieu of such personal delivery services, five (5) days after deposit in the United States mail, first class, postage prepaid, certified, addressed to the addresses set forth in the Preamble. Any Party may change its address for purposes of this paragraph by giving written notice of such change to the other Parties in the manner provided in this paragraph.

12. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of both Grantor and Grantee, and their respective heirs, successors and assigns, and shall be deemed a covenant running with the land for all purposes.

13. **Governing Law.** The provisions hereof shall be governed by and construed in accordance with the laws of the State of Colorado and venue shall be in the County in which the Property is located. **EACH PARTY WAIVES ALL RIGHT TO TRIAL BY JURY AND SPECIFICALLY AGREES THAT TRIAL OF SUITS OR CAUSES OF ACTION ARISING OUT OF THIS AGREEMENT SHALL BE TO THE COURT.** In the event of litigation between Grantor and Grantee, the prevailing party shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and expenses, including court costs.

14. **Counterparts.** This Agreement, and any amendment hereto, may be executed in any number of counterparts and by each Party on separate counterparts, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument.

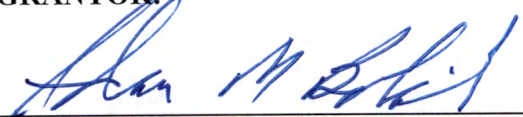
15. **Confidentiality.** The Compensation provisions contained in the attached **Exhibit D** to this Agreement are confidential and shall not be disclosed to anyone other than to Grantor's Family. For purposes of this Agreement, "**Family**" shall be deemed to include all immediate family members of Grantor, devisees or descendants of owner by will or intestacy, Grantor's attorney, accountant, financial advisor and any existing or prospective mortgagee, lessee, or purchaser for the sole purpose of evaluating and advising Grantor and for no other purpose, so long as such authorized parties agree in writing to become subject to the confidentiality provisions of this Agreement and not to provide copies of the Compensation page to this Agreement to third parties or disclose the terms thereof to any unauthorized person or entity. Grantor and Grantee mutually agree and acknowledge that the Compensation page associated with this Agreement shall not be recorded or otherwise publicly disclosed. Grantee may seek all remedies available at law or in equity, including monetary damages, as a result of any breach of the provisions of this paragraph by Grantor.

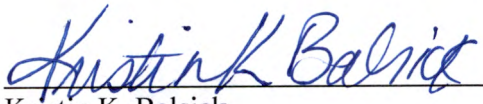
**[Remainder of page intentionally blank; signature pages follows]**



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth above.

**GRANTOR:**

  
Adam M. Balsick

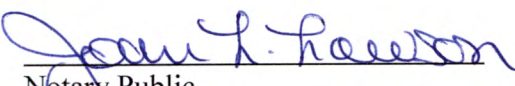
  
Kristin K. Balsick

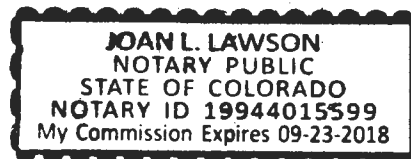
**ACKNOWLEDGMENT-GRANTOR**

STATE OF COLORADO    )  
  ) ss:  
COUNTY OF EL PASO    )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of April, 2018,  
by Adam M. Balsick and Kristin K. Balsick.

My Commission Expires: 09-23-2018

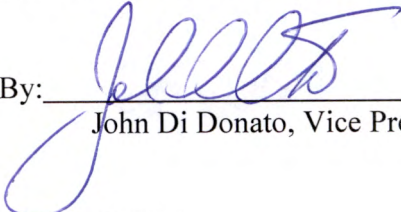
  
Notary Public



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth above.

**GRANTEE:**

Grazing Yak Solar, LLC, a  
Delaware limited liability company

By:   
John Di Donato, Vice President

***ACKNOWLEDGMENT-GRANTEE***

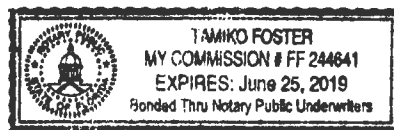
STATE OF FLORIDA                     )  
   ) ss:  
COUNTY OF PALM BEACH         )

The foregoing instrument was acknowledged before me this 4 day of APRIL, 2018, by John Di Donato, as Vice President of Grazing Yak Solar, LLC, a Delaware limited liability company.

My Commission Expires: 6/25/19



Notary Public

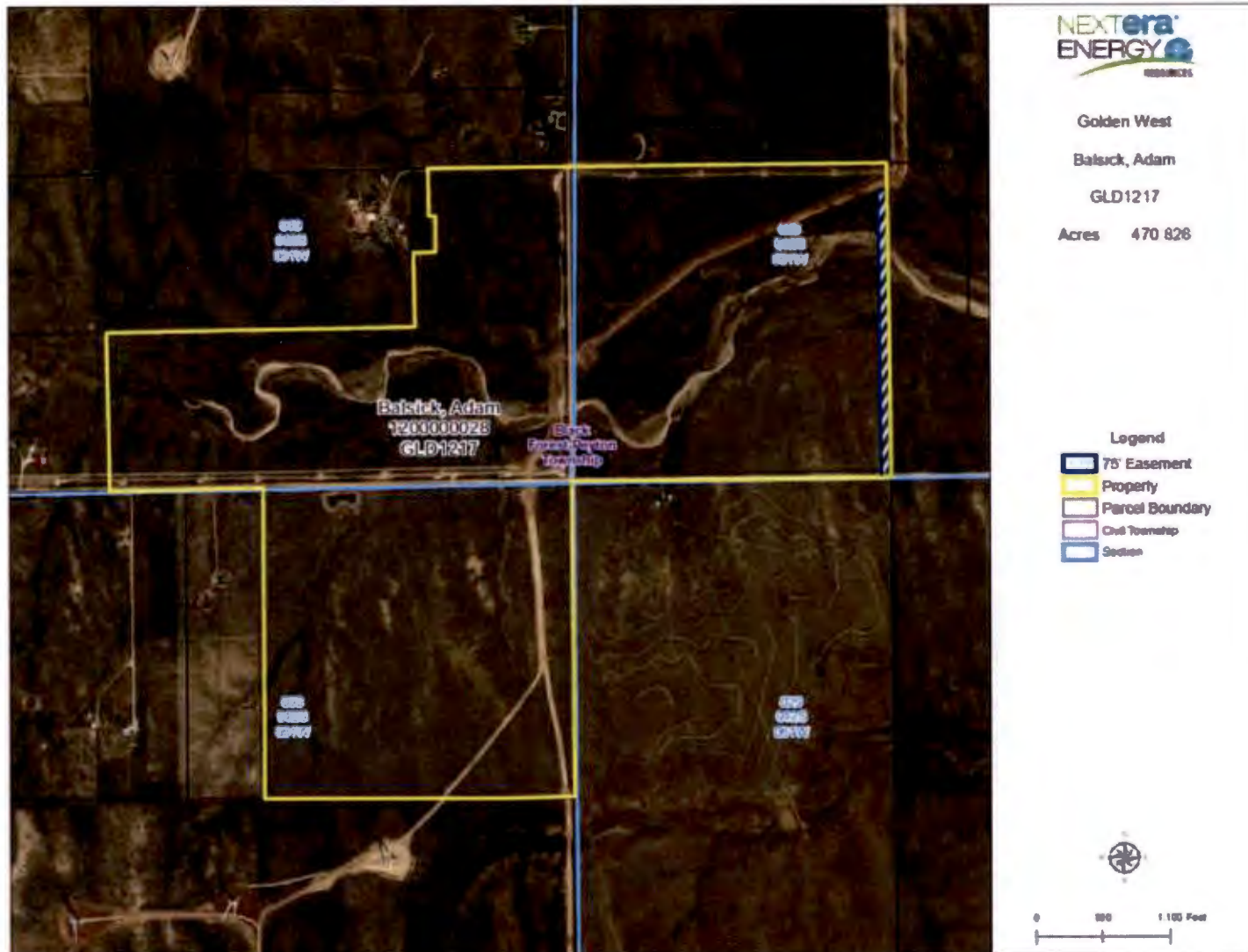




**EXHIBITA**

**The Property**

The Southwest Quarter (SW $\frac{1}{4}$ ) of Section 20 in Township 12 South, Range 61 West of the 6<sup>th</sup> P.M., El Paso County, Colorado.



