

2017-006671

Klamath County, Oregon

06/19/2017 03:32:00 PM

Fee: \$97.00



Prepared by: Jennifer L. Kerrigan
Return to: Heelstone Energy
101 North Chestnut Street – Suite 113
Winston-Salem, NC 27101

STATE OF OREGON)
COUNTY OF KLAMATH)
AMENDED AND RESTATED
MEMORANDUM OF LEASE
AGREEMENT
(Vol 2017, Page 2248)

THIS AMENDED AND RESTATED MEMORANDUM OF LEASE AGREEMENT (“A&R MOL”) is entered into this 5th day of June, 2017 (the “Effective Date”) by and between **PETER M. BOURDET and LINDA LONG** (collectively, the “Landlord”) and **CHILOQUIN SOLAR LLC**, an Oregon limited liability company (the “Tenant”). Landlord and Tenant are sometimes referred to collectively as the “Parties”.

RECITALS

- A. Landlord and Tenant entered into that certain Lease Agreement dated March 2, 2017, as amended by that certain First Amendment to Lease Agreement dated June 5, 2017 (collectively, the “Lease”) whereby Landlord leased to Tenant certain real property as further described therein.
- B. Landlord and Tenant recorded a Memorandum of Lease on March 2, 2017 in Volume 2017, Page 2248 in the Klamath County Clerk’s Office (the “Original MOL”) to provide record notice of the Lease.
- C. Landlord and Tenant desire to amend and restate the Original MOL as further outlined herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Original MOL is amended and restated in its entirety with this A&R MOL.

- 1. Capitalized terms used herein, and not otherwise defined, shall bear the meanings assigned to them in the Lease. All of the terms and conditions of the Lease are incorporated herein by this reference.

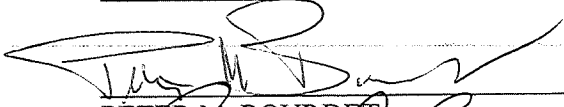
2. The Initial Term of the Lease began on March 2, 2017 and expires December 15, 2036, unless extended or earlier terminated as provided in the Lease. Tenant has the right to extend the Term for five (5) additional terms of five (5) years each as set forth in the Lease.
3. The Lease obligates Landlord to lease to Tenant that certain property as set forth on the attached **Exhibit A**, together with all improvements, fixtures, personal property and trade fixtures located thereon, together with all other appurtenances, tenements, hereditaments, rights and easements pertaining to the premises and the improvements now or in the future located thereon (collectively referred to as the "Leased Premises"), to be occupied and used upon the terms and conditions set forth in the Lease.
4. Any Improvements constructed or placed on the Property by Tenant shall be owned and remain the sole property of Tenant, and may be replaced, repaired or removed at any time by Tenant during the Term. Landlord acknowledges and agrees that despite that portions of the Improvements may be affixed to the Property, (i) Tenant is the exclusive owner and operator of the Improvements and the Solar Operations, (ii) the Improvements and Solar Operations shall not be construed to be a fixture and (iii) Tenant is the exclusive owner of the electricity generated by the Solar Operations and any environmental attributes and environmental incentives of the Solar Operations. Landlord has no right, title or interest in the Solar Operations and has waived any and all rights it may have to place a lien on the Solar Operations and/or Improvements.
5. Landlord has granted certain easement rights over and across any parcel of land adjacent to the Property and owned or controlled by Landlord, depicted as Parcel A, Parcel B, and Remainder, on **Exhibit A** (the "Adjacent Property"). Landlord acknowledges and agrees that access to sunlight ("Sunlight") is essential to the value to Tenant of the rights granted in this Lease and is a material inducement to Tenant in entering into this Lease. Landlord shall not engage in or permit others to engage in activities on the Adjacent Property that could adversely affect Sunlight, including but not limited to the construction of any structures, or allow the growth of foliage.
6. Landlord has granted to Tenant, for the Term a nonexclusive easement for vehicular and pedestrian access, ingress and egress, maintenance and improvement, and as a fire truck turnaround across the portion of the Adjacent Property depicted as Parcel A and Parcel B on **Exhibit A** and legally described in **Exhibit B** ("Easement"), which Easement shall be appurtenant to Tenant's leasehold estate, run with the Property and inure to the benefit of and be binding upon Landlord.
7. During the Due Diligence Period and the Term, prior to selling any portion of the Leased Premises and Adjacent Property, Landlord shall first offer the Property to Tenant. Following receipt of notice from Landlord, Tenant shall have thirty (30) days to elect whether it desires to exercise its right under the Lease and enter into a formal purchase agreement with Landlord, mutually agreeable to both Parties. Tenant shall have the right to enforce this provision by injunctive relief.
8. Nothing contained herein shall modify the Lease, and in the event of a conflict between the provisions of the Lease and the provisions of this A&R MOL, the provisions of the Lease shall control.

