

**IN THE COMMISSIONERS COURT
OF
LAMB COUNTY, TEXAS**

**A RESOLUTION AND ORDER APPROVING A
ROAD USE AGREEMENT BETWEEN
LAMB COUNTY, TEXAS AND SUNBUDDIE SOLAR ENERGY LLC**

WHEREAS, Lamb County, Texas (the “County” or Lamb County) is familiar with the solar energy project contemplated by Sunbuddie Solar Energy LLC, a Delaware limited liability company, in the portion of the County described on Exhibits A and B, attached hereto and incorporated herein by reference. (“Project Area”);

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

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

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

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

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

WHEREAS, Sunbuddie Solar Energy LLC seeks the County’s permission for such Road Usage and Lamb County, Texas has agreed to grant said permission.

NOW, THEREFORE,

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

1. That the findings and recitals in the preamble to this Order are found to be true and correct and are hereby RATIFIED, APPROVED and ADOPTED.

2. Sunbuddie Solar Energy LLC shall repair any damage to County roads caused by Sunbuddie Solar Energy LLC or Sunbuddie Solar Energy LLC's contractors or suppliers during the course of constructing, repairing or maintaining the Improvements and shall return such roads to the condition such roads were in prior to their use by Sunbuddie Solar Energy LLC or Sunbuddie Solar Energy LLC's contractors or suppliers.

- a. Prior to the commencement of any work, or in advance of any subsequent modifications, Sunbuddie Solar Energy LLC, will provide to Lamb County a map identifying and designating those county-maintained roads which will be utilized to develop, install or construct the improvements, and any points of access to property (the "Designated Roads").
- b. Sunbuddie Solar Energy LLC will coordinate with the Commissioner or Road Administrator responsible for the roads to be used by Sunbuddie Solar Energy LLC during this project.
- c. Sunbuddie Solar Energy LLC will have a pre-construction survey completed for all Designated Roads, which will include current conditions and recommendations for any preparations or modifications that will be necessary to perform required construction. In addition, the County will provide Sunbuddie Solar Energy LLC, if available, with copies of any plans, cross sections and specifications relevant to the Designated Roads. Copies of all pre-construction survey documentation shall be provided to the County. All costs associated with the pre-construction survey shall be borne solely by Sunbuddie Solar Energy LLC.
- d. It is understood by Sunbuddie Solar Energy LLC that no other roads may be used for ingress or egress during construction of the Project than the Designated Roads. Any truck operated by an individual utilized by Sunbuddie Solar Energy LLC that is found to be using any road that is not a Designated Road shall be issued a citation on his or her first offense, and the County shall notify Sunbuddie Solar Energy LLC of the citation within 48 hours. If the same individual is found a second time using any road that is not a Designated Road after Sunbuddie Solar Energy LLC received notice of the first citation, the individual shall be issued a citation, the County shall notify Sunbuddie Solar Energy LLC of the citation within 48 hours, and the County may assess Sunbuddie Solar Energy LLC a fine in the amount of \$1,000. If the same individual is found a third time using any road that is not a Designated Road after Sunbuddie Solar Energy LLC received notice of the second citation, the

individual shall be issued a citation, the County may assess Sunbuddie Solar Energy LLC a second fine in the amount of \$1,000, and Sunbuddie Solar Energy LLC shall take appropriate action to ensure that the individual is no longer permitted to drive construction vehicles during the construction of the Improvements.

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

Sunbuddie shall thereafter commence and complete the repairs in a reasonable time and in accordance with the plan submitted to the County. In the event Sunbuddie Solar Energy LLC fails to timely present a plan for completion of repairs or fails to commence or complete the necessary repairs in accordance with a presented plan, then the County may perform the road repair required of Sunbuddie Solar Energy LLC pursuant to this section. The County's cost for such repairs shall be determined using the applicable rates used by the Federal Emergency Management Administration for equipment and personnel and the County's actual costs (as documented by actual receipts for material, labor or equipment use rates), and the County shall be permitted to withdraw from the Road Use Contingency Fund (as defined in subsection (l) below) an amount equal to the cost of the repairs. The County shall submit an invoice to Sunbuddie Solar Energy LLC demonstrating the cost of the repairs that was withdrawn from the Road Use Contingency Fund.

- i. Sunbuddie Solar Energy LLC may not widen or change the course of any County road without the consent of the County and any affected property owners (to the same extent that the consent of the affected property owners would be required if the County widened or changed the course of a County road), which consent from the County shall not be unreasonably withheld, conditioned, or delayed so long as Sunbuddie Solar Energy LLC is not in default in its obligations under this Agreement. As a condition to granting such consent the County may require Sunbuddie Solar Energy LLC to take any other precautions and covenants which may be commercially reasonably necessary to protect and maintain the roadway and its continued access by the public and the rights of adjoining property owners. Sunbuddie Solar Energy LLC agrees to obtain any necessary permission or right from private property owners prior to using any private property for the delivery of goods or supplies used for the Improvements or for access to the site where any of the Improvements are being constructed.
- j. Any roads constructed upon private property by Sunbuddie Solar Energy LLC will not, and shall not hereafter, become the responsibility of the County unless the County receives from the landowner a dedication of sufficient right of way, and the Commissioners Court, in its sole discretion, finds the road serves a sufficient public purpose and affirmatively accepts the road as a County road.
- k. Any County owned culverts or bridges, if any, that must be replaced or repaired in the Project Area as result of the construction of the project and heavy loads associated with the project will be repaired by Sunbuddie Solar Energy LLC, subject to supervision and approval of the County.
- l. To more fully implement the terms of Section 2 of this agreement, Sunbuddie Solar Energy LLC agrees to establish a fund (to be called the Road Use Contingency Fund) in an amount equal to One Hundred Thousand Dollars (\$100,000.00) prior to the commencement of significant construction activities