**EXHIBIT B**  
**Easement Area**

**EXHIBIT C**

**HOLDING PAGE**

**for**

**As Built Easement Plan**



## COLLECTION EASEMENT AGREEMENT

**THIS COLLECTION EASEMENT AGREEMENT** (together with the exhibits attached hereto, collectively, this "**Agreement**"), is executed effective this 28th day of June, 2018 ("**Effective Date**"), by and between **BS Wind, LLC**, a Colorado limited liability company, whose mailing address is 9391 Elbert Road, Peyton, CO 80831 (collectively, "**Grantor**") and **Grazing Yak Solar, LLC**, a Delaware limited liability company, with an address of 700 Universe Blvd., Juno Beach, FL 33408, Attn: Land Services, and its successors and assigns ("**Grantee**"). Each of Grantor and Grantee are sometimes referred to in this Agreement as a "**Party**" or collectively as the "**Parties**".

### PREMISES

A. Grantor is the owner of those certain tracts of real property located in El Paso County, Colorado, which are more particularly described on the attached **Exhibit A** which is made a part hereof ("**Property**"); and

B. Grantor desires to grant and convey to Grantee a collection easement for the construction, installation, operation, and maintenance of certain facilities for the collection and transmission of electric power over, across, and under the Property, all upon the terms and conditions set forth herein.

**IN CONSIDERATION** of the foregoing, TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

#### 1. **Grant.**

(a) Grantor does hereby grant, bargain, sell and convey unto Grantee, a permanent, perpetual, and exclusive easement one hundred feet (100') in width (the "**Collection Easement**") on, over, under, through, across, along and in the route depicted on **Exhibit B** attached hereto ("**Easement Area**") for the purposes of erecting, constructing, repairing, replacing, relocating, improving, enlarging, removing, maintaining and utilizing, from time to time, buried electrical cables for the collection and transmission of electrical energy and buried telecommunication and computer data cables, and all necessary and proper junction boxes, and other appliances, facilities and fixtures for use in connection therewith (collectively, the "**Facilities**") on, over, under, thru, across, along and in the Easement Area; together with (i) the right of ingress to and egress from the Facilities over and along the Property by means of roadways thereon, if existing, or otherwise by such roadway(s) as Grantee may construct from time to time (the "**Access Easement**"); (ii) a temporary non-exclusive easement along and under that portion of the Property comprising the fifty (50) feet adjacent to and along the entire boundary of the Easement Area during the initial construction and installation of the Facilities (the "**Construction Easement**"). The Collection Easement, Access Easement, and Construction Easement are collectively referred to as the "**Easements**". Grantor further grants to Grantee a non-exclusive right with prior notice to Grantor to enter upon the Property and the right of ingress and egress over and across the Property for the purposes of: (i) surveying the Property; and (ii) performing such other tests and studies as Grantee

may desire in connection with the Easements, including, without limitation, environmental, avian and cultural resource assessments, and geotechnical, foundation and soil tests. Notwithstanding the exclusive nature of the Collection Easement, Grantor shall be allowed to use the Easement Area for livestock grazing and other surface uses that will not interfere with Grantee's use of the Easement Area for the purposes set forth in this Agreement.

(b) **Exhibit B** shows the contemplated location and route of the Easement Area referenced in **Section 2(a)**. Grantor acknowledges and agrees that execution of this Agreement shall constitute Grantor's approval of **Exhibit B**. The attached **Exhibit B** may be placed of record by Grantee, and recorded against the Property. Grantor acknowledges and agrees that Grantee reserves the right to record an **Exhibit C**, which will replace **Exhibit B** as attached to this Agreement. As used herein, **Exhibit C** means the final easement plan which legally describes the surveyed location of the Easement Area on the Property. Grantor hereby consents to the Grantee recording **Exhibit C** without requiring consent or execution from Grantor, provided that the Easement Area in **Exhibit C** approximates and is no wider than the Easement Area depicted on **Exhibit B**, and upon such recordation, any references that refer to **Exhibit B** in this Agreement shall refer to **Exhibit C** with no further amendments, modifications or recordings thereof.

2. **No Interference.** Grantor shall not construct, install, or permit to be constructed or installed, any improvements, fences, structures, buildings, foliage or vegetation, utility lines or other improvements of any type whatsoever upon or near the Easement Area which would inhibit or impair any of Grantee's rights or benefits as set forth in this Agreement. Grantor shall have the right to construct a roadway on the Easement Area with prior notice to Grantee. Grantee shall have the right, without compensation to Grantor, to cut, prune and remove or otherwise dispose of any foliage or vegetation on or near the Easement Area that Grantee deems a threat or potential threat to the Facilities or its rights hereunder. Grantor shall not grant or permit any person or persons claiming through Grantor, other than Grantee, any right-of-way, encumbrance, easement or other right or interest in, to or interfering with Grantee's permitted use of the Easement Area, without the prior written consent of Grantee in each instance, which consent Grantee may grant, withhold or deny in its sole discretion. Grantee shall not construct, install or permit to be constructed or installed within the Easement Area any buildings, storage cabinets or sheds without Grantor's express, written consent.

3. **Termination.** Grantee shall have the right at any time to terminate this Agreement as to all or any portion of the Easement Area, effective upon thirty (30) days' prior written notice given by Grantee to Grantor. Upon full or partial termination of this Agreement, Grantee shall have one hundred eighty (180) days after the effective date of such termination to enter upon the Property and remove all physical material pertaining to the Facilities on such terminated Property to a depth of thirty-six inches (36") beneath the soil surface, and remediate any damage to the Property caused by the removal of the Facilities to include restoration of vegetation. Following Grantee's termination of this Agreement, Grantee agrees, within thirty (30) days of Grantor's written request, to record a Notice of Termination in the County in which the Property is located.



4. **Assignment; Mortgage Rights.**

(a) Grantee, without Grantor's consent or approval, shall have the right to mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement, the Easements, the Easement Area, or the Facilities (collectively, its "**Facilities Assets**"). These various security interests in all or a part of the Facilities Assets are collectively referred to as "**Mortgage**" and the holders of the Mortgages, their designees and assigns are referred to as "**Mortgagee**". Grantee shall also have the right to sell, convey, lease, or assign all or any portion of its Facilities Assets on either an exclusive or a non-exclusive basis, or to grant sub-easements co-easements, separate easements, leases, licenses or similar rights, however denominated (collectively, "**Assignment**"), to one or more persons or entities (collectively "**Assignee**"). Grantor's consent for such Assignment shall not be required, so long as the Assignee (i) is a Mortgagee or an affiliate of Grantee, or (ii) assumes all (not part) of Grantee's interests and obligations under this Agreement. Any Assignee or Mortgagee shall agree in writing to be bound by the terms of this Agreement. Grantee shall notice Grantor in writing of any such financing and/or assignment and include the name and address of each Mortgagee and/or Assignee.

(b) Assignees and Mortgagees shall use the Facilities Assets only for the uses permitted under this Agreement. As a precondition to exercising any rights or remedies related to any alleged default by Grantee under this Agreement, Grantor shall give written notice of the default to each Mortgagee at the same time it delivers notice of default to Grantee, specifying in detail the alleged event of default and the required remedy. Grantor is only required to give notice to a Mortgagee of which it has written notice and only at that address, or other address provided in writing. To the extent permitted by the Mortgage at issue, any Mortgagee shall be permitted to timely exercise or perform any and all of Grantee's rights and obligations hereunder and Grantor shall accept such exercise and performance thereby. Any Mortgagee under any Mortgage shall be entitled to assign its interest or enforce its rights thereunder, as permitted by applicable law, without notice to or approval of Grantor.

(c) Grantor warrants and represents to Grantee that: (i) Grantor is the holder of fee simple title to all of the Property; (ii) Grantor has the authority to grant the Easements to Grantee without the consent or approval of any other party; and (iii) there are no other existing options, rights of first refusal, contracts to purchase, leases or mortgages that encumber the Property or would prevent Grantee from exercising its rights with respect to the Agreement except as disclosed in writing to Grantee.

