

68

**When recorded return to:**

Orin Shakerdge, Esq.  
NextEra Energy Resources, LLC  
700 Universe Blvd.  
Juno Beach, FL 33408  
(561) 694-4678

**THIS SPACE FOR RECORDER'S USE ONLY**

## MEMORANDUM OF SOLAR LEASE AND EASEMENT AGREEMENT

THIS MEMORANDUM OF SOLAR LEASE AND EASEMENT AGREEMENT ("**Memorandum**"), is dated this 18 day of November, 2019 ("**Effective Date**"), by and between Kelly D. Smith and Wendy W. Smith Trustees of the Kelly D. and Wendy W. Smith Family Trust, dated December 1, 2016, whose address for notices is 90 S. 2125 W., Cedar City, UT 84720 ("**Owner**") and Boulevard Associates, LLC, a Delaware limited liability company, whose address for notice is: 700 Universe Blvd., Juno Beach, FL 33409 ("**Operator**"). Each of Owner and Operator shall hereinafter be referred to individually as a "**Party**" and collectively as the "**Parties**".

## RECITALS

WHEREAS, the Parties entered into a Solar Lease and Easement Agreement dated as of the Effective Date ("**Agreement**"), by which Owner granted to Operator an exclusive option ("**Option**") for a Lease and Easements over and across certain real property located in Iron County, Utah, described on the attached **Exhibit A** as the "**Owner's Property**".

WHEREAS, the Parties desire to execute, deliver and record this Memorandum for the purpose of putting all persons on notice of Operator's right, title and interest in Owner's Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby state, declare and establish as follows:

1. **Defined Terms.** All capitalized terms used herein and not otherwise defined shall have the meaning given such terms in the Agreement and the terms, covenants and conditions of the Agreement are incorporated herein by reference with the same force and effect as though fully set forth herein.

2. **Option.** The initial period during which Operator may exercise the Option shall be for a term of four (4) years, commencing on the Effective Date ("**Initial Option Term**"). Operator shall have a single election to extend the Initial Option Term for an additional two (2)

years ("**Extended Option Term**"). References herein to the "**Option Term**" shall mean the Initial Option Term and, to the extent exercised by Operator, also the Extended Option Term. Operator may exercise the Option by giving written notice to Owner ("**Option Notice**") at any time during the Option Term. Operator shall specify in the Option Notice the commencement date ("**Commencement Date**"). On the Commencement Date, the Lease and Easements in the Agreement shall automatically become effective, and the Parties shall be subject to all of the terms and conditions of the Agreement with respect to such Lease Rights, Easements and all rights and obligations relating thereto.

3. **Lease Rights.** The Agreement between the Parties leases the Owner Property to Operator to construct, operate and maintain the Improvements for a solar-powered electrical power generation and transmission project ("**Project**") and leases other rights including but not limited to, ingress and egress over Owner's Property to and from the Improvements, installing energy storage facilities, and for the purpose of surveying, testing and installing monitoring devices on Owner's Property, all in accordance with and subject to the terms of the Agreement.

4. **Term.** The initial term of the Lease and Easements shall end thirty-one (31) years after the Commencement Date. Operator has the right to extend the Term of the Agreement for one (1) consecutive term of five (5) years.

5. **Solar Easement.** The Agreement between the Parties grants to Operator an irrevocable, exclusive easement for the right and privilege to use, maintain and capture the free and unobstructed sunlight over and across the entirety of Owner's Property ("**Solar Easement**"). Owner shall not at any time engage in any activity on Owner's Property or other property owned by Owner described in attached **Exhibit B** that might interfere with the sunlight direction over any portion of Owner's Property; cause a decrease in the output or efficiency of any Solar Panel or Weather Instrument; or otherwise interfere with Operator's operation of the Project or exercise of any rights granted in this Agreement. Without limiting the foregoing, the Solar Easement granted by the Agreement is intended to grant and convey to Operator a solar easement pursuant to Utah Code Ann. §57-13-1, *et seq.*

6. **Effects Easement.** The Agreement between the Parties grants to Operator a non-exclusive easement over Owner's Property for audio, visual, view, light, flicker, noise, shadow, vibration, electromagnetic, electrical and radio frequency interference, and any other effects attributable to the Project located on the Owner's Property.

7. **Exclusive Rights.** The Agreement between the Parties provides Operator shall have the exclusive right (i) to use and possess the Owner Property in connection with the Project and other similar sun-powered electrical power generation projects; (ii) to use and convert all of the sunlight resources on the Owner's Property; and (iii) to undertake such other activities on the Owner's Property that may be related to the Project, including, without limitation, the storage of Solar Panels, materials and equipment during the installation and construction of the Improvements; development and operation of communications systems; and site tours of the Project for visitors and other interested parties.


00739600

B: 1472 P: 921 Fee \$40.00  
Carri R. Jeffries, Iron County Recorder Page 2 of 6  
01/30/2020 11:48:19 AM By NEXTERA ENERGY RESOURCES LLC

8. **Memorandum Interpretation.** This Memorandum is not a complete summary of the Agreement and the statements contained in this Memorandum shall not be used in interpreting the actual provisions of the Agreement. In the event of conflict between this Memorandum and the Agreement, the terms and provisions of the Agreement shall control.

[Signatures on Next Pages]

**00739600**

B: 1472 P: 922 Fee \$40.00  
Carri R. Jeffries, Iron County Recorder Page 3 of 6  
01/30/2020 11:48:19 AM By NEXTERA ENERGY RESOURCES LLC  




4

EXECUTED on the date set forth below.

**Operator:**

Boulevard Associates, LLC  
a Delaware limited liability company

By:   
Anthony Pedroni, Authorized Representative

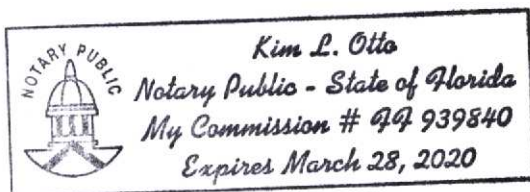
**ACKNOWLEDGEMENT**

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

On this 18 day of November, 2019, before me, the undersigned notary public, personally appeared Anthony Pedroni, as Authorized Representative of Boulevard Associates, LLC, a Delaware limited liability company, personally known to me to be the person 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 so to do.

WITNESS my hand and official seal.

(notary seal)



  
NOTARY PUBLIC, STATE OF FLORIDA  
My commission expires: \_\_\_\_\_

**00739600**

B: 1472 P: 924 Fee \$40.00  
Carri R. Jeffries, Iron County Recorder Page 5 of 6  
01/30/2020 11:48:19 AM By NEXTERA ENERGY RESOURCES LLC



**EXHIBIT A**

**Legal Description of Owner's Property**

Beginning at the Northwest corner of Section 25, Township 34 South, Range 12 West of the S.L.B.&M., Iron County, Utah, running S 89°49'43" E along the North Section line of said Section 25, 1650.00 feet; thence departing said North Section line running S 00°00'11" W 660.00 feet; thence N 89°49'43" W 1650.00 feet to a point on the West Section line of said Section 25; thence N 00°00'11" E along said West Section line 660.00 feet to the point of beginning and containing 25.00 acres.

LESS AND EXCEPT the existing pond.

Tax Parcel Number: E0064-0005-0000

**00739600**

B: 1472 P: 925 Fee \$40.00  
Carri R. Jeffries, Iron County Recorder Page 6 of 6  
01/30/2020 11:48:19 AM By NEXTERA ENERGY RESOURCES LLC