for the project, to be placed on escrow with the County Treasurer of Lamb County, Texas. For purposes of this Agreement, significant construction activities shall mean any vehicular traffic carrying loads in excess of 54,000 pounds in gross weight or 36,000 pounds per axle. This fund shall be available to be applied to any costs incurred by Lamb County for the repair of roads, bridges, culverts or other road infrastructure due to damage caused by the activities of Sunbuddie Solar Energy LLC in the project zone. The County may access the Road Use Contingency Fund in the manner described in paragraph (h) above. Upon any withdrawal from the Road Use Contingency Fund, Sunbuddie Solar Energy LLC shall immediately replenish the fund to the extent of any drawdown pursuant to this section. Failure to establish this fund, or to replenish said fund when and if necessary, shall constitute a material breach of Sunbuddie Solar Energy LLC's obligations in this Order, and the rights and permissions granted to Sunbuddie Solar Energy LLC in this Order may be suspended by the County until the Road Use Contingency Fund is established or replenished, as the case may be. At the conclusion of all construction and commencement of commercial operations, Sunbuddie Solar Energy LLC shall notify the County of such conclusion of construction, and the County shall, within 30 days thereafter, notify Sunbuddie Solar Energy LLC of any final road repairs that should be completed. After all final road repairs are completed in accordance with the process in paragraph (h) above, Sunbuddie Solar Energy LLC's obligations to make road repairs pursuant to this Order shall be deemed fulfilled, and any remaining balance in said contingency fund shall be remitted to Sunbuddie Solar Energy LLC.

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

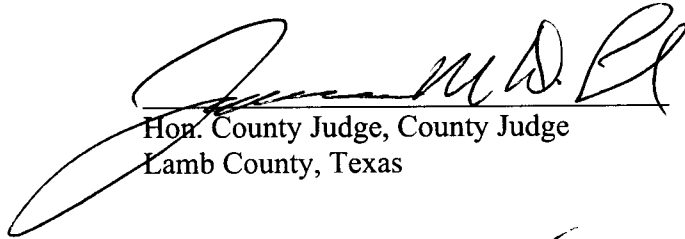
3. The Commissioners' Court hereby grants permission to Sunbuddie Solar Energy LLC, and its successors and assigns, during the planning and construction phases of its solar power project and Improvements, and thereafter during the operation and maintenance phase of the solar power project and Improvements until said solar power project and Improvements are completely abandoned, to use all County roads for the Road Usages described herein, including but not limited to, (a) access and egress to and from the Sunbuddie Solar Energy LLC Project Area (except that access, ingress, and egress by construction vehicles during the initial construction of the solar project will be limited to the Designated Roads), (b) encroachment of Solar Project facilities and Improvements under, along or into the right of way of said County roads, in the form of access points to and from the County road and/or underground electrical transmission or collection lines buried in the County road right-of-way, and (c) for overhead and bored underground crossings of said County roads with solar power project electrical collection lines (and related facilities) interconnecting portions of the solar power project and Improvements, and with transmission lines connecting the solar power project and Improvements to the electrical grid power system. For the purposes of this Order, the County roads over, under, and across which Solar Company is permitted to conduct the Road Usages include, without limitation, all of the roads within the County Map Book located within or adjacent to the Project Area (except that access, ingress, and egress by construction vehicles during the initial construction of the solar project will be limited to the Designated Roads).

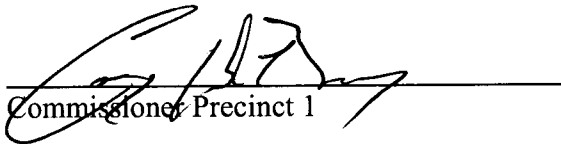
4. That the permission granted in Ordering Paragraph 3 includes the installation, maintenance and repair of solar power project collection and transmission lines and related facilities within the rights of way of said County roads and right-of-way easements held by the County, and an authorization to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

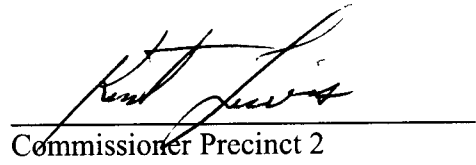
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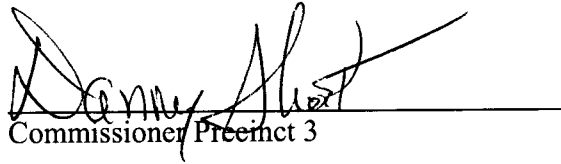
PASSED AND APPROVED at this public hearing of the Lamb County Commissioners' Court, at which a quorum was present, on March 28, 2022.

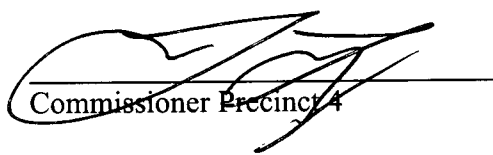
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Hon. County Judge, County Judge
Lamb County, Texas


Commissioner Precinct 1


Commissioner Precinct 2


Commissioner Precinct 3


Commissioner Precinct 4

ATTEST:

County Clerk

Date of Execution: 3-28-2022

Accept:

Sunbuddie Solar Energy LLC

Date: 3-28-2022

By: 

Print Name: **Jonathan Saxen**
Vice President

Print Title: _____