5. **Indemnification and Insurance.** Grantee shall maintain liability insurance insuring Grantee and Grantor against loss caused by Grantee's use of the Property. The amount of insurance shall be not less than \$3,000,000.00 of combined single limit liability coverage. The insurance is to be placed with insurers with a Best's rating of no less than A- and the insurer shall be authorized to provide insurance in Colorado. Such policy shall be endorsed to identify Grantor as an additional insured, and to provide that the policy shall not be renewed or cancelled without at least thirty (30) days prior notice to Grantor. Grantee shall provide Grantor with an ACORD or similar certificate evidencing such insurance and endorsements within thirty (30) days following the Grantor's execution of the Agreement and thereafter, upon receiving a written



request from Grantor. Grantee shall indemnify and at its expense defend Grantor against liability for injuries and claims for direct damage to the extent that they are caused in whole or in part by Grantee, or its agents, and employees' exercise of rights granted in this Agreement by Grantee, or its agents, and employees' exercise of rights granted in this Agreement. This indemnity does not cover losses of rent, business opportunities, crop production, and profits that may result from Grantor's loss of use of the Property. Grantee shall not be liable for any damage caused by the intentional acts or negligence of Grantor.

6. **Hazardous Material.** Grantor represents and warrants that, to the best of Grantor's knowledge: (a) the Property is not and has not been in violation of any federal, state or local environmental health or safety laws, statute, ordinance, rule, regulation or requirement ("**Environmental Laws**"), and Grantor has not received any notice or other communication from any governmental authorities alleging that the Property is in violation of any Environmental Laws; and (b) no underground storage tanks and no Hazardous Materials are or were located on the Property during or prior to Grantor's ownership of the Property. "**Hazardous Materials**" shall mean any asbestos containing materials, petroleum, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any federal, state, or local law or regulation. Grantor shall not violate in a material way any Environmental Law relating to the Property. Grantee shall not import Hazardous Materials on the Property, but in the event that it is responsible for Hazardous Materials on the Property, Grantee shall remediate such Hazardous Materials in accordance with Environmental Laws. Grantee shall indemnify, defend, protect and hold Grantor harmless from any liability based on (including without limitation, damages, cleanup costs, penalties, fines, expenses and reasonable attorneys' fees): (i) the release of Hazardous Materials in, on, under or about the Property caused by Grantee or its employees, agents, or contractors, or (ii) the violation by Grantee or its employees, agents, or contractors of any Environmental Laws. The indemnity obligations set forth herein shall be in addition to those set forth in Section 5, and shall survive termination of this Agreement.

7. **Due Care.** Grantee shall utilize due care in the exercise of rights granted to Grantee in this Agreement. Grantee shall comply with all applicable laws, ordinances and regulations when exercising its rights under this Agreement, including securing all necessary governmental approvals and permits to conduct Grantee's operations on the Easement Area. Grantee shall not engage in any illegal activity on the Easement Area or Property, nor shall Grantee commit waste or create a nuisance on the Easement Area or Property. Damages to the Property resulting from Grantee's failure to exercise such due care shall be repaired in a reasonable and timely manner (commencing repair no later than ninety (90) days from Grantee's receipt of notice of damage, weather permitting) by Grantee at the expense of the Grantee. Crop damage, if any, shall be compensated to Grantor pursuant to the "Crop Compensation" paragraph existing within the "Compensation" section of this Agreement, attached and incorporated hereto as **Exhibit D** (the Parties mutually agree that such "Compensation" section attached and incorporated hereto as **Exhibit D** is confidential and is not to be recorded in public records). Upon completion of construction of the Facilities and upon termination of this Agreement, all areas on the Property that were disturbed by Grantee and not required for continuing operation of the Facilities shall be restored to a condition reasonably similar to its original condition. In the case of native grassland damaged by Grantee's construction activities, the damaged area will be reseeded with grass seeds recommended by either the Natural Resources Conservation



Service ("NRCS") office located in the County in which the Property is located, or the Colorado State University Extension Office ("CSU") located in the County in which the Property is located in. Such reseeded shall occur at such time or times as recommended by NRCS or CSU, at no cost to Grantor, and reseeded shall continue until the damaged native grass area has been fully reseeded and reclaimed. Notwithstanding the foregoing, Grantee's obligation to continue reseeded shall expire three (3) years from the date of the completion of construction or completion of each use of the Construction Easement or the last maintenance activity by Grantee. To the extent reasonably possible, all topsoil and subsoil excavated from the Property will be reserved and replaced on the Easement Area after completion of construction of the Facilities.

8. **Permits and Approvals.** Grantor shall cooperate with Grantee as necessary to obtain any governmental or utility approvals or permits, including, without limitation, signing any applications, provided that Grantee shall reimburse Grantor for all its reasonable out-of-pocket expenses directly incurred in connection with such cooperation.

9. **Taxes.** Grantee shall pay any increase in the real property taxes on the Easement Area that is directly attributable to the installation of Facilities. If the Facilities are subject to real property taxes, Grantee shall request that the Facilities be separately assessed and that taxing authorities bill Grantee directly for taxes attributable to the Facilities. Grantee shall not be liable for taxes attributable to facilities installed by Grantor or others on the Property.

10. **Default and Remedies.** Except as qualified by Section 4, Grantor shall have the right to terminate this Agreement where: (a) a material default in the payment by Grantee under this Agreement shall have occurred and remains uncured; (b) Grantor simultaneously gives Grantee and all Mortgagees and Assignees written notice of the default setting forth in reasonable detail the facts pertaining to the default and specifying the method of cure; and, (c) the default shall not have been remedied within thirty (30) days after Grantee, or within ninety (90) days in the case of all Assignees and Mortgagees, receives the written notice. Except as specifically allowed by this Section 10, this Agreement shall not be terminable by Grantor under any circumstances. Grantor's sole remedy for Grantee's breach of its duties under this Agreement (except its duty to timely pay and failure to timely fulfill its removal obligations after termination under Section 3) shall be an action at law or in equity for money damages or specific performance.

11. **Notices.** All notices or other communications required or permitted by this Agreement shall be in writing and shall be deemed given when personally delivered to Grantor or Grantee, or in lieu of such personal delivery services, five (5) days after deposit in the United States mail, first class, postage prepaid, certified, addressed to the addresses set forth in the Preamble. Any Party may change its address for purposes of this paragraph by giving written notice of such change to the other Parties in the manner provided in this paragraph.

12. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of both Grantor and Grantee, and their respective heirs, successors and assigns, and shall be deemed a covenant running with the land for all purposes.

13. **Governing Law.** The provisions hereof shall be governed by and construed in accordance with the laws of the State of Colorado and venue shall be in the County in which the Property is located. **EACH PARTY WAIVES ALL RIGHT TO TRIAL BY JURY AND SPECIFICALLY AGREES THAT TRIAL OF SUITS OR CAUSES OF ACTION ARISING OUT OF THIS AGREEMENT SHALL BE TO THE COURT.** In the event of litigation between Grantor and Grantee, the prevailing party shall be reimbursed by the non- prevailing party for its reasonable attorneys' fees and expenses, including court costs.

14. **Counterparts.** This Agreement, and any amendment hereto, may be executed in any number of counterparts and by each Party on separate counterparts, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument.

15. **Confidentiality.** The Compensation provisions contained in the attached **Exhibit D** to this Agreement are confidential and shall not be disclosed to anyone other than to Grantor's Family. For purposes of this Agreement, **"Family"** shall be deemed to include all immediate family members of Grantor, devisees or descendants of owner by will or intestacy, Grantor's attorney, accountant, financial advisor and any existing or prospective mortgagee, lessee, or purchaser for the sole purpose of evaluating and advising Grantor and for no other purpose, so long as such authorized parties agree in writing to become subject to the confidentiality provisions of this Agreement and not to provide copies of the Compensation page to this Agreement to third parties or disclose the terms thereof to any unauthorized person or entity. Grantor and Grantee mutually agree and acknowledge that the Compensation page associated with this Agreement shall not be recorded or otherwise publicly disclosed. Grantee may seek all remedies available at law or in equity, including monetary damages, as a result of any breach of the provisions of this paragraph by Grantor.