[SEPARATE SIGNATURE PAGES ATTACHED]

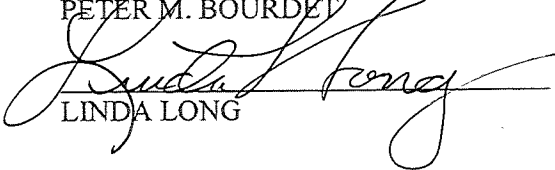
SEPARATE SIGNATURE PAGE TO
AMENDED AND RESTATED MEMORANDUM
OF LEASE AGREEMENT

IN WITNESS WHEREOF, the undersigned have executed this Amended and Restated Memorandum of Lease by authority duly given and effective as of the date first written above.

LANDLORD:



PETER M. BOURDET (SEAL)



LINDA LONG (SEAL)

(Notary acknowledgements on separate pages)

STATE OF Oregon
COUNTY OF Klamath

I, the undersigned notary, certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity indicated: **Peter M. Bourdet**

This is the 5th day of June 2017.

(Notary seal)

Brandi Rae Hatcher
Official Signature of Notary



Brandi Rae Hatcher
Printed or typed name of Notary Public
My commission expires: Aug 6, 2018

STATE OF Oregon
COUNTY OF Klamath

I, the undersigned notary, certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity indicated: **Linda Long**

This is the 5th day of June 2017.

(Notary seal)

Brandi Rae Hatcher
Official Signature of Notary



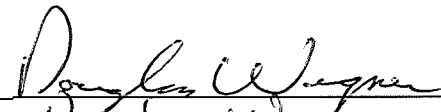
Brandi Rae Hatcher
Printed or typed name of Notary Public
My commission expires: Aug 6, 2018

**SEPARATE SIGNATURE PAGE TO
AMENDED AND RESTATED MEMORANDUM
OF LEASE AGREEMENT**

WITNESS OUR SIGNATURES, as of the date first set forth above.

TENANT:

CHILOQUIN SOLAR LLC, an Oregon limited liability company


By: 
Name: Douglas Wagner
Its: President

PROVINCE OF ONTARIO

I, the undersigned notary, certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purposes stated therein and in the capacity indicated: **President**

This is the 17th day of MAY 2017.

(Notary seal)


Official Signature of Notary

NEEL KAMAL BUNGAROO
Printed or typed name of Notary Public
My commission does not expire

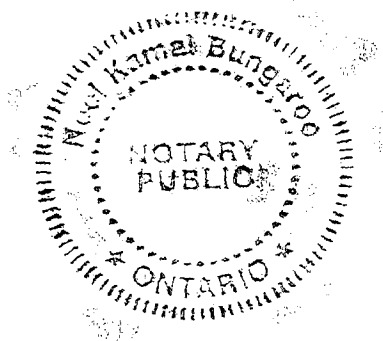


Exhibit A

Leased Premises

16115
21122

N00°32'01"E 2622.18'

1311.09'

2142.82'
(2142.87')

S89°58'33"E 5232.51'

860.84'

1875.15'

353.90'

1325.67'

N00°09'57"W

SPIRAL,
CHORD IS
S02°58'05"E
187.29'

SPIRAL,
CHORD IS
S07°45'07"E
272.90'

S8°56'42"E
687.97'

S89°01'07"E
272.65'

N00°10'59"W 1648.99'

REMAINDER
32.69 ACRES

LEASE AREA
70.02 ACRES

30' ACCESS EASEMENT

PARCEL B
EMERGENCY VEHICLE
TURN-AROUND
EASEMENT

PARCEL A

S89°52'22"E 2846.14'

568.47'

482.41'

602.61'

279.50'