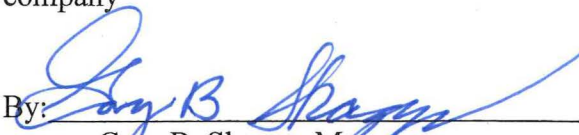
**[Remainder of page intentionally blank; signature pages follow]**



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth above.

**GRANTOR:**

BS Wind, LLC, a Colorado limited liability company

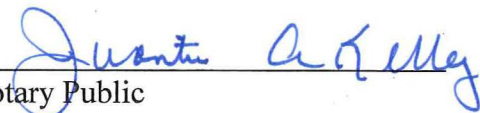
By:   
Gary B. Skaggs, Manager

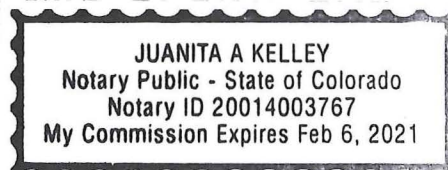
**ACKNOWLEDGMENT-GRANTOR**

STATE OF COLORADO    )  
  ) ss:  
COUNTY OF EL PASO    )

The foregoing instrument was acknowledged before me this 28 day of June, 2018, by Gary B. Skaggs, as Manager of BS Wind, LLC.

My Commission Expires: 02-06-21

  
Notary Public



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth above.

**GRANTEE:**

Grazing Yak Solar, LLC, a  
Delaware limited liability company

By:   
John Di Donato, Vice President

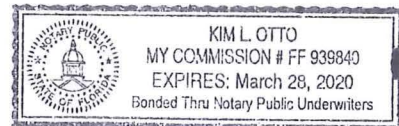
***ACKNOWLEDGMENT-GRANTEE***

STATE OF FLORIDA                     )  
  ) ss:  
COUNTY OF PALM BEACH            )

The foregoing instrument was acknowledged before me this 9 day of July, 2018, by John Di Donato, as Vice President of Grazing Yak Solar, LLC, a Delaware limited liability company.

My Commission Expires: \_\_\_\_\_

  
\_\_\_\_\_  
Notary Public



## **EXHIBIT A**

### **The Property**

#### **Parcel 1**

The Northeast Quarter (NE $\frac{1}{4}$ ) of Section 20, Township 12 South, Range 61 West of the 6<sup>th</sup> P.M., El Paso County, Colorado.

Containing 157.88 acres, more or less.

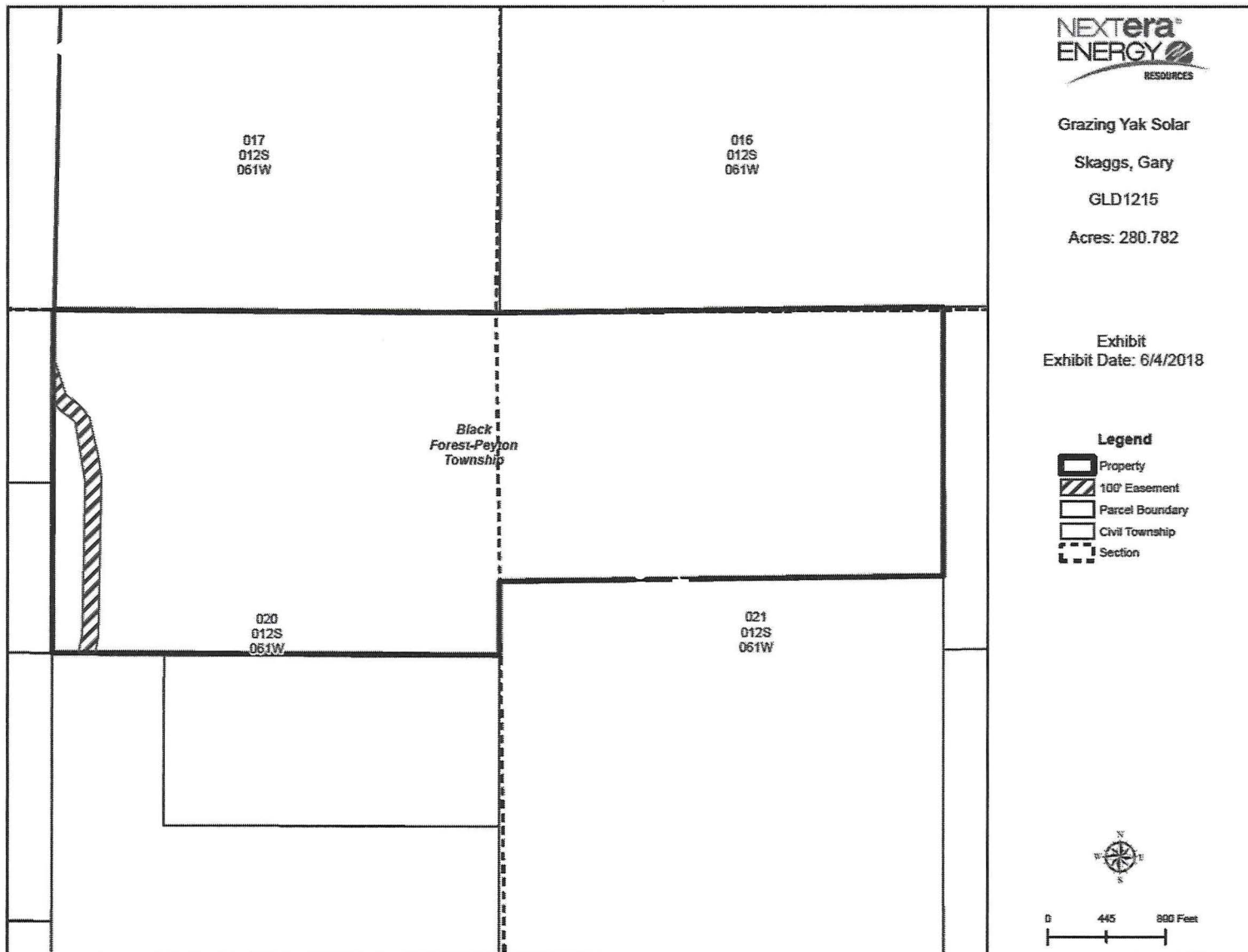
#### **Parcel 2**

The Northwest Quarter (NW $\frac{1}{4}$ ) of Section 21, Township 12 South, Range 61 West of the 6<sup>th</sup> P.M., El Paso County, Colorado, except the Southerly 560 feet thereof.

Containing 123.32 acres, more or less.



**EXHIBIT B**  
**Easement Area**



**EXHIBIT C**

**HOLDING PAGE**

**for**

**Surveyed Description of Easement Area**

## COLLECTION EASEMENT AGREEMENT

**THIS COLLECTION EASEMENT AGREEMENT** (together with the exhibits attached hereto, collectively, this "**Agreement**"), is executed effective this 28th day of June, 2018 ("**Effective Date**"), by and between **BS Wind, LLC**, a Colorado limited liability company, whose mailing address is 9391 Elbert Road, Peyton, CO 80831 (collectively, "**Grantor**") and **Grazing Yak Solar, LLC**, a Delaware limited liability company, with an address of 700 Universe Blvd., Juno Beach, FL 33408, Attn: Land Services, and its successors and assigns ("**Grantee**"). Each of Grantor and Grantee are sometimes referred to in this Agreement as a "**Party**" or collectively as the "**Parties**".

### PREMISES

A. Grantor is the owner of those certain tracts of real property located in El Paso County, Colorado, which are more particularly described on the attached **Exhibit A** which is made a part hereof ("**Property**"); and

B. Grantor desires to grant and convey to Grantee a collection easement for the construction, installation, operation, and maintenance of certain facilities for the collection and transmission of electric power over, across, and under the Property, all upon the terms and conditions set forth herein.

**IN CONSIDERATION** of the foregoing, TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

#### 1. **Grant.**

(a) Grantor does hereby grant, bargain, sell and convey unto Grantee, a permanent, perpetual, and exclusive easement one hundred feet (100') in width (the "**Collection Easement**") on, over, under, through, across, along and in the route depicted on **Exhibit B** attached hereto ("**Easement Area**") for the purposes of erecting, constructing, repairing, replacing, relocating, improving, enlarging, removing, maintaining and utilizing, from time to time, buried electrical cables for the collection and transmission of electrical energy and buried telecommunication and computer data cables, and all necessary and proper junction boxes, and other appliances, facilities and fixtures for use in connection therewith (collectively, the "**Facilities**") on, over, under, thru, across, along and in the Easement Area; together with (i) the right of ingress to and egress from the Facilities over and along the Property by means of roadways thereon, if existing, or otherwise by such roadway(s) as Grantee may construct from time to time (the "**Access Easement**"); (ii) a temporary non-exclusive easement along and under that portion of the Property comprising the fifty (50) feet adjacent to and along the entire boundary of the Easement Area during the initial construction and installation of the Facilities (the "**Construction Easement**"). The Collection Easement, Access Easement, and Construction Easement are collectively referred to as the "**Easements**". Grantor further grants to Grantee a non-exclusive right with prior notice to Grantor to enter upon the Property and the right of ingress and egress over and across the Property for the purposes of: (i) surveying the Property; and (ii) performing such other tests and studies as Grantee



may desire in connection with the Easements, including, without limitation, environmental, avian and cultural resource assessments, and geotechnical, foundation and soil tests. Notwithstanding the exclusive nature of the Collection Easement, Grantor shall be allowed to use the Easement Area for livestock grazing and other surface uses that will not interfere with Grantee's use of the Easement Area for the purposes set forth in this Agreement.

(b) **Exhibit B** shows the contemplated location and route of the Easement Area referenced in **Section 2(a)**. Grantor acknowledges and agrees that execution of this Agreement shall constitute Grantor's approval of **Exhibit B**. The attached **Exhibit B** may be placed of record by Grantee, and recorded against the Property. Grantor acknowledges and agrees that Grantee reserves the right to record an **Exhibit C**, which will replace **Exhibit B** as attached to this Agreement. As used herein, **Exhibit C** means the final easement plan which legally describes the surveyed location of the Easement Area on the Property. Grantor hereby consents to the Grantee recording **Exhibit C** without requiring consent or execution from Grantor, provided that the Easement Area in **Exhibit C** approximates and is no wider than the Easement Area depicted on **Exhibit B**, and upon such recordation, any references that refer to **Exhibit B** in this Agreement shall refer to **Exhibit C** with no further amendments, modifications or recordings thereof.

2. **No Interference.** Grantor shall not construct, install, or permit to be constructed or installed, any improvements, fences, structures, buildings, foliage or vegetation, utility lines or other improvements of any type whatsoever upon or near the Easement Area which would inhibit or impair any of Grantee's rights or benefits as set forth in this Agreement. Grantor shall have the right to construct a roadway on the Easement Area with prior notice to Grantee. Grantee shall have the right, without compensation to Grantor, to cut, prune and remove or otherwise dispose of any foliage or vegetation on or near the Easement Area that Grantee deems a threat or potential threat to the Facilities or its rights hereunder. Grantor shall not grant or permit any person or persons claiming through Grantor, other than Grantee, any right-of-way, encumbrance, easement or other right or interest in, to or interfering with Grantee's permitted use of the Easement Area, without the prior written consent of Grantee in each instance, which consent Grantee may grant, withhold or deny in its sole discretion. Grantee shall not construct, install or permit to be constructed or installed within the Easement Area any buildings, storage cabinets or sheds without Grantor's express, written consent.

3. **Termination.** Grantee shall have the right at any time to terminate this Agreement as to all or any portion of the Easement Area, effective upon thirty (30) days' prior written notice given by Grantee to Grantor. Upon full or partial termination of this Agreement, Grantee shall have one hundred eighty (180) days after the effective date of such termination to enter upon the Property and remove all physical material pertaining to the Facilities on such terminated Property to a depth of thirty-six inches (36") beneath the soil surface, and remediate any damage to the Property caused by the removal of the Facilities to include restoration of vegetation. Following Grantee's termination of this Agreement, Grantee agrees, within thirty (30) days of Grantor's written request, to record a Notice of Termination in the County in which the Property is located.

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(a) Grantee, without Grantor's consent or approval, shall have the right to mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement, the Easements, the Easement Area, or the Facilities (collectively, its "**Facilities Assets**"). These various security interests in all or a part of the Facilities Assets are collectively referred to as "**Mortgage**" and the holders of the Mortgages, their designees and assigns are referred to as "**Mortgagee**". Grantee shall also have the right to sell, convey, lease, or assign all or any portion of its Facilities Assets on either an exclusive or a non-exclusive basis, or to grant sub-easements co-easements, separate easements, leases, licenses or similar rights, however denominated (collectively, "**Assignment**"), to one or more persons or entities (collectively "**Assignee**"). Grantor's consent for such Assignment shall not be required, so long as the Assignee (i) is a Mortgagee or an affiliate of Grantee, or (ii) assumes all (not part) of Grantee's interests and obligations under this Agreement. Any Assignee or Mortgagee shall agree in writing to be bound by the terms of this Agreement. Grantee shall notice Grantor in writing of any such financing and/or assignment and include the name and address of each Mortgagee and/or Assignee.

(b) Assignees and Mortgagees shall use the Facilities Assets only for the uses permitted under this Agreement. As a precondition to exercising any rights or remedies related to any alleged default by Grantee under this Agreement, Grantor shall give written notice of the default to each Mortgagee at the same time it delivers notice of default to Grantee, specifying in detail the alleged event of default and the required remedy. Grantor is only required to give notice to a Mortgagee of which it has written notice and only at that address, or other address provided in writing. To the extent permitted by the Mortgage at issue, any Mortgagee shall be permitted to timely exercise or perform any and all of Grantee's rights and obligations hereunder and Grantor shall accept such exercise and performance thereby. Any Mortgagee under any Mortgage shall be entitled to assign its interest or enforce its rights thereunder, as permitted by applicable law, without notice to or approval of Grantor.

(c) Grantor warrants and represents to Grantee that: (i) Grantor is the holder of fee simple title to all of the Property; (ii) Grantor has the authority to grant the Easements to Grantee without the consent or approval of any other party; and (iii) there are no other existing options, rights of first refusal, contracts to purchase, leases or mortgages that encumber the Property or would prevent Grantee from exercising its rights with respect to the Agreement except as disclosed in writing to Grantee.

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request from Grantor. Grantee shall indemnify and at its expense defend Grantor against liability for injuries and claims for direct damage to the extent that they are caused in whole or in part by Grantee, or its agents, and employees' exercise of rights granted in this Agreement by Grantee, or its agents, and employees' exercise of rights granted in this Agreement. This indemnity does not cover losses of rent, business opportunities, crop production, and profits that may result from Grantor's loss of use of the Property. Grantee shall not be liable for any damage caused by the intentional acts or negligence of Grantor.

6. **Hazardous Material.** Grantor represents and warrants that, to the best of Grantor's knowledge: (a) the Property is not and has not been in violation of any federal, state or local environmental health or safety laws, statute, ordinance, rule, regulation or requirement ("**Environmental Laws**"), and Grantor has not received any notice or other communication from any governmental authorities alleging that the Property is in violation of any Environmental Laws; and (b) no underground storage tanks and no Hazardous Materials are or were located on the Property during or prior to Grantor's ownership of the Property. "**Hazardous Materials**" shall mean any asbestos containing materials, petroleum, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any federal, state, or local law or regulation. Grantor shall not violate in a material way any Environmental Law relating to the Property. Grantee shall not import Hazardous Materials on the Property, but in the event that it is responsible for Hazardous Materials on the Property, Grantee shall remediate such Hazardous Materials in accordance with Environmental Laws. Grantee shall indemnify, defend, protect and hold Grantor harmless from any liability based on (including without limitation, damages, cleanup costs, penalties, fines, expenses and reasonable attorneys' fees): (i) the release of Hazardous Materials in, on, under or about the Property caused by Grantee or its employees, agents, or contractors, or (ii) the violation by Grantee or its employees, agents, or contractors of any Environmental Laws. The indemnity obligations set forth herein shall be in addition to those set forth in Section 5, and shall survive termination of this Agreement.