22.98' FROM MONUMENT TO
SW CORNER OF LEASE AREA

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Keith R. Rhine

OREGON
JULY 11, 2000
KEITH R. RHINE
58985

RENEWAL DATE: 12-31-18

R-C
RHINE-CROSS
GROUP

RHINE-CROSS GROUP
LLC

ENGINEERING - SURVEYING - PLANNING
112 N 5th ST - SUITE 200 - P.O. BOX 909
KLAMATH FALLS, OREGON 97601

Phone: (541) 851-9405

Fax: (541) 273-9200

admin@rc-gp.com

LEASE AREA DESCRIPTION

A Parcel of land being a portion of Parcel 3 of Major Land Partition 7-85, situated in the S 1/2 of the NE1/4, and the NE1/4 of the SE1/4 of Section 22, Township 34 South, Range 07 East of the Willamette Meridian, Klamath County, Oregon, Being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22; thence North 00°09'57" West, 1325.67 feet to the North line of the S1/2 of the NE1/4; thence, along said North line, North 89°58'33" West, 353.90 feet to the westerly Right-of-Way line of the Union Pacific Rail Road and the TRUE POINT OF BEGINNING; thence continuing along said westerly Right-of-Way line, along the arc of a 1507.69 foot radius curve to the left, through a central angle of 20°05'41" (the long chord of which bears South 10°06'06" West, 526.07 feet) an arc distance of 528.78 feet to a point of spiral; thence continuing along said westerly Right-of-Way line, along a spiral to the left, the long chord of which bears South 02°58'05" East, 187.29 feet; thence continuing along said westerly Right-of-Way line, North 84°25'48" East, 25.00 feet to a point of spiral; thence, continuing along said westerly Right-of-Way line, along a spiral to the left, the long chord of which bears South 07°45'07" East, 272.90 feet; thence, continuing along said westerly Right-of-Way line, South 08°56'42" East, 687.97 feet, to the North line of Tract 1314, Pine Ridge Ranches, a duly recorded subdivision on file at the Klamath County Clerk's Office; thence along said North line of said Tract 1314, North 89°52'22" West, 1925.97 feet; thence, leaving said North line, North 00°10'59" West, 120.00 feet; thence North 89°52'22" West, 30.00 feet; thence, North 00°10'59" West, 1528.99 feet, to the North line of S1/2 of the NE1/4 line; thence along said North line, South 89°58'33" East, 1875.15 feet to the true point of beginning.

Basis of Bearings is Grid North of the Oregon Coordinate Reference System, Bend- Klamath Falls Zone.

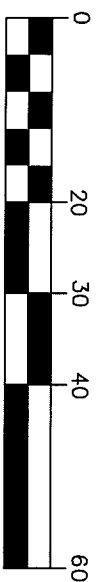
Containing 70.02 Acres, more or less.