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10. **Default and Remedies.** Except as qualified by Section 4, Grantor shall have the right to terminate this Agreement where: (a) a material default in the payment by Grantee under this Agreement shall have occurred and remains uncured; (b) Grantor simultaneously gives Grantee and all Mortgagees and Assignees written notice of the default setting forth in reasonable detail the facts pertaining to the default and specifying the method of cure; and, (c) the default shall not have been remedied within thirty (30) days after Grantee, or within ninety (90) days in the case of all Assignees and Mortgagees, receives the written notice. Except as specifically allowed by this Section 10, this Agreement shall not be terminable by Grantor under any circumstances. Grantor's sole remedy for Grantee's breach of its duties under this Agreement (except its duty to timely pay and failure to timely fulfill its removal obligations after termination under Section 3) shall be an action at law or in equity for money damages or specific performance.

11. **Notices.** All notices or other communications required or permitted by this Agreement shall be in writing and shall be deemed given when personally delivered to Grantor or Grantee, or in lieu of such personal delivery services, five (5) days after deposit in the United States mail, first class, postage prepaid, certified, addressed to the addresses set forth in the Preamble. Any Party may change its address for purposes of this paragraph by giving written notice of such change to the other Parties in the manner provided in this paragraph.

12. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of both Grantor and Grantee, and their respective heirs, successors and assigns, and shall be deemed a covenant running with the land for all purposes.

13. **Governing Law.** The provisions hereof shall be governed by and construed in accordance with the laws of the State of Colorado and venue shall be in the County in which the Property is located. **EACH PARTY WAIVES ALL RIGHT TO TRIAL BY JURY AND SPECIFICALLY AGREES THAT TRIAL OF SUITS OR CAUSES OF ACTION ARISING OUT OF THIS AGREEMENT SHALL BE TO THE COURT.** In the event of litigation between Grantor and Grantee, the prevailing party shall be reimbursed by the non- prevailing party for its reasonable attorneys' fees and expenses, including court costs.

14. **Counterparts.** This Agreement, and any amendment hereto, may be executed in any number of counterparts and by each Party on separate counterparts, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument.

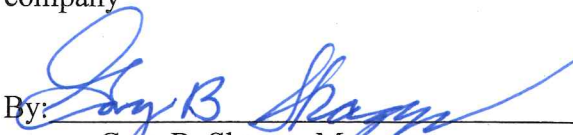
15. **Confidentiality.** The Compensation provisions contained in the attached **Exhibit D** to this Agreement are confidential and shall not be disclosed to anyone other than to Grantor's Family. For purposes of this Agreement, **"Family"** shall be deemed to include all immediate family members of Grantor, devisees or descendants of owner by will or intestacy, Grantor's attorney, accountant, financial advisor and any existing or prospective mortgagee, lessee, or purchaser for the sole purpose of evaluating and advising Grantor and for no other purpose, so long as such authorized parties agree in writing to become subject to the confidentiality provisions of this Agreement and not to provide copies of the Compensation page to this Agreement to third parties or disclose the terms thereof to any unauthorized person or entity. Grantor and Grantee mutually agree and acknowledge that the Compensation page associated with this Agreement shall not be recorded or otherwise publicly disclosed. Grantee may seek all remedies available at law or in equity, including monetary damages, as a result of any breach of the provisions of this paragraph by Grantor.

**[Remainder of page intentionally blank; signature pages follow]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth above.

**GRANTOR:**

BS Wind, LLC, a Colorado limited liability company

By:   
Gary B. Skaggs, Manager

**ACKNOWLEDGMENT-GRANTOR**

STATE OF COLORADO    )  
  ) ss:  
COUNTY OF EL PASO    )

The foregoing instrument was acknowledged before me this 28 day of June, 2018, by Gary B. Skaggs, as Manager of BS Wind, LLC.

My Commission Expires: 02-06-21

  
Notary Public





IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth above.

**GRANTEE:**

Grazing Yak Solar, LLC, a  
Delaware limited liability company

By:   
John Di Donato, Vice President

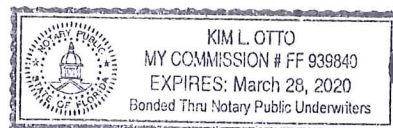
**ACKNOWLEDGMENT-GRANTEE**

STATE OF FLORIDA                     )  
  ) ss:  
COUNTY OF PALM BEACH         )

The foregoing instrument was acknowledged before me this 9 day of July, 2018, by John Di Donato, as Vice President of Grazing Yak Solar, LLC, a Delaware limited liability company.

My Commission Expires: \_\_\_\_\_

  
Notary Public



## **EXHIBITA**

### **The Property**

#### **Parcel 1**

The Northeast Quarter (NE $\frac{1}{4}$ ) of Section 20, Township 12 South, Range 61 West of the 6<sup>th</sup> P.M., El Paso County, Colorado.

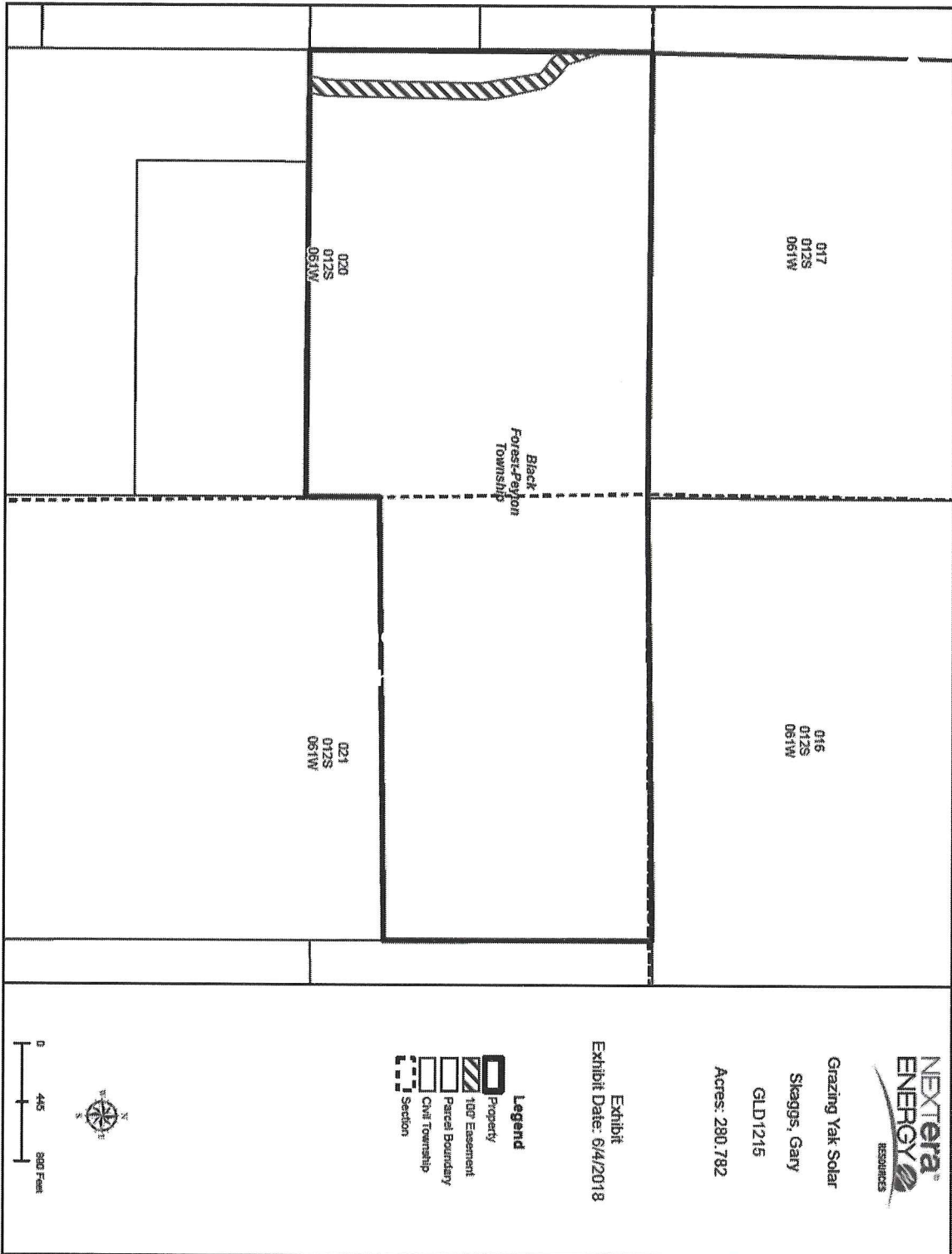
Containing 157.88 acres, more or less.

#### **Parcel 2**

The Northwest Quarter (NW $\frac{1}{4}$ ) of Section 21, Township 12 South, Range 61 West of the 6<sup>th</sup> P.M., El Paso County, Colorado, except the Southerly 560 feet thereof.

Containing 123.32 acres, more or less.

# **EXHIBIT B** **Easement Area**





**EXHIBIT C**

**HOLDING PAGE**

**for**

**Surveyed Description of Easement Area**

## COLLECTION EASEMENT AGREEMENT

THIS COLLECTION EASEMENT AGREEMENT (together with the exhibits attached hereto, collectively, this “**Agreement**”), is executed effective this 12 day of April, 2018 (“**Effective Date**”), by and between William K. Henderson and Monica L. Deines-Henderson, husband and wife, whose mailing address is 10894 Currier Road, Calhan, CO 80808 (collectively, “**Grantor**”) and **Grazing Yak Solar, LLC**, a Delaware limited liability company, with an address of 700 Universe Blvd., Juno Beach, FL 33408, Attn: Land Services, and its successors and assigns (“**Grantee**”). Each of Grantor and Grantee are sometimes referred to in this Agreement as a “**Party**” or collectively as the “**Parties**”.

### PREMISES

A. Grantor is the owner of those certain tracts of real property located in El Paso County, Colorado, which are more particularly described on the attached **Exhibit A** which is made a part hereof (“**Property**”); and

B. Grantor desires to grant and convey to Grantee a collection easement for the construction, installation, operation, and maintenance of certain facilities for the collection and transmission of electric power over, across, and under the Property, all upon the terms and conditions set forth herein.

**IN CONSIDERATION** of the foregoing, TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

#### 1. Grant.

(a) Grantor does hereby grant, bargain, sell and convey unto Grantee, a permanent, perpetual, and exclusive easement (the “**Collection Easement**”) on, over, under, through, across, along and in the route depicted on **Exhibit B** attached hereto (“**Easement Area**”) for the purposes of erecting, constructing, repairing, replacing, relocating, improving, enlarging, removing, maintaining and utilizing, from time to time, buried electrical cables for the collection and transmission of electrical energy and buried telecommunication and computer data cables, and all necessary and proper junction boxes, and other appliances, facilities and fixtures for use in connection therewith (collectively, the “**Facilities**”) on, over, under, thru, across, along and in the Easement Area; together with (i) the right of ingress to and egress from the Facilities over and along the Property by means of roadways thereon, if existing, or otherwise by such roadway(s) as Grantee may construct from time to time (the “**Access Easement**”); (ii) a temporary non-exclusive easement along and under that portion of the Property comprising the fifty (50) feet adjacent to and along the entire boundary of the Easement Area during the initial construction and installation of the Facilities (the “**Construction Easement**”). The Collection Easement, Access Easement, and Construction Easement are collectively referred to as the “**Easements**”. Grantor further grants to Grantee a non-exclusive right to enter upon the Property and the right of ingress and egress over and across the Property for the purposes of: (i) surveying the Property; and (ii) performing such

other tests and studies as Grantee may desire in connection with the Easements, including, without limitation, environmental, avian and cultural resource assessments, and geotechnical, foundation and soil tests.

(b) **Exhibit B** shows the contemplated location and route of the Easement Area referenced in **Section 2(a)**. Grantor acknowledges and agrees that execution of this Agreement shall constitute Grantor's approval of **Exhibit B**. The attached **Exhibit B** may be placed of record by Grantee, and recorded against the Property. Grantor acknowledges and agrees that Grantee reserves the right to record an **Exhibit C**, which will replace **Exhibit B** as attached to this Agreement. As used herein, **Exhibit C** means the final easement plan which legally describes the surveyed location of the Easement Area on the Property. Grantor hereby consents to the Grantee recording **Exhibit C** without requiring consent or execution from Grantor, provided that the Easement Area in **Exhibit C** approximates and is no wider than the Easement Area depicted on **Exhibit B**, and upon such recordation, any references that refer to **Exhibit B** in this Agreement shall refer to **Exhibit C** with no further amendments, modifications or recordings thereof.

2. **No Interference.** Grantor shall not construct, install, or permit to be constructed or installed, any improvements, fences, structures, buildings, foliage or vegetation, utility lines or other improvements of any type whatsoever upon or near the Easement Area which would inhibit or impair any of Grantee's rights or benefits as set forth in this Agreement. Grantee shall have the right, without compensation to Grantor, to cut, prune and remove or otherwise dispose of any foliage or vegetation on or near the Easement Area that Grantee deems a threat or potential threat to the Facilities or its rights hereunder. Grantor shall not grant or permit any person or persons claiming through Grantor, other than Grantee, any right-of-way, encumbrance, easement or other right or interest in, to or interfering with Grantee's permitted use of the Easement Area, without the prior written consent of Grantee in each instance, which consent Grantee may grant, withhold or deny in its sole discretion. Grantee shall not construct, install or permit to be constructed or installed within the Easement Area any buildings, storage cabinets or sheds without Grantor's express, written consent.

3. **Termination.** Grantee shall have the right at any time to terminate this Agreement as to all or any portion of the Easement Area, effective upon thirty (30) days' prior written notice given by Grantee to Grantor. Upon full or partial termination of this Agreement, Grantee shall have one hundred eighty (180) days after the effective date of such termination to enter upon the Property and remove all physical material pertaining to the Facilities on such terminated Property to a depth of thirty-six inches (36") beneath the soil surface, and remediate any damage to the Property caused by the removal of the Facilities. Following Grantee's termination of this Agreement, Grantee agrees, within thirty (30) days of Grantor's written request, to record a Notice of Termination in the County in which the Property is located.

4. **Assignment; Mortgage Rights.**

(a) Grantee, without Grantor's consent or approval, shall have the right to mortgage, collaterally assign, or otherwise encumber and grant security interests in all or any part of its interest in this Agreement, the Easements, the Easement Area, or the Facilities



(collectively, its "**Facilities Assets**"). These various security interests in all or a part of the Facilities Assets are collectively referred to as "**Mortgage**" and the holders of the Mortgages, their designees and assigns are referred to as "**Mortgagee**". Grantee shall also have the right without Grantor's consent to sell, convey, lease, or assign all or any portion of its Facilities Assets on either an exclusive or a non-exclusive basis, or to grant sub-easements co-easements, separate easements, leases, licenses or similar rights, however denominated (collectively, "**Assignment**"), to one or more persons or entities (collectively "**Assignee**"). Any Assignee or Mortgagee shall agree in writing to be bound by the terms of this Agreement. Grantee shall notice Grantor in writing of any such financing and/or assignment and include the name and address of each Mortgagee and/or Assignee.

(b) Assignees and Mortgagees shall use the Facilities Assets only for the uses permitted under this Agreement. As a precondition to exercising any rights or remedies related to any alleged default by Grantee under this Agreement, Grantor shall give written notice of the default to each Mortgagee at the same time it delivers notice of default to Grantee, specifying in detail the alleged event of default and the required remedy. Grantor is only required to give notice to a Mortgagee of which it has written notice and only at that address, or other address provided in writing. To the extent permitted by the Mortgage at issue, any Mortgagee shall be permitted to timely exercise or perform any and all of Grantee's rights and obligations hereunder and Grantor shall accept such exercise and performance thereby. Any Mortgagee under any Mortgage shall be entitled to assign its interest or enforce its rights thereunder, as permitted by applicable law, without notice to or approval of Grantor.