Exhibit B

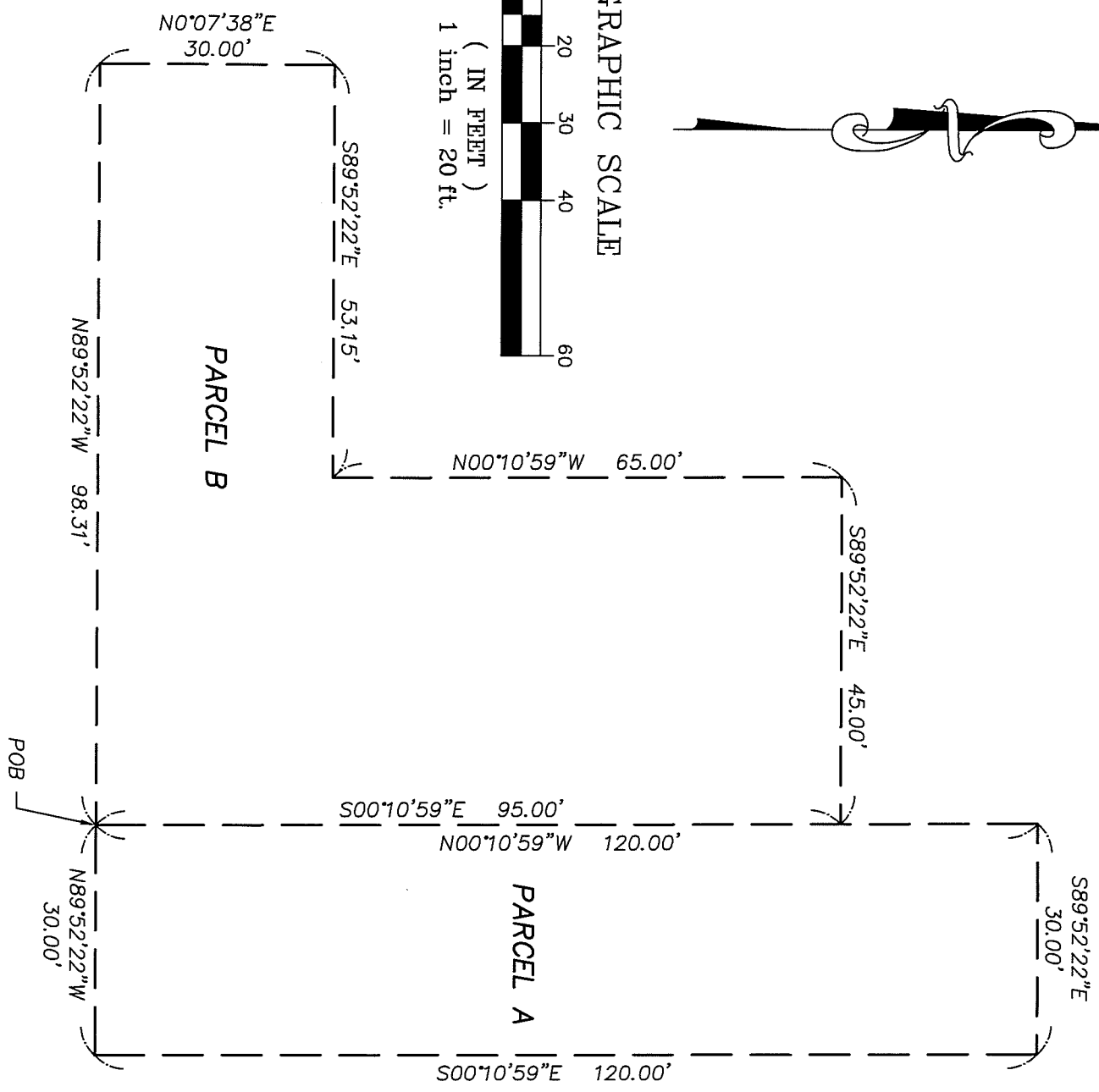
Easement Area



GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.



PARCEL A

A Parcel of land being a portion of Parcel 3 of Major Land Partition 7-85, situated in the S 1/2 of the NE1/4, and the NE1/4 of the SE1/4 of Section 22, Township 34 South, Range 07 East of the Willamette Meridian, Klamath County, Oregon, Being more particularly described as follows:

Commencing at the northeast corner of Tract 1314, Pine Ridge Ranches, a duly recorded subdivision on file at the Klamath County Clerk's Office, said point marked with a 5/8" rebar with a yellow plastic cap stamped "Tru Line Surveying"; thence along the north line of said Tract 1314, North 89°52'22" West, 1955.97 feet to the TRUE POINT OF BEGINNING; thence North 00°10'59" West, 120.00 feet; thence South 89°52'22" East, 30.00 feet; thence South 00° 10' 59" East, 120.00 feet; thence North 89°52'22" West, 30.00 feet to the true point of beginning.

PARCEL B EMERGENCY VEHICLE TURN AROUND

A Parcel of land being a portion of Parcel 3 of Major Land Partition 7-85, situated in the S 1/2 of the NE1/4, and the NE1/4 of the SE1/4 of Section 22, Township 34 South, Range 07 East of the Willamette Meridian, Klamath County, Oregon, Being more particularly described as follows:

Commencing at the northeast corner of Tract 1314, Pine Ridge Ranches, a duly recorded subdivision on file at the Klamath County Clerk's Office, said point marked with a 5/8" rebar with a yellow plastic cap stamped "Tru Line Surveying"; thence along the north line of said Tract 1314, North 89°52'22" West, 1955.97 feet to the TRUE POINT OF BEGINNING; thence North 89°52'22" West, 98.31 feet; thence North 00°07'38" East, 30.00 feet; thence South 89°52'22" East, 53.15 feet; thence North 00°10'59" West, 65.00 feet; thence South 89°52'22" East, 45.00 feet; thence South 00°10'59" East 95.00 feet to the true point of beginning.

Basis of Bearings is Grid North of the Oregon Coordinate Reference System, Bend- Klamath Falls Zone.
Containing 0.13 Acres, more or less.