(c) Grantor warrants and represents to Grantee that: (i) Grantor is the holder of fee simple title to all of the Property; (ii) Grantor has the authority to grant the Easements to Grantee without the consent or approval of any other party; and (iii) there are no other existing options, rights of first refusal, contracts to purchase, leases or mortgages that encumber the Property or would prevent Grantee from exercising its rights with respect to the Agreement except as disclosed in writing to Grantee.

5. **Indemnification and Insurance.** Grantee shall maintain liability insurance insuring Grantee and Grantor against loss caused by Grantee's use of the Property. The amount of insurance shall be not less than \$3,000,000.00 of combined single limit liability coverage. The insurance is to be placed with insurers with a Best's rating of no less than A- and the insurer shall be authorized to provide insurance in Colorado. Such policy shall be endorsed to identify Grantor as an additional insured, and to provide that the policy shall not be renewed or cancelled without at least thirty (30) days prior notice to Grantor. Grantee shall provide Grantor with an ACORD or similar certificate evidencing such insurance and endorsements within thirty (30) days following the Grantor's execution of the Agreement and thereafter, upon receiving a written request from Grantor. Grantee shall indemnify and at its expense defend Grantor against liability for injuries and claims for direct damage to the extent that they are caused in whole or in part by Grantee, or its agents, and employees' exercise of rights granted in this Agreement by Grantee, or its agents, and employees' exercise of rights granted in this Agreement. This indemnity does not cover losses of rent, business opportunities, crop production, and profits that may result from Grantor's loss of use of the Property. Grantee shall not be liable for any damage caused by the intentional acts or negligence of Grantor.

6. **Hazardous Material.** Grantor represents and warrants that, to the best of Grantor's knowledge: (a) the Property is not and has not been in violation of any federal, state or local environmental health or safety laws, statute, ordinance, rule, regulation or requirement ("**Environmental Laws**"), and Grantor has not received any notice or other communication from any governmental authorities alleging that the Property is in violation of any Environmental Laws; and (b) no underground storage tanks and no Hazardous Materials are or were located on the Property during or prior to Grantor's ownership of the Property. "**Hazardous Materials**" shall mean any asbestos containing materials, petroleum, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances, or toxic substances under any federal, state, or local law or regulation. Grantor shall not violate in a material way any Environmental Law relating to the Property. Grantee shall not import Hazardous Materials on the Property, but in the event that it is responsible for Hazardous Materials on the Property, Grantee shall remediate such Hazardous Materials in accordance with Environmental Laws.

7. **Due Care.** Grantee shall utilize due care in the exercise of rights granted to Grantee in this Agreement. Grantee shall comply with all applicable laws, ordinances and regulations when exercising its rights under this Agreement, including securing all necessary governmental approvals and permits to conduct Grantee's operations on the Easement Area. Grantee shall not engage in any illegal activity on the Easement Area or Property, nor shall Grantee commit waste or create a nuisance on the Easement Area or Property. Damages to the Property resulting from Grantee's failure to exercise such due care shall be reasonably repaired by Grantee at the expense of the Grantee. Crop damage, if any, shall be compensated to Grantor pursuant to the "Crop Compensation" paragraph existing within the "Compensation" section of this Agreement, attached and incorporated hereto as **Exhibit D** (the Parties mutually agree that such "Compensation" section attached and incorporated hereto as **Exhibit D** is confidential and is not to be recorded in public records). Upon completion of construction of the Facilities and upon termination of this Agreement, all grazing areas on the Property that were disturbed by Grantee and not required for continuing operation of the Facilities shall be restored to a condition reasonably similar to its original condition, subject to Grantee's rights under this Agreement. In the case of native grassland damaged by Grantee's construction activities, the damaged area will be reseeded with grass seeds recommended by either the Natural Resources Conservation Service ("**NRCS**") office located in the County in which the Property is located, or the Colorado State University Extension Office ("**CSU**") located in the County in which the Property is located in. Such reseeding shall occur at such time or times as recommended by NRCS or CSU, at no cost to Grantor, and reseeding shall continue until the damaged native grass area has been fully reseeded and reclaimed. Notwithstanding the foregoing, Grantee's obligation to continue reseeding shall expire three (3) years from the date of the completion of construction or completion of each use of the Construction Easement or the last maintenance activity by Grantee. To the extent reasonably possible, all topsoil and subsoil excavated from the Property will be reserved and replaced on the Easement Area after completion of construction of the Facilities.

8. **Permits and Approvals.** Grantor shall cooperate with Grantee as necessary to obtain any governmental or utility approvals or permits, including, without limitation, signing

any applications, provided that Grantee shall reimburse Grantor for all its reasonable out-of-pocket expenses directly incurred in connection with such cooperation.

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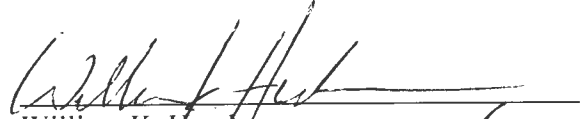


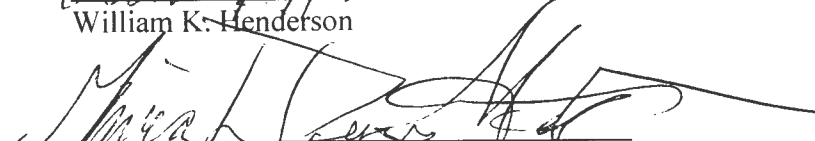
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**[Remainder of page intentionally blank; signature pages follows]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth above.

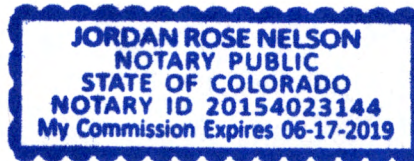
**GRANTOR:**

  
William K. Henderson

  
Monica L. Deines-Henderson

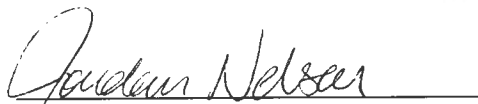
**ACKNOWLEDGMENT-GRANTOR**

STATE OF COLORADO     )  
  ) ss:  
COUNTY OF EL PASO     )



The foregoing instrument was acknowledged before me this 13 day of March, 2018, by William K. Henderson and Monica L. Deines-Henderson.

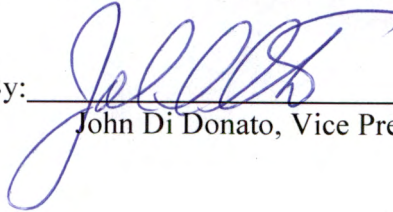
My Commission Expires: 06-17-2019

  
Notary Public

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth above.

**GRANTEE:**

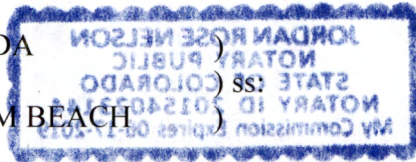
Grazing Yak Solar, LLC, a  
Delaware limited liability company

By:   
John Di Donato, Vice President

**ACKNOWLEDGMENT-GRANTEE**

STATE OF FLORIDA

COUNTY OF PALM BEACH



The foregoing instrument was acknowledged before me this 12 day of April, 2018,  
by John Di Donato, as Vice President of Grazing Yak Solar, LLC, a Delaware limited liability  
company.

My Commission Expires: 

\_\_\_\_\_  
Notary Public





## **EXHIBITA**

### **The Property**

The West Half of the Northwest Quarter of the Southeast Quarter ( $W\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ) and the South Half of the Southeast Quarter ( $S\frac{1}{2}SE\frac{1}{4}$ ) of Section 20, Township 12 South, Range 61 West of the 6<sup>th</sup> P.M., El Paso County, Colorado.

Containing 100.00 acres, more or less.

**EXHIBIT B**  
**Easement Area**

**EXHIBIT C**

**HOLDING PAGE**

**for**

**As Built Easement Plan